



**COUNCIL ASSESSMENT REPORT  
NORTHERN REGIONAL PLANNING PANEL**

<b>PANEL REFERENCE &amp; DA NUMBER</b>	PPSNTH-248 – DA23/0398
<b>PROPOSAL</b>	Site preparation, vegetation removal, construction of a hardware & building supplies warehouse, habitat restoration, vegetation management & signage.
<b>ADDRESS</b>	Lots 2 and 3 DP 1077990; No. 42-44 Enterprise Avenue TWEED HEADS SOUTH and Lot 2145 DP 879149; No. 13-17 Corporation Circuit TWEED HEADS SOUTH
<b>APPLICANT</b>	Harvey Norman Holdings Ltd
<b>OWNER</b>	Calardu Tweed Heads Traders Way Pty Limited and Calardu Tweed Heads Pty Ltd
<b>DA LODGEMENT DATE</b>	24 August 2023
<b>APPLICATION TYPE</b>	Development Application
<b>REGIONALLY SIGNIFICANT CRITERIA</b>	Section 2.19(1) and Clause 2 of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> declares the proposal regionally significant development as: 2 General development over \$30 million Development that has an estimated development cost of more than \$30 million. As such, the Northern Regional Planning Panel is the determining authority.
<b>CIV</b>	\$43,950,000 (excluding GST)
<b>CLAUSE 4.6 REQUESTS</b>	Yes – Variation to Tweed LEP 2014 - Clause 4.3 height of buildings height, development standard requested.
<b>KEY SEPP/LEP</b>	<ul style="list-style-type: none"><li>• <i>State Environmental Planning Policy (Planning Systems) 2021.</i></li><li>• <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021.</i></li><li>• <i>State Environmental Planning Policy (Resilience and Hazards) 2021.</i></li><li>• <i>State Environmental Planning Policy (Transport and Infrastructure) 2021.</i></li><li>• <i>State Environmental Planning Policy (Industry and Employment) 2021.</i></li><li>• <i>Tweed Local Environmental Plan 2014.</i></li></ul>

	<ul style="list-style-type: none"> <li>• <i>Tweed Development Control Plan 2008:</i> <ul style="list-style-type: none"> <li>○ <i>Section A2 – Site Access and Parking Code</i></li> <li>○ <i>Section A3 – Development of Flood Liable Land</i></li> <li>○ <i>Section A4 – Advertising Signs Code</i></li> <li>○ <i>Section A6 – Biting midge and mosquito control</i></li> <li>○ <i>Section A13 – Socio-economic impact assessment</i></li> <li>○ <i>Section A15 – Waste Management</i></li> <li>○ <i>Section A17 – Business, Enterprise Corridor and General Industrial Zones</i></li> <li>○ <i>Section A19 – Biodiversity and Habitat Management</i></li> <li>○ <i>Section B3 – Banora Point &amp; Tweed Heads South Locality Plan</i></li> </ul> </li> </ul>
<b>AGENCY REFERRALS</b>	<ul style="list-style-type: none"> <li>• NSW Rural Fire Service (RFS) (Section 4.14 Referral)</li> <li>• Transport for NSW</li> <li>• Gold Coast Airport Agency</li> <li>• Tweed Byron Local Aboriginal Land Council</li> </ul>
<b>TOTAL &amp; UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS</b>	No submissions received.
<b>KEY ISSUES</b>	<ul style="list-style-type: none"> <li>• Odour impacts from adjoining Wastewater Treatment Plant</li> <li>• Land contamination</li> <li>• Bushfire – asset protection zones</li> <li>• Existing encumbrances (on titles)</li> <li>• Vegetation removal</li> <li>• Traffic generation</li> </ul>
<b>DOCUMENTS SUBMITTED FOR CONSIDERATION</b>	<p>Architectural Plans</p> <p>Civil Drawings</p> <p>Hydraulics Plan</p> <p>Clause 4.6 Variation Request to Height of Development Standards</p> <p>Bushfire Hazard Assessment</p> <p>Letter from BlackAsh dated 1 May 2024 (bushfire asset protection zones)</p> <p>Koala Habitat Assessment &amp; Habitat Restoration Plan</p> <p>Letter from Cumberland Ecology dated 18 April 2024 (update to Koala Habitat Assessment and Restoration Plan)</p> <p>Biodiversity Development Assessment Report</p> <p>Statement of Compliance - Access for People with a Disability</p> <p>Aboriginal Heritage Due Diligence Assessment</p> <p>Waste Management Plan</p> <p>Supplementary Traffic Statement (dated 8 February 2024)</p> <p>Traffic and Parking Assessment</p>

	Environmental Noise Impact Assessment Survey Plan Statement of Environmental Effects Stormwater Management Plan Capital Investment Values Breakdown (Cost of works) Landscape Drawings Report on Detailed Site Investigation for Contamination Northern Rivers Contaminated Land Program – Contamination Report Summary Table Detailed Site Investigation and Acid Sulfate Soils Investigation Report Report on Additional Acid Sulfate Soils Investigation and Management Plan Preliminary Construction Methodology Statement Odour Impact Assessment Social Impact Assessment Letter from C&M Consulting Engineers dated 29 April 2024 (firefighting requirements & water and sewer services) Design Response RFI Response letter from DFP Planning Consultants dated 30 April 2024
<b>SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)</b>	NIL
<b>RECOMMENDATION</b>	Approval
<b>DRAFT CONDITIONS TO APPLICANT</b>	Yes
<b>SCHEDULED MEETING DATE</b>	21 August 2024
<b>PLAN VERSION</b>	Various versions – refer to Attachment C
<b>PREPARED BY</b>	Hayley Nilon
<b>DATE OF REPORT</b>	8 August 2024

## EXECUTIVE SUMMARY

The subject Development Application (DA23/0398) seeks consent for a hardware & building supply, associated works & signage across 3 allotments, detailed as follows:

### 44 Enterprise Avenue, Tweeds Heads South – Lot 2 DP 1077990 - new Bunnings warehouse.

- Site preparation including some vegetation removal, earthworks and stormwater drainage works;
- Construction and use of a hardware and building supplies building comprising a single storey trade floor with a gross floor area (GFA) of 19,226.5m<sup>2</sup> (includes circulation);
- Mezzanine ancillary office space;
- Café;
- Under-croft car parking for 514 vehicles;
- Customer, trade and loading vehicular ingress and egress via Enterprise Avenue;
- Landscaping including Koala habitat restoration and vegetation management; and
- Business identification signage.

### 42 Enterprise Avenue, Tweed Heads South – Lot 3 DP 1077990

- Koala habitat restoration and vegetation management.

### 13-17 Corporation Circuit, Tweed Heads South – Lot 2145 DP 879149

- Advertising and directional signage.

The proposed development also necessitates additional intersection upgrades which will be completed by the applicant prior to the opening of the development as follows:

- Greenway Drive/Enterprise Avenue – signalised intersection
- Greenway Drive/Traders Way – signalised intersection
- Traders Way/Enterprise Avenue – additional line marking

Zoning and permissibility of the proposed development is as follows:

Site	Zoning	Works	Permissibility
Lot 2 DP 1077990; 44 Enterprise Avenue	E4 General Industrial	<ul style="list-style-type: none"><li>• Hardware &amp; building supplies,</li><li>• associated works,</li><li>• signage.</li></ul>	Permissible with consent
Lot 3 DP 1077990; 42 Enterprise Avenue	RE2 Private Recreation	Environmental protection works	SEPP (Resilience and Hazards) requires consent for such works within a coastal wetland area
Lot 2145 DP 879149; 13-17 Corporation Circuit	E3 Productivity Support	Signage	Permissible with consent

These sites are located within the Tweed Heads South Industrial/Productivity Support area as per the above zoning. Lots 2 and 3 DP 1077990 are currently devoid of built structures. These lots were created from a three lot subdivision which was approved under **DA03/0169** on 20 June 2003. This area was part of a larger commerce and trade subdivision (**S89/0085**) which approved the extension of Enterprise Avenue and creation of 17 industrial allotments. Lot 2 has been significantly altered through clearing and cut and fill (bulk earthworks approved under 0050/2001 CCSU. A rock retaining wall is located along the frontage of Enterprise Avenue which contains an existing vehicle access point. Lot 2145 DP 879149 is a large lot

which has been developed and includes a range of retail uses including the existing Bunnings Warehouse, Harvey Norman, Twisted Fig Café, Petbarn and Autobarn.

The site is mapped as a flood planning area, bushfire prone and predictive for Aboriginal Cultural Heritage. The site falls within the 20-30 ANEF Contours for the Gold Coast Airport. Lot 2 also falls within the buffer zone for the Wastewater Treatment Plant. Lots 2 and 3 contain areas mapped as coastal wetlands and coastal wetland proximity areas under the State Environmental Planning Policy (Resilience and Hazards) 2021. Biodiversity value mapping has also been applied which generally matches the coastal wetland mapping.

A briefing was held with the Panel on 12 December 2023 where the following key issues were discussed. In addition, the potential for mosquito management, acid sulfate soils, environmental management, fencing and its potential impact on koalas, purpose of encumbrances, additional information to support Clause 4.6 height variation request and additional information on previous uses and filing of the site were also raised.

1. *Proximity to Wastewater Treatment Plant* – Concerns were raised in relation to odour impacts on the proposed development.
2. *Coastal wetlands* – Concerns were raised in relation to the bushfire asset protection zones encroaching into the mapped coastal wetland areas.
3. *Traffic and Access issues* – Discussion was held around traffic generation and whether additional road upgrades are required. Clarity on the increase in traffic generation between the proposed development and the existing site was also sought. Further advice on the impact of the proposed development on Machinery Drive/Minjungbal Drive intersection is also sought.

Consistent with the above issues raised by the Panel and following the briefing meeting, Council officers issued a request for information ('RFI') letter on 24 January 2024. Following receipt of the RFI letter, the applicant made one (1) request for extension of time to respond to the RFI matters. The Panel and Council were agreeable to an extension until 30 April 2024.

The following key issues associated with the proposal have been addressed in the assessment of this application:

- Odour impacts from the adjoining Banora Point Wastewater Treatment Plant - The application is supported by an Odour Impact Assessment which assess odour impacts on the proposed development during normal, emergency and future operations of the Wastewater Treatment Plant. The report found that the risk of nuisance odour impacts from normal and future operations of the Wastewater Treatment Plant on proposed Bunnings is low and does not require any odour control measures. However, during worst-case emergency operations, high odour concentrations are predicted to impact the proposed new Bunnings. The report considers that these can be reduced through restricting openings to the south of the site and the vegetation buffer will to some extent assist. Council's Water & Wastewater Unit raised no objections to the proposed development.
- Land contamination – Council are satisfied that the revised Report on Detailed Site Investigation for Contamination confirms the site is suitable for the proposed development. The report also includes a Contingency Plan and Unexpected Finds Protocol in the event that contamination is found.
- Bushfire – asset protection zones - The bushfire asset protection zones have been amended to ensure there is no encroachment into habitat restoration areas or the mapped coastal wetland areas. Council's Sustainability & Environment Unit are satisfied that recommended bushfire management measures will not compromise habitat restoration outcomes on the subject site as proposed in the Koala Habitat Assessment and Habitat Restoration Plan (dated April 2024) and that the modified

asset protection zones avoid the application of the designated development provisions under the SEPP Resilience and Hazards.

- Existing encumbrances (on title) – Current encumbrances on Lots 2 and 3 pertain to the rock retaining wall visible at the front of the site, and a benched rock embankment along the western and southern lot boundaries. Associated easements and restrictions relate to access for maintenance and restriction on use of land to maintain the structural integrity of the support structures. Council's Sustainability & Environment Unit are satisfied that the revised habitat restoration area is outside of those existing land title easements/restrictions allowing for delivery of expected restoration outcomes.
- Vegetation removal - Council's Sustainability & Environment Unit consider that the BDAR has been prepared in accordance with the BAM 2020. The number of credits calculated in the BDAR are recommended to be retired.
- Traffic generation - Council is satisfied that the proposed intersection upgrades (Greenway Drive/Enterprise Drive & Greenway Drive/Traders Way) are appropriate for the development and to manage additional traffic generation. Consideration has been given to the impacts on the Machinery Drive/Minjungbal Drive intersection, however it was found that the ability to upgrade the signal phasing is to some extent beyond the control of Council (being an asset managed by Transport for NSW) and it is difficult to justify that the proposed development is responsible for such upgrades.
- Planning matters such as Building Height (Clause 4.6 variation) – Council has assessed the Clause 4.6 variation request and found it to be acceptable.

The application was notified and advertised in accordance with Council's *Community Participation Plan 2019 – 2024* for 14 days from 13 September 2023 until 27 September 2023. No submissions were received in relation to this application.

There were no concurrence requirements from agencies for the proposal and the application is not integrated development pursuant to Section 4.46 of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). A referral to NSW Rural Fire Service pursuant to s4.14 of the EP&A Act, Transport for NSW pursuant to *State Environmental Planning Policy (Transport and Infrastructure) 2021*, Gold Coast Airport pursuant to Clause 7.8 of the Tweed LEP 2014 and Tweed Byron Local Aboriginal Land Council pursuant to the Tweed Aboriginal Cultural Heritage Management Plan 2018, were sent and no objections were raised to the proposed development, subject to conditions included in Attachment A.

An assessment of the application pursuant to Section 4.15(1) of the EP&A Act concluded that the proposal is generally consistent with the relevant planning controls. However, it was found that the proposed pylon signs on Lot 2 (10m high) and Lot 2145 (8m high) are excessive in height, are visually obtrusive in the landscape and therefore out of character with the area. Council has recommended conditions that these signs be reduced in height and scale. The applicant disagrees with Council's assessment and has provided justification which is contained in Attachment I. The supporting documents demonstrate that the site is considered suitable for the development and the development is unlikely to have significant adverse impacts arising from the proposal (subject to recommended conditions of consent).

As discussed through this report, the proposal is located on a vacant allotment created for an industrial subdivision. There are minimal sensitive receiver locations within the vicinity of the site. The proposal is considered to be within the strategic vision of the area as it bookends the industrial/trade area of Tweed Heads South. The development is for a purpose-built Bunnings Warehouse which provides for additional employment opportunities and product offerings for the local community. The new store will also offer community events and workshops which provides social benefit. For these reasons, the proposal is considered to be in the broader public interest. Accordingly, the Development Application is recommended for approval subject to the conditions as contained in Attachment A of this report.

## **1. THE SITE AND LOCALITY**

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### **1.1 The Site**

The proposal is located over three sites.

44 Enterprise Avenue, Tweeds Heads South – Lot 2 DP 1077990 - new Bunnings warehouse.

No. 44 Enterprise Avenue (Lot 2 DP 1077990) is an irregularly shaped allotment with total area of 3.843 hectares. The site has a frontage to Enterprise Avenue of approximately 230m. This site adjoins Council's Wastewater Treatment Plant (Lot 2 DP 591548) (west), existing industrial/commercial businesses (east), undeveloped vegetated land slated for rezoning to Environmental Conservation and Private Recreation (north) and Lot 3 DP 1077990 (subject to this application and discussed below) (south).

The land is devoid of built structures. Fronting Enterprise Avenue is a large boulder retaining wall. Existing vehicular access is centrally located on Enterprise Avenue through a formed driveway cross-over and unformed driveway.

#### **Topography**

The topography of the site is generally flat with a slight fall from the south (rear) at approximately RL 5.9m to the north (front) at approximately RL 5.7m. The site also rises steeply near the southern and south-western boundaries from approximately RL 5.99m to approximately RL 12m. Bulk earthworks for the site occurred under S89/0085 which approved 29 commerce and trade lots, 27 industrial lots and 3 recreation (special purpose) allotments in 1989. Works were conducted between 2002 and 2003. The land has been partially cut with battered slopes up to the south and west and partially filled with the front of the lot sitting approximately 3m above the street level.

#### **Easements**

Lot 2 DP 1077990 is burdened by several easements and restrictions which are detailed on the Survey Plan and can be summarised as follows:

- An easement for support labelled 'X' on the Survey which is 1m wide and variable width over the following support structures:
  - The boulder retaining wall along the frontage to Enterprise Avenue supporting fill within the northern part of the lot; and
  - The benched rock embankment along part of the western and southern lot boundaries supporting cut within the south-western part of the lot.
- An easement for access labelled 'Y' on the Survey which is 3m wide relating to access for maintenance of the support structures.
- A restriction on the use of land labelled 'Z' on the Survey which is 3m wide to maintain the structural integrity of the support structures.
- Restriction on the use of land – monitoring and maintenance of type 1 walls (AS 4678-2002).

#### **Services**

Lot 2 has the benefit of the following services:

- Water – site is not currently connected to Council's water infrastructure however water infrastructure is located within Enterprise Avenue.
- Sewer – site currently has some public sewer infrastructure located within the site.

- Stormwater – connection is to an existing stormwater manhole in Enterprise Avenue.
- Electricity and communications infrastructure – these services are currently in the area

### **Vegetation**

Lot 2 has been significantly altered through clearing and cut and fill and accordingly, the remaining vegetation is mostly comprised of native regrowth interspersed within exotic grasslands.

The native regrowth within the proposed development footprint area comprises two Plant Community Types (PCTs) as outlined within the Biodiversity Development Assessment Report (BDAR) as follows:

- 0.16 hectares of 'Blackbutt - Tallowwood tall moist forest of the far northeast of the NSW North Coast Bioregion' (PCT693 regrowth); and
- 0.34 hectares of 'Swamp Mahogany swamp forest on coastal lowlands of the NSW North Coast Bioregion and northern Sydney Basin Bioregion' (PCT1230 regrowth).

There are significant stands of intact Blackbutt-Tallowwood vegetation along the battered slopes on the south-west boundaries of Lot 2 which extends into Lot 3 to the south.

There is a very small portion on the southern part of the site mapped as containing high biodiversity values on the BV Map which aligns with the mapped Coastal Wetlands under the *State Environmental Planning Policy (Resilience and Hazards) 2021*.

### **Special features**

Lot 2 is mapped as containing predictive Aboriginal Cultural Heritage under the Aboriginal Cultural Heritage Management Plan 2018.

The site falls within the Australian Noise Exposure Forecast 2047 related to the Gold Coast Airport (ANEF 20-30).

The site is mapped as being bushfire prone (vegetation category 1 and 3).

The majority of the site is located above the probable maximum flood (PMF) level and the ground carpark and warehouse level 1 will be located above the PMF level.

42 Enterprise Avenue, Tweed Heads South – Lot 3 DP 1077990 – Koala habitat restoration and vegetation management

No. 42 Enterprise Avenue (Lot 3 DP107799042) is an irregularly shaped allotment located to the south of No. 44 Enterprise Avenue with total area of 2.711 hectares. The land is devoid of built structures. The lot also includes an access handle to Enterprise Avenue. Access to this site is gained either from the unnamed road reserve servicing the Wastewater Treatment Plant or through No. 44 Enterprise Avenue.

This site adjoins Council's Wastewater Treatment Plant (Lot 2 DP 591548 and Lot 482 DP 591546) (south and west), No. 44 Enterprise Avenue (north) and a Council Operational allotment containing a coastal wetland and lake (east).

### **Topography**

Along most of the lot boundary between No. 42 and No. 44 is a large slope down into No. 42 from approximately RL 12m to approximately RL 2-3.5m.



### **Easements**

Lot 3 DP 1077990 is burdened by easements and restrictions which are detailed on the Survey Plan and located along the boundary with No. 44 Enterprise Avenue. These are summarised as follows:

- An easement for access labelled 'Y' on the Survey which is 2m and 3m wide relating to access for maintenance of the support structures.
- A restriction on the use of land labelled 'Z' on the Survey which is 2m and 3m wide to maintain the structural integrity of the support structures.

### **Vegetation**

Lot 3 contains the following Plant Community Types (PCTs) as outlined within the Biodiversity Development Assessment Report (BDAR) as follows:

- intact 'Blackbutt - Tallowwood tall moist forest of the far northeast of the NSW North Coast Bioregion' (PCT693) (located along the downslope from No. 44 Enterprise Avenue);
- intact and regrowth 'Swamp Mahogany swamp forest on coastal lowlands of the NSW North Coast Bioregion and northern Sydney Basin Bioregion' (PCT1230);
- very small areas of planted exotic vegetation; and
- exotic grassland and cleared areas.

The northern portion of Lot 3 contains an area mapped as high biodiversity values on the BV Map which aligns with the mapped Coastal Wetlands under the *State Environmental Planning Policy (Resilience and Hazards) 2021*. It is noted that this area contains the Blackbutt-Tallowwood vegetation.

Lot 3 contains vegetation regarded as Preferred Koala Habitat (PKH).

A search of NSW Bionet database threatened species [listed under the Biodiversity Conservation Act 2016 (BC Act)] records with an accuracy of 1000 m or better in a 5 km buffer from the site found 7 records of *Archidendron hendersonii* (White Lace Flower) made on 22/10/2009 are identified on Lot 3 DP 1077990. A total of 12 individuals of the White Lace Flower were recorded during targeted search on the 18 July 2024. Locations are shown in the BDAR 2024 in Figure 17.

### **Special features**

Lot 3 is mapped as containing predictive Aboriginal Cultural Heritage under the Aboriginal Cultural Heritage Management Plan 2018.

The site is mapped as being bushfire prone (vegetation category 1 and 3 and vegetation buffer).

### **13-17 Corporation Circuit, Tweed Heads South – Lot 2145 DP 879149 – advertising and directional signage**

13-17 Corporation Circuit (Lot 2145 DP 879149) is a large lot extending from Greenway Drive in the west to Corporation Circuit in the east. The lot is irregular in shape and is 3.968 hectares in size. Vehicular access to lot is via the existing driveway located off Greenway Drive along the southern frontage of the site. The lot includes a range of retail uses including the existing Bunnings Warehouse, Harvey Norman, Twisted Fig Café, Petbarn and Autobarn.

The subject DA is limited to a small area on the Greenway Drive frontage opposite the Traders Way intersection on a grassed area.

### Topography, Easements and Vegetation

The topography of the small area is generally flat. This area is not affected by any easements or restrictions. No services such as water, sewer or electrical infrastructure is located within the development footprint. No vegetation removal is required to construct the signage.

### Special features

Lot 2145 is mapped as being in the Q100 flood planning area.



### Aerial imagery (2023)

Figure 1. Aerial Imagery of Subject Site – Tweed Shire Council 2023

## 1.2 The Locality

Lot 2 DP 1077990 is located at the northern end of the western portion of a large industrial (E4 zoning) and productivity support (E3 zoning) area which straddles the Pacific Motorway. This area contains a broad range of uses such as industrial/factory units, retail, indoor recreation facilities, childcare centres, professional offices, medical facilities and storage premises. Directly to the west and south of 44 and 42 Enterprise Avenue is the Banora Point Wastewater Treatment Plant. This area is zoned SP2 Infrastructure under the *Tweed LEP 2014*. Located approximately 800m to the southeast of the site on Doyle Drive off Greenway Drive is St James Primary School and St Joseph's College (Catholic Primary and Secondary School).

The Pacific Motorway (M1) is located approximately 100m to the northeast from 44 Enterprise Avenue, however there is no direct access. Instead, the route to access to the Pacific Motorway (M1) is approximately 2km when travelling through Tweed Heads South via Greenway Drive, Machinery Drive and Minjungbal Drive. Large residential areas which would be serviced by the proposed Bunnings (Banora Point, Tweed Heads South and Terranora) are located to the east and south of 44 and 42 Enterprise Avenue. These areas would likely access the site via Leisure Drive and Darlington Drive which feed into Greenway Drive. The Pacific Motorway is a Classified Road considered State Significant under Transport for NSW. Minjungbal Drive is located approximately 1.3km to the east of the site (via road). This road is a Classified Road considered Regionally Significant Road under Transport for NSW.

No. 44 Enterprise Avenue is also located 8km south from the Gold Coast Airport and 107km south of Brisbane.

There is no existing public transport services which pass the subject site. The closest bus route travels along Greenway Drive with the closest bus stop located adjacent to 36-38 Greenway Drive and 13-17 Corporation Circuit. Footpaths link No. 44 Enterprise Avenue to the Greenway Drive bus stops.

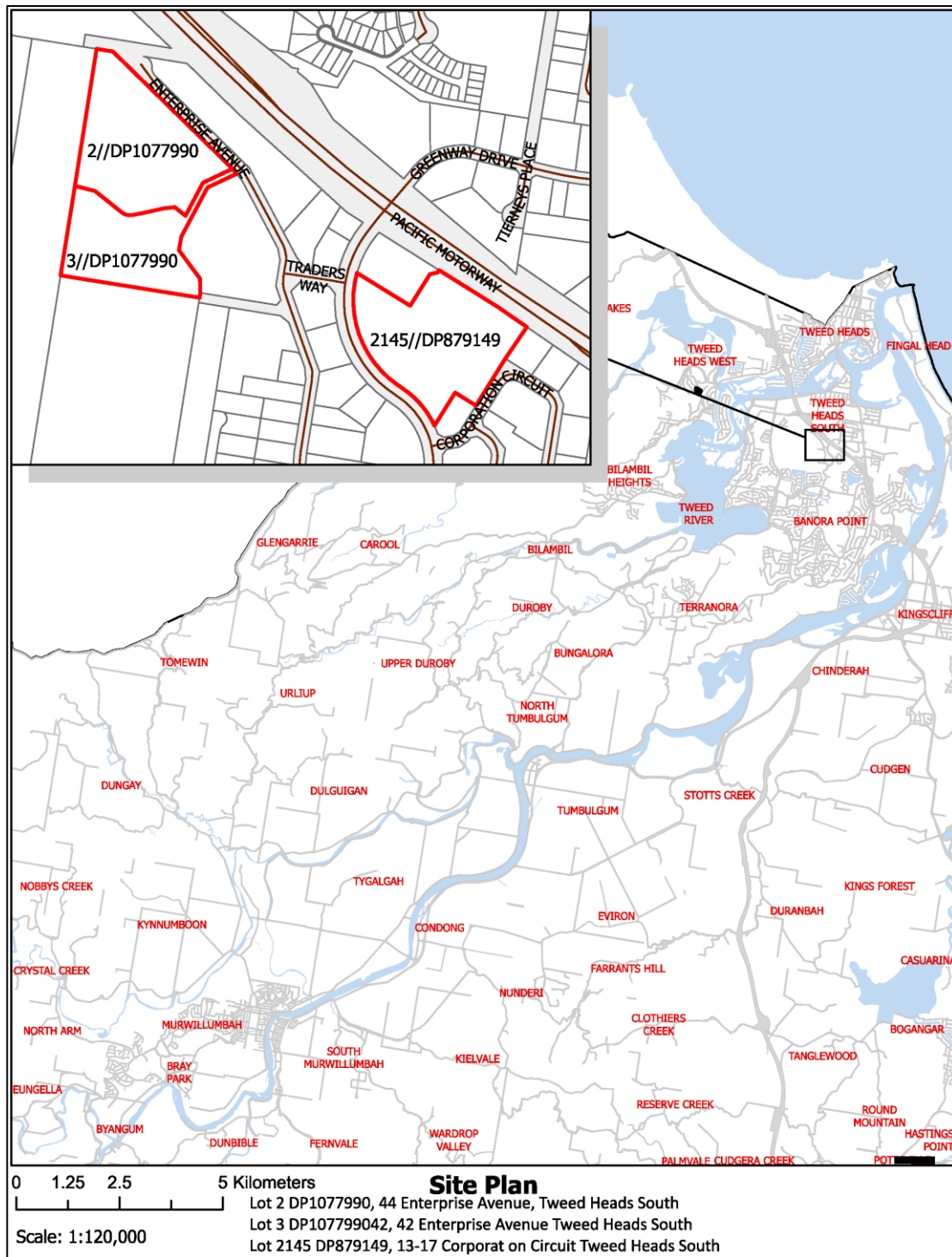


Figure 2. Locality Plan of Subject Sites – Tweed Shire Council 2023

## 2. THE PROPOSAL AND BACKGROUND

### 2.1 The Proposal

The proposal seeks consent for hardware & building supplies, associated works & signage across 3 allotments, detailed as follows:



**44 Enterprise Avenue, Tweeds Heads South – Lot 2 DP 1077990 - new Bunnings warehouse.**

- Site preparation including some vegetation removal, earthworks and stormwater drainage works;
- Construction and use of a hardware and building supplies building comprising a single storey trade floor with a gross floor area (GFA) of 19,226.5m<sup>2</sup> (includes circulation);
- Mezzanine ancillary office space;
- Café;
- Under-croft car parking for 514 vehicles;
- Customer, trade and loading vehicular ingress and egress via Enterprise Avenue;
- Landscaping including Koala habitat restoration and vegetation management; and
- Business identification signage.

**42 Enterprise Avenue, Tweed Heads South – Lot 3 DP 1077990**

- Koala habitat restoration and vegetation management.

**13-17 Corporation Circuit, Tweed Heads South – Lot 2145 DP 879149**

- Advertising and directional signage.

The following subsections provide a more detailed description of the proposed development.

**44 Enterprise Avenue – Hardware and Building Supplies Building**

**Vegetation Removal**

- Site preparation works include the removal of approximately 0.6 hectares of native vegetation from No. 44 as detailed in the BDAR.
- This includes 0.16 hectares of PCT693 (regrowth), 0.34 hectares of PCT1230 (regrowth) and 0.09 hectares of planted native vegetation.
- This vegetation is primarily located on the fringes of the development with a larger cluster in the south-eastern corner.
- The majority of vegetation along the boundaries to the east, south and west are to be retained.

**Earthworks**

- The bulk earthworks are depicted on the Civil Engineering Drawings prepared by C&M Consulting Engineers.
- Bulk earthworks include stripping of topsoil and minor excavation up to approximately 300m across most of the proposed building footprint to establish the level of the under croft car parking as close as practical to existing ground level.
- Localised till between 0-500mm is also proposed to smooth out localised landform depressions.
- Localised excavation of up to approximately 2.8m is proposed to cut in vehicular access points from Enterprise Avenue.
- The deepest area of excavation will be up to approximately 3.5m for a stormwater detention tank toward the Enterprise Avenue frontage.
- The net volume of earthworks will result in 11,109m<sup>3</sup> surplus excavated material which is proposed to be exported from the site.

**Built Form**

The proposal involves the construction of a hardware and building supplies development with one trading level over one level of under croft car parking.

The trading level includes the main warehouse, timber trade sales, building materials and landscape supplies, bagged goods area and outdoor plant nursery with ancillary staff offices and café.

The proposed internal café is purely for use of Bunnings customers and will offer a limited range of pre-packaged goods such as muffins, sandwiches, wraps, cakes, tarts and hot and cold drinks (e.g. tea, coffee, soft drinks, etc.). There will be no food preparation within the café.

Staff offices and amenities are to be within a mezzanine level on the western side of the main warehouse.

The Gross Floor Area calculation of the hardware and building supplies building and associated facilities are detailed in Table 1 below.

**Table 1: Gross Floor Area Data**

<b>Use</b>	<b>GFA</b>
Main warehouse	9,582m2
Warehouse Level 1 Entry	323m2
Warehouse Ground Floor Entry	195m2
Office & Amenities	391m2
Timber Trade	3,250m2
Building Materials/Landscape Yard	2,158m2
Indoor Bagged Goods	1,662m2
Outdoor Nursery (enclosing walls exceeding 1.4m in height)	1,419m2
Circulation	246.5m2
<b>Total GFA</b>	<b>19,226.5m2</b>

#### Pedestrian Access

Pedestrian Access from Enterprise Avenue is provided via either a ramp or stairs in connection with the southern main access point to the under-croft parking area. A pedestrian lobby is proposed within the under-croft parking area (ground floor) providing access for customers from the ground floor to the trading level above via travellers and lifts.

#### Vehicular Access

The proposed vehicle access arrangements comprise:

##### *Truck / Service vehicles – **Loading / unloading and waste collection.***

- **1 (one)** x ingress driveway for trucks on Enterprise Avenue at the southern site boundary and an egress at the northern site boundary.

##### *Light vehicles – **Carpark.***

- **2 (two)** x combined ingress/egress driveways for light vehicles to the carpark.
  - One entry / exit is located directly adjacent to the truck / service vehicle entry.

- The other entry / exit located further north along sites frontage under the outdoor nursery.

**Trade vehicles – Timber Trade sales / Building Materials and Landscape yard**

- **1 (one) x** entry / exit located midway along sites frontage.
- This driveway provides access to ingress / egress ramp for trade vehicles (including trailers) to the Timber Trade sales / Building Materials and Landscape yard located on trading level (level 1).

The design of these driveways will comply with AS2890.1 and 6; they will be located where adequate sight distances are available.

Car Parking

A total of 514 car parking spaces within the under-croft level are to be provided. This includes 8 trailer parking spaces, 11 accessible parking spaces and 16 staff parking spaces.

Landscaping and Habitat Restoration

The Landscape drawings prepared by Citicene and a Koala Habitat Assessment and Habitat Restoration Plan prepared by Cumberland Ecology set out how certain zones within No. 44 will be revegetated/managed and how others will be landscaped in a more formal manner.

- **Zone 1 (Intact Vegetation)** – This management zone extends along the southern boundary of No. 44 and is predominantly contained within No. 42. It covers 0.79ha of area. It contains areas of intact vegetation (PCT 693 Intact and PCT 1230 Intact). No planting is proposed for this zone due to the canopy species already present, and the objective is to reduce the abundance of woody weeds in order to improve the overall condition of vegetation. The objective of weed control is to reduce woody weed cover to <5%;
- **Zone 2 (Interplanting)** – This management zone is located within the northern corner of No. 44 and along the southern boundary of No. 44 and into No. 42. It covers 0.67ha of area. It contains small areas of Exotic Grassland and Cleared and some patches of PCT 1230 Regrowth as well as the VRZ for the drainage line. Treeless areas are to be planted and regrowth areas interplanted with PKFTs and other canopy species typical of PCT 1230 in order to increase the area of Secondary (Class A) Koala habitat, with all native regrowth to be retained. Weed control including removal of planted exotic species along the drainage line is to be undertaken prior to planting.
- **Remainder of No. 44** – The residual areas within No. 44 not in one of the above management zones are to be planted using native species and to comply with the requirements of an Inner Protection Area (IPA) in accordance with bushfire advice. Along Enterprise Avenue, more formal planting is proposed with tree species including Weeping Lilly Pilly (street trees), Water Gum, Queensland Maple and Flame Trees. Beneath non-trafficable under-croft areas, the ground surface will be landscaped with river rock, grasses and in accordance with the stormwater swale design.

Stormwater

The proposed stormwater quantity and quality control measures for the proposed development have been designed by C&M and are detailed in the Stormwater Management Plan and Civil Engineering Drawings which accompany the DA.

Key features of this system include:

- A pit and pipe network system to collect minor storm runoff from areas;
- Overland flow paths to carry major storms through the site;
- A below ground on-site detention (OSD) tank (2,601m<sup>3</sup> capacity) with orifice and weir;
- A below ground 34,000L rainwater storage tank;
- Turf lined catch drains;

- 28 x OceanGuard litter baskets in nominated inlet pits;
- 30 x 690mm PSORB StormFilter cartridges in the OSD tank; and
- One JellyFish filter to treat water prior to leaving the site.

### Waste Management

- All Bunnings stores are serviced by private contractors under a standard contract for waste and recycling removal and these arrangements are proposed to apply to the new development.
- Notwithstanding, it is noted that there is no discernible 'putrescible' waste streams generated by a Bunnings store. Waste streams are predominantly cardboard, plastics and timber pallets.
- Furthermore, there will be no food waste generated by the proposed café as it serves only a limited range of pre-packaged goods (e.g. muffins, sandwiches, cakes, etc) and hot and cold drinks (e.g. tea, coffee, softdrinks, etc). There is no requirement for kitchen exhaust nor grease traps and no requirement for trade waste approval.

### Signage

The proposed signage for the building at No. 44 is shown on the architectural plans and comprises:

- 9 x Business identification signs including:
  - The "Bunnings Warehouse" text signs and
  - Bunnings hammer logos painted onto the facades of the building.
- 1 x 10m pylon Business identification sign is proposed near the Enterprise Avenue frontage just south of the goods inward driveway which will display the Bunning name and logo.
- 1 x direction sign showing the location of trade timber area.

The key development statistics of the hardware and building supplies building and associated facilities are detailed in Table 2 below.

**Table 2: Development Data**

<b>Control</b>	<b>Proposal</b>
Site area	3.843ha Lot 2
GFA	19,226.5m <sup>2</sup> (includes circulation)
FSR	N/A
Clause 4.6 Requests	Yes – Clause 4.3 Height of buildings (55.2% variation)
Max Height	15.52m proposed – (10m height under Tweed LEP 2014 permitted)
Car Parking spaces	514 spaces
Setbacks	Front – 4m Rear – 17m Side (North) – 9.3m Side (South) – 18.2m



Number of Staff	The existing Bunnings store employs 250 people in a range of full time, part time and casual roles (not full time equivalent) and the intention is that the existing team will be relocated.
Hours of Operation	Monday to Friday – 6am to 10pm Saturday, Sunday and Public Holidays – 6am to 7pm

## **42 Enterprise Avenue - Koala habitat restoration and vegetation management**

Within No. 42, only environmental protection works will be undertaken, primarily as per the description above for Zone 1 (i.e. weed management) and Zone 2 (i.e. canopy tree planting).

## **13-17 Corporation Circuit – Advertising Signage**

As the proposed development will replace the existing Bunnings store at Greenway Drive, it is proposed to erect a pylon sign on the land at 13-17 Coronation Circuit, near the intersection of Greenway Drive and Traders Way, in order to notify and direct customers to the new store.

This sign is detailed on the architectural drawings and comprises a pylon sign with a height of 8m with an advertising panel of 2.5m x 6m (i.e. 15m<sup>2</sup>) on each side which will display the Harvey Norman name, the Bunnings name and logo and directional information.

## **Proposed Site Plan (relates to Lot 2 DP 1077990; 44 Enterprise Avenue & Lot 2145 DP 879149; 13-17 Corporation Circuit)**



*Figure 3. Site Plan*

## Perspectives



Figure 4. Perspectives

## 2.2 Background

A pre-lodgement meeting was held prior to the lodgement of the applicant on 17 November 2021 where various issues were discussed. A summary of the key issues and how they have been addressed by the proposal is outlined below:

Issue	Applicants Response	Assessment Comments
Details need to be provided with regard to the proposed <b>landscaping</b>	An assessment against the relevant provisions of the	Satisfactory subject to recommended

at the front of the site to minimise impact of any retaining structures upon the streetscape, having regard to the landscaping and setback requirements of DCP A17.	DCP is provided at Section 5.3.7 of this SEE;	conditions of consent. Provision of street trees has also been conditioned.
Feedback regarding <b>height of buildings</b> development standard breach. The proposed developments height is between 14-15.5m, exceeding the height limit of 10m. The 10m height limit is measured from the existing ground level. For this variation a clause 4.6 Exceptions to development standard assessment will need to be submitted. A visual impact assessment should also be undertaken to demonstrate the level of impact (if any) from the surrounding area including the view lines from the M1 Motorway.	The proposal does exceed the height limit under the LEP and accordingly a cl4.6 request has been prepared and this is discussed in Section 5.3.6 of this SEE;	Satisfactory subject to recommended conditions of consent.
The entire site is mapped as a <b>Predictive Aboriginal Cultural Heritage site</b> . Consideration must be given to the Aboriginal Cultural Heritage Management Plan 2018.	An Aboriginal cultural heritage assessment has been undertaken and this is discussed at Section 5.4.1 of this SEE;	The application was referred to the Tweed Byron Local Aboriginal Land Council (TBLALC) in accordance with the Tweed Aboriginal Cultural Heritage Management Plan 2018. TBLALC have reviewed the proposed development and raised no objections to the proposed development subject to the standard stop work condition.
<b>Developer Contributions</b> Section 64 and Section 7.11 Plans apply. It is noted that a VPA for the subject site is currently on exhibition, which will provide the site with credits.	This is acknowledged, noting that a Planning Agreement applies to the site as discussed at Section 5.3.8 of this SEE;	The VPA remains in Draft format. Appropriate conditions have been imposed to ensure the VPA is finalised prior to work commencing and contributions are paid prior to the issue of any Occupation Certificate.
<b>Traffic and parking</b> <ul style="list-style-type: none"> <li>Any submitted DA would need to be accompanied by a Traffic Impact Assessment as per the RTA Guide to Traffic Generating Developments. It is noted that traffic counts from Aug 2019 (pre-Covid) with a factored in 2%</li> </ul>	A detailed traffic and parking impact assessment has been undertaken and this is discussed at Section 5.4.7 of this SEE.	Satisfactory subject to recommended conditions of consent.



<p>increase would be accepted by Council.</p> <ul style="list-style-type: none"> <li>• It would be expected that the Assessment would address council's Tweed Road Development Strategy 2017 and any road or intersection upgrades required to facilitate the Development. Specific intersections to be reviewed would include Enterprise Avenue/Greenway Drive and Enterprise Avenue/Traders Way and Traders Way/Greenway Drive.</li> <li>• It should be noted that traffic generation and parking provision estimates should be consistent with existing similar developments.</li> <li>• Analysis will be required to determine the required amount of car parking and to assist Council in determining the applicable parking provision under the relevant DCP.</li> <li>• Access to the development would need to comply with Council's "Driveway Access to Property Design Specification". An application under Section 138 of the Roads Act identifying driveway access and proposed levels and grades, will be required to be submitted and approved, prior to issue of the construction certificate.</li> <li>• The provisions of AS2980.1 will also apply requiring maximum gradient of 5% for the first 6 metres past the property line.</li> </ul>	<p>An assessment against the relevant provisions of the DCP is provided at Section 5.3.7 of this SEE;</p>	
<p><b>Stormwater management</b></p> <ul style="list-style-type: none"> <li>• A stormwater management plan prepared by a qualified engineer is to be lodged with the Development Application.</li> <li>• On site treatment of stormwater runoff would be required prior to discharge into the public system in accordance with Council's "Tweed Urban Stormwater Quality Management Plan" and Development Design</li> </ul>	<p>A stormwater management plan has been undertaken and this is discussed at Section 5.4.3 of this SEE;</p>	<p>Satisfactory subject to recommended conditions of consent.</p>

<p>Specification D7 – Stormwater Quality (<a href="http://www.tweed.nsw.gov.au/Planning/Building/Subdivisions/D7.pdf">www.tweed.nsw.gov.au/Planning/Building/Subdivisions/D7.pdf</a>). An application under Section 68 of the Local Government Act should accompany the development application to identify all site drainage, stormwater quality devices and proposed stormwater outlets and also any required erosion and sedimentation control measures.</p> <ul style="list-style-type: none"> <li>• A stormwater management plan prepared by a suitably qualified engineer detailing the control and disposal of subsoil, surface and roofwaters is to be submitted to enable the assessment of the Development Application.</li> <li>• Civil works must be designed to avoid any impact upon the surrounding locality with particular regard to the adjoining wetlands - <i>SEPP (Coastal Management) 2018, Clause 11 development on land in proximity to coastal wetlands or littoral rainforest</i>. Council's engineering division should be contacted in this regard.</li> </ul>		
<p><b>Flooding</b></p> <ul style="list-style-type: none"> <li>• There are no particular DCP A3 controls or specific PMF requirements applicable.</li> </ul>	<p>The site is not impacted by the design flood level; An assessment against the relevant provisions of the DCP is provided at Section 5.3.7 of this SEE;</p>	<p>Satisfactory subject to recommended conditions of consent.</p>
<p>Compliance with the <b>Disability Discrimination Act</b> would be required and <b>access</b> for disabled would need to comply with AS1428.</p>	<p>Statement of Compliance, Access for People with a Disability Report provided.</p>	<p>Statement of Compliance, Access for People with a Disability Report provided indicating that the building design could comply with disabled access requirements. Disabled access requirements will be dealt with during the Construction Certificate.</p>
<p>Arrangements should be made for <b>bushfire</b> issues to be addressed. Discussions should be had with the Rural Fire Service.</p>	<p>A bushfire assessment has been undertaken and this is discussed at Section 5.4.4 of this SEE;</p>	<p>Amended Bushfire Report provided. Application referred to NSW Rural Fire Service pursuant to Section</p>

		4.14 of the EP&A Act 1979. The NSW RFS provided recommended conditions which have been included at the end of this report.
<p><b>Proximity to Banora Point Wastewater Treatment Plant</b></p> <ul style="list-style-type: none"> <li>• The site is immediately adjacent to the Banora Point Wastewater Treatment Plant (WWTP) to the south and west and is located within the WWTP's primary buffer zone.</li> <li>• The following is stated in TSC Development Design Specification D12, Section, 12.04 under point 8, <i>"The Primary buffer restricts development between any current or proposed process unit and ponds of any allotment except for uses of an open air nature (e.g. car parking), or those uses not requiring permanent or prolonged work station occupation."</i></li> <li>• When considering the nature of the development and the above, the Water and Wastewater Unit may entertain the development subject to the following: <ul style="list-style-type: none"> <li>○ An odour impact assessment report prepared by a suitably qualified and experienced air quality specialist demonstrating that: <ul style="list-style-type: none"> <li>▪ The proposal will not be adversely impacted by the WWTP under normal and emergency operating conditions; and</li> <li>▪ The proposal will not impact on the current and future operations of the Banora Point WWTP.</li> </ul> </li> <li>○ That the built form has a design which strictly limits the impact of odour (noise and dust) and any other amenity effects from the WWTP. <ul style="list-style-type: none"> <li>▪ This shall eliminate any openings of the building (excluding the carpark) on</li> </ul> </li> </ul> </li> </ul>	An Odour assessment has been undertaken and this is discussed at Section 5.4.5 of this SEE;	Satisfactory subject to recommended conditions of consent.

<p>the southern and western boundaries of the building. The premises is to be air conditioned with intake vents located away from (and facing away from) the WWTP – i.e. located on/near the north easterly aspect of the building.</p> <ul style="list-style-type: none"> <li>▪ A 10 metre wide visual vegetation buffer is to be provided along the western boundary of the site. The extent of this buffer shall be sufficient for screening all parts of the WWTP from the operations of the development.</li> <li>▪ Any ancillary land uses to the Bunnings are to be full enclosed within the building and compliant with the above.</li> </ul> <ul style="list-style-type: none"> <li>• The development is located within a sewerage treatment buffer zone. The applicant to address potential land use conflict management in relation to odour impacts from the sewerage treatment plant.</li> </ul>		
<p><b>Sewer Reticulation</b></p> <ul style="list-style-type: none"> <li>• There is existing sewer infrastructure approximately 4 – 5 metres deep which enters the eastern boundary of the lot by approximately 4 -5 metres. A 3.0 metre wide sewer easement is to be centrally located about the infrastructure. No buildings, structures, footings or landscaping greater than 1.0 metre in height at maturity is to be within the required sewer easement. The plans shall demonstrate that all building and structures footings are to be founded so that their zone of influence passes 300 mm below the (deep) sewer infrastructure. <ul style="list-style-type: none"> <li>○ An application is to be made for a new sewer junction from the existing infrastructure within the lot.</li> </ul> </li> </ul>	<p>The design has had regard to these matters;</p>	<p>Satisfactory subject to recommended conditions of consent.</p>

<p><b>Water Reticulation</b></p> <ul style="list-style-type: none"> <li>• There is an existing 100mm water main along Enterprise Ave. An application is to be made for a new water service connections and meters to service the development from the existing main.</li> <li>• The proposal will require a flow and pressure test at two hydrants adjacent to the development to confirm there is sufficient flow and pressure to meet the proposed development's demand and firefighting requirements.</li> </ul>	<p>The design has had regard to these matters;</p>	<p>Satisfactory subject to recommended conditions of consent.</p>
<p><b>Acid Sulfate Soils and Dewatering</b></p> <ul style="list-style-type: none"> <li>• The subject site has been classified as Class 2 and Class 5 Acid Sulfate Soils. An Acid Sulfate Soils Management Plan prepared by a suitably qualified environmental consultant will be required to be submitted with the Development Application.</li> <li>• The applicant is required to investigate whether dewatering is required. If so, a Dewatering Management Plan prepared in accordance with 'Dewatering in the Tweed – A Guideline for the Management of Dewatering Operations' will be required to be submitted with the Development Application.</li> </ul>	<p>Acid Sulfate Soils Investigation and Management Report submitted with application.</p>	<p>Satisfactory subject to recommended conditions of consent.</p>
<p><b>Aircraft Noise</b></p> <ul style="list-style-type: none"> <li>• The subject site is within the Australian Noise Exposure Forecast 30-25 and 25-20 Contours, therefore the applicant shall address the Clause 7.9 Tweed Local Environmental Plan 2014 regarding aircraft noise. Council must be satisfied that the development will meet the indoor design sound levels shown in Table 3.3 (Indoor design Sound Levels for Determination of Aircraft Noise Reduction) in Australian Standard 2021:2015.</li> </ul>	<p>A noise impact assessment has been undertaken and this is discussed at Section 5.4.6 of this SEE;</p>	<p>Satisfactory subject to recommended conditions of consent.</p>
<p><b>Amenity</b></p> <ul style="list-style-type: none"> <li>• An acoustic report prepared by a qualified acoustic consultant will be required to be submitted with the Development Application. The</li> </ul>	<p>A noise impact assessment has been undertaken and this is discussed at Section 5.4.6 of this SEE;</p>	<p>Satisfactory subject to recommended conditions of consent.</p>



<p>report shall identify and assess the main noise and vibration sources during construction works, as well as noise associated with use of the property. This includes hours of operation, development generated traffic and vehicle movements on site, and use of all mechanical equipment. The report shall outline measures to minimise and mitigate potential noise and vibration impacts on surrounding occupiers of land.</p> <ul style="list-style-type: none"> <li>Any Development Application is to address impact from any external lighting on surrounding properties.</li> </ul>		
<p><b>Contamination</b></p> <ul style="list-style-type: none"> <li>The applicant shall address current and previous land uses in accordance with <i>State Environmental Planning Policy (SEPP) 55 – Remediation of Land</i> with the development application. A previous contaminated land search concludes that for a final determination to be made regarding contamination, a contaminated land assessment by a suitably qualified contaminated land consultant would be necessary. All contaminated land reports submitted for Council review as of 1 July 2020 must be accompanied by a Contaminated Land Summary Table to ensure that key mandatory information is incorporated into consultant's reports (available at <a href="https://www.tweed.nsw.gov.au/ContaminatedLand">https://www.tweed.nsw.gov.au/ContaminatedLand</a>).</li> </ul>	<p>A Detailed Site Investigation and Acid Sulfate Soils (ASS) report has been prepared and this is discussed at Section 5.3.1 of this SEE;</p>	<p>Revised Detailed Site Investigation for Contamination Report received on 1 May 2024 has been reviewed by Council's Environmental Health Unit. This matter is considered satisfactory subject to recommended conditions of consent.</p>
<p><b>Food and Drink Premises</b></p> <ul style="list-style-type: none"> <li>Any area to be used for the preparation and handling of food or drink for sale will need to comply with <i>Food Act 2003</i>, Food Safety Standards and relevant Australian Standards (AS 4674 and AS 1668.2) for construction and fit out.</li> </ul>	<p>Information in relation to food and drink preparation included in Section 4 of this SEE.</p>	<p>Satisfactory subject to recommended conditions of consent.</p>
<p><b>Biting Midges and Mosquitoes</b></p> <ul style="list-style-type: none"> <li>The subject site is adjacent to mosquito breeding areas. Any application shall address Tweed Development Control Plan 2008,</li> </ul>	<p>An assessment was provided against DCP Section A6 in Section 54 of this SEE.</p>	<p>DCP Section A6 does not strictly apply to commercial developments. No</p>

Section A6 – Biting Midge and Mosquito Control. The applicant to detail how the problem will be minimised.		conditions have been imposed in this regard.
<b>Regulated Systems</b> <ul style="list-style-type: none"> <li>Any application is to include details of any proposed regulated systems, including cooling towers, under the <i>Public Health Act 2010</i> and <i>Public Health Regulation 2012</i>. Such details shall demonstrate compliance with the previously mentioned legislation.</li> </ul>	Not addressed.	No regulated systems are indicated on the plans or in any other report. However conditions have been imposed regarding regulated systems to ensure compliance with Public Health Act 2010 and Public Health Regulation 2022 requirements.
<b>Waste</b> <ul style="list-style-type: none"> <li>The exportation or importation of waste (including fill or soil) from or to the site must be in accordance with the provisions of the <i>Protection of the Environment Operations Act 1997</i> and the NSW Environment Protection Authority “Waste Classification Guidelines”.</li> <li>The importation of waste to the site is restricted to the following: <ul style="list-style-type: none"> <li>a) Virgin excavated natural material (as defined in Schedule 1 of the <i>Protection of the Environment Operations Act</i>);</li> <li>b) Any other waste-derived material subject to a resource recovery exemption under Part 9 Clauses 91 and 92 of the <i>Protection of the Environment Operations (Waste) Regulation 2014</i> that is permitted to be used as fill material.</li> </ul> </li> <li>The exportation of waste must be transported to a licensed waste facility or an approved site subject to a resource recovery order and exemption.</li> <li>Any virgin excavated natural material or waste-derived fill material subject to a resource recovery exemption must be accompanied by documentation as to the material’s compliance and must be provided to the Principal Certifying Authority or Council on request.</li> </ul>	The SEE confirms that the development includes bulk earthworks as well as stripping of topsoil and minor excavation across the building footprint and localised fill. A Waste Management Plan for use has been submitted to Council.	Satisfactory subject to recommended conditions of consent.

<p><b>Environmental constraints</b></p> <ul style="list-style-type: none"> <li>• The subject site is flanked by Coastal Wetland Areas (CWA) identified under the <i>State Environmental Planning Policy (Coastal Management) 2018</i> to the east, south and north. Habitat forming part of the mapped CWA unit to the south-east extends onto site. The site is affected by the 100 m Proximity Area (excluding that area of mapped CWA).</li> <li>• Those areas of mapped CWA correspond with high conservation value areas identified on the NSW Biodiversity Values Map made under the <i>Biodiversity Conservation Act 2016</i>.</li> <li>• The <i>State Environmental Planning Policy (Koala Habitat Protection) 2021</i> would apply to any future development on site. The Tweed Coast Comprehensive Koala Plan of Management 2020 (TCCKPoM) is an approved Koala plan of management under the SEPP (KHP). With reference to the TCCKPoM the site occurs within the Tweed Heads Koala Management Area. The proposal would not qualify as 'Minor Development' as defined under the TCCKPoM and as such any future application would be required to address Part 5.8, and where relevant (dependent on results of the Koala Habitat Assessment), Parts 5.9 and Part 5.10.</li> <li>• Tweed Development Control Plan Section A19 would apply to any future proposal. CWA's are regarded as red flagged values. Development is to be setback and buffers established from red flagged values to avoid and minimise direct and indirect impact. Any application must be accompanied by a Baseline Ecological Assessment.</li> <li>• Based on the layout plan limited setbacks have been afforded to the Coastal Wetland Area occurring on and immediately</li> </ul>	<p>A very small area in the southern extent of No. 44 and part of No. 42 are mapped as 'Coastal Wetlands' pursuant to <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> (SEPP RH). However, only habitat restoration works are proposed on this land with these works defined as 'environmental protection works' which are permissible without development consent under the LEP and with development consent under SEPP RH. In addition, pursuant to s2.7(2) of SEPP RH, environmental protection works are not Designated Development. SEPP RH is addressed at Section 5.3.1 of this SEE.</p> <p>The design shall have regard to the nearby mapped biodiversity and assessment in regard to potential koala habitat must be undertaken and if necessary, a Biodiversity Development Assessment Report (BDAR) prepared. The proposal has been designed with regard to the approach agreed with Council Officers at meetings after the Pre-DA, a BDAR has been prepared and a Koala Habitat Restoration Plan has also been prepared and this is discussed at Section 5.4.2 of this SEE;</p> <p>An assessment against the relevant provisions of the DCP is provided at Section 5.3.7 of this SEE;</p>	<p>Satisfactory subject to recommended conditions of consent.</p>
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<p>adjacent to the subject site. Under the development envelope controls of DCP A19 a 50 m ecological setback/buffer from a CWA is prescribed. The proposal in its current form fails to provide adequate setbacks/buffers to those red flagged values. Whilst a variation to ecological setbacks/buffers may be considered to achieve practical outcomes (given that red flagged values predominantly occur on adjacent land), the extent of encroachment based on the current proposal is unlikely to be acceptable. Opportunities to maximise buffers setbacks to the east, south east and north east should be explored. Any development layout design that does not conform to the DCP A19 development envelope controls seeking a variation must demonstrate how a) DCP A19 biodiversity objectives can still be achieved b) Clause 10 and Clause 11 of the SEPP (CM) are to be satisfied.</p> <p>Any variation should be clearly documented, informed by contemporary ecological survey effort and sufficiently justified based on current biodiversity planning principles and best practice.</p> <ul style="list-style-type: none"> <li>Any application must address the TCCPoM. It is noted that those CWA's on and adjacent to the subject site are regarded as Preferred Koala Habitat. From aerial imagery several copse of vegetation also remain across the central portion of the site that may comprise Preferred Koala Food Trees.</li> <li>Any future application should be accompanied by a detailed tree survey of all prescribed vegetation as defined under Development Control Plan Section A16 Preservation of trees or vegetation. Tree survey should extend outside the boundary of</li> </ul>	<p>On 7 March 2022, a meeting was held with Council's Planning and Biodiversity Officers to discuss a number of biodiversity issues. Specific items discussed were as follows:</p> <ul style="list-style-type: none"> <li>The on-site assessment by Cumberland Ecology of vegetation in the areas mapped as Coastal Wetland on No. 44 and along parts of the northern boundary of No. 42 does not conform to 'Intact' Coastal Wetland Plant Community Type (PCT) 1230 (PCT1230). Notwithstanding, other than environmental protection works (i.e. vegetation rehabilitation), no development is proposed in these areas;</li> <li>Some vegetation within No. 42 surrounding the waterbody, does conform to PCT 1230 and Council had concerns that the proposed setback of buildings and vehicular access within No. 44 (ranging from 8-21 metres) did not meet the DCP requirements for 'ecological setbacks' from the edge of this vegetation (see below);</li> <li>Some vegetation within the site conforms to potential koala habitat and will require offsetting (NB: offsets are proposed as part of the subject application);</li> </ul> <p>On 22 June 2022, a further meeting was held with Council's Planning and Biodiversity Officers to discuss a revised building footprint which increased the setback to the PCT1230 vegetation within No. 42 to a minimum of</p>	
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<p>the subject site where works are proposed to extend within the tree protection zone (as calculated under Australian Standard AS4970:2009 Protection of trees on development sites) of prescribed vegetation on neighbouring sites. The tree survey should be completed using accurate survey grade equipment and include tree particulars (botanical name, diameter girth, diameter at base, spread, height, calculated Tree Protection Zone and Structural Root Zone, tree condition, habitat values, estimated Safe Useful Life Expectancy)</p> <ul style="list-style-type: none"> <li>Any future application must clearly demonstrate how impact on CWA's is to be avoided and adequately protected. Any activity listed in Section 10 of the SEPP (CM) that is likely to be carried out as part of any development would be declared designated development. Furthermore, where proposed development involves removal of native vegetation or results in a prescribed impact upon any mapped high conservation value identified on the NSW BV Map, the NSW Biodiversity Offsets Scheme (BOS) threshold would be exceeded. In the case where the BOS threshold is exceeded an application must be accompanied by a Biodiversity Development Assessment Report prepared by an accredited practitioner. All forms of development and ancillary services/facilities (civil infrastructure, earthworks, establishment and maintenance of bushfire asset protection zones, fencing etc.) should be considered and accounted for in determining whether those thresholds would be exceeded (designated development/BOS).</li> </ul>	<p>30m and up to 44m in part. Council provided general agreement to these ecological setbacks although indicated that a justification would need to be provided as part of the DA. This is discussed in detail in the BDAR and at Section 5.4.2 of this SEE.</p>	
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The development application was lodged on **24 August 2023**. A chronology of the development application since lodgement is outlined below including the Panel's involvement (briefings, deferrals etc) with the application:

**Table 3: Chronology of the DA**

<b>Date</b>	<b>Event</b>
<b>7 September 2023</b>	DA referred to external state agency – Transport for NSW
<b>11 September 2023</b>	DA referred to external agencies – Tweed Byron Local Aboriginal Land Council & Gold Coast Airport Authority.
<b>13 September 2023</b>	Exhibition of DA (13 <sup>th</sup> to 27 <sup>th</sup> of September) (advertised and notified)
<b>25 September 2023</b>	GC Airport Authority Response Received
<b>6 October 2023</b>	Tweed Byron Local Aboriginal Land Council Response Received
<b>12 December 2023</b>	NRPP briefing
<b>24 January 2024</b>	Request for Further Information (RFI) issued
<b>1 May 2024</b>	<p>Additional information and amended plans lodged and accepted by Council under Environmental Planning and Assessment Regulation 2021 (EP&amp;A Regulation) on 1 May 2024.</p> <ul style="list-style-type: none"> <li>• Cover letter and response summary by Planning Consultant</li> <li>• Amended Architectural Plans providing a Site Analysis Plan, Design Response Plan, Shadow Diagrams, Building Height Envelope Diagrams, Fencing Details Plan, nominating rainwater tank location, indicating undercroft security fencing, removal of potential road to access unbuilt</li> </ul>

	<p>area, providing architectural design features to the front of the building and change enclosing screen for outdoor plant nursery.</p> <ul style="list-style-type: none"> <li>• Cover letter and updated Koala Habitat Assessment and Habitat Restoration Plan from Cumberland Ecology</li> <li>• Cover letter and updated Bushfire Hazard Assessment from Blackash Bushfire Consulting</li> <li>• Letter from C&amp;M Consulting Engineers regarding firefighting requirements and water and sewer services.</li> <li>• Hydraulics Plan</li> <li>• Supplementary Traffic Statement</li> <li>• Report on Detailed Site Investigation for Contamination</li> <li>• Contaminated Report Summary Table</li> <li>• Preliminary Construction Methodology Statement</li> <li>• Design Response Assessment</li> <li>• Social Impact Assessment</li> <li>• Updated Clause 4.6 Variation Statement</li> </ul>
<b>13 May 2024</b>	DA reassigned to another Council Town Planner
<b>21 May 2024</b>	Council assessment officer site visit
<b>4 June 2024</b>	NRPP site inspection
<b>4 June 2024</b>	DA referred to external state agency – NSW Rural Fire Service
<b>7 June 2024</b>	Amended Odour Assessment received
<b>2 July 2024</b>	NSW Rural Fire Service Response Received
<b>5 August 2024</b>	Final referral comments for amended DA received
<b>8 August 2024</b>	Assessment Report and draft conditions completed
<b>8 August 2024</b>	NRPP Report and conditions updated and uploaded to the Planning Portal with attachments

<b>21 August 2024</b>	Scheduled NRPP Determination meeting
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### 2.3 Site History

A search of Council's records reveals the following approvals over the site:

- 44 Enterprise Avenue, Tweed Heads South - Lot 2 DP1077990 (no consents).

Application No.	Description	Decision
PP10/0004	<i>Planning Proposal - Enterprise Avenue/Greenway Drive</i>	Not Proceed -

- 42 Enterprise Avenue, Tweed Heads South - Lot 3 DP107799042 (no consents).

Application No.	Description	Decision
PP10/0004	<i>Planning Proposal - Enterprise Avenue/Greenway Drive</i>	Not Proceed -

Lots 2 and 3 DP 1077990 were created from a three lot subdivision of Lot 130 DP 817783 which was approved under **DA03/0169** on 20 June 2003. This area was part of a larger commerce and trade subdivision approved under **S89/0085 and 0050/2001 CCSU**. This approved the extension of Enterprise Avenue and creation of 17 industrial allotments. Bulk earthworks were conducted in accordance with this approval – 0050/2001 CCSU for Bulk Earthworks for stage 3. This has been completed in accordance with the Construction Certificate. It is noted that Council received a letter from H&M Testing Pty Ltd dated 27 February 2004, who confirmed that:

*'We confirm that this company was involved in the provision of fieldwork inspection services and quality control testing in accordance AS 3798-1996 Appendix B Level #1 for the Bulk Earthworks placement at Expo Park Lot 130.*

*The placement of fill was conducted over the period 05/06/02-28/07/03. Compaction control tests were carried out at intervals throughout the placement of fill in accordance with the frequency recommended in AS 3798-1996 "Guidelines on Earthworks for Commercial & Residential development".*

*It is considered that placement of fill at Expo Park Lot 130 Bulk Earthworks was carried out in a controlled manner and conformed to the intent of the Superintendent's specification.*

*It is concluded the fill maybe deemed to be "Controlled Fill".*

- 13-17 Corporation Circuit, Tweed Heads South - Lot 2145 DP879149. This site displays a lengthy approval history. The below table contains relevant approvals.

Application No.	Description	Decision
DA19/0163	<i>Development Application - six signs on existing building</i>	Approved - 28/06/2019



DA16/0753	<i>Development Application - use of part of existing premises as veterinary hospital and associated signage</i>	Approved - 25/01/2017
PP10/0004	<i>Planning Proposal - Enterprise Avenue/Greenway Drive</i>	Not Proceed -
D97/0432.03	<i>Development Application - amendment to Development Consent D97/0432 for bulky goods complex consisting of 5 separate outlets (Modification)</i>	Approved - 2/03/2016
D97/0432.02	<i>Development Application - amendment to Development Consent D97/0432 for bulky goods complex consisting of 5 separate outlets (Modification)</i>	Approved - 4/06/2007
DA03/0791	<i>Development Application - erection of advertising signage - Bunnings</i>	Approved - 15/09/2003
DA03/0335	<i>Development Application - bulky goods retail outlet</i>	Approved - 7/04/2003
K99/0796	<i>Development Application - advertising sign</i>	Refused - 16/08/1999
K98/0641	<i>Development Application - application for advertising structure</i>	Approved - 27/11/1998
K98/0311	<i>Development Application - application for advertising structures</i>	Approved - 7/10/1998
D97/9432	<i>Development Application - amendment to Development Consent D97/0432 for bulky goods complex consisting of 5 separate outlets (Modification)</i>	Approved – 20/07/1998
D97/0432	<i>Development Application - bulky goods complex consisting of 5 separate outlets</i>	Approved – 24/12/1997

Bunnings currently occupies 'Building B' as approved under D97/0432 Bulky goods complex consisting of 5 separate outlets.

Excerpt from DAP 24 December 1997 approval for D97/0432:

*Council has received a development application for the establishment of a bulky goods complex at Lots 214 and 215 Greenway Drive. The bulky goods complex comprises five separate buildings as follows:*

- *Building A: 5500m<sup>2</sup> - Harvey Norman*
- *Building B: 4800~2 - Hardware House*
- *Building C: 1000m<sup>2</sup> - Tenancy unknown*
- *Building D: 1500m<sup>2</sup> - Tenancy unknown*
- *Building E: 1500m<sup>2</sup> - Freedom Furniture*

Site Plan Showing Buildings A to E **D97/0432**.

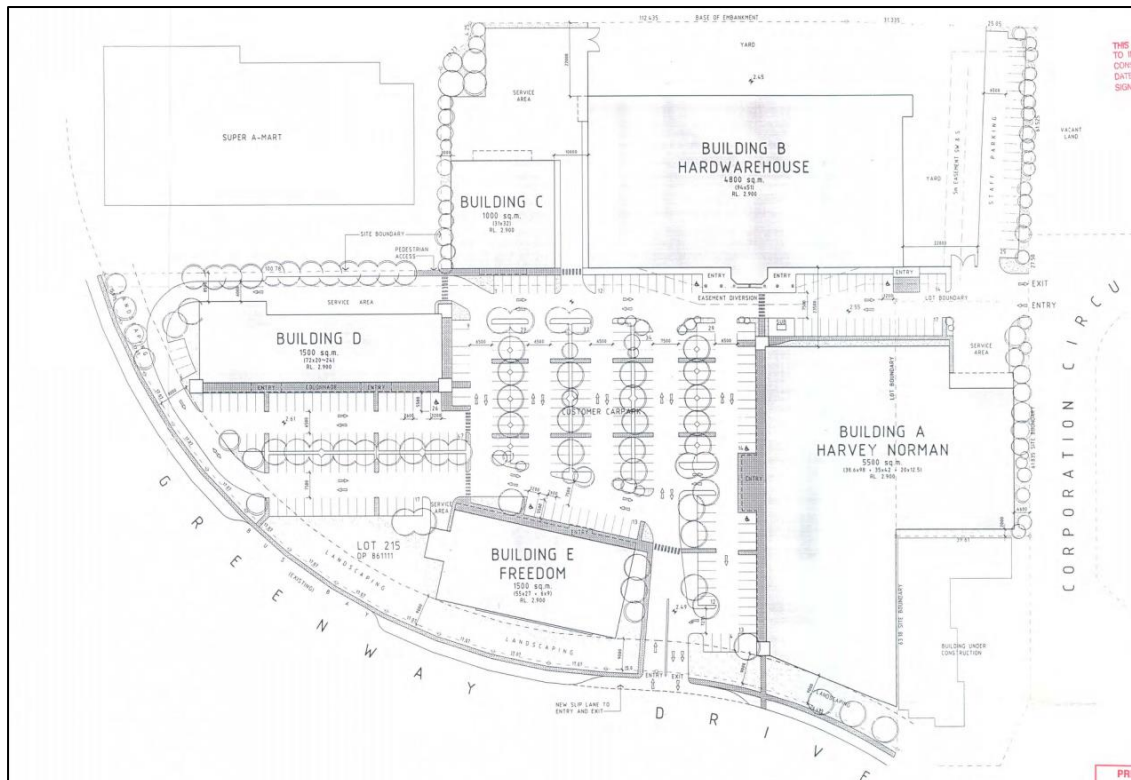


Figure 5. Site Plan from D97/0432

### 3. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application and are further considered below.

It is noted that the proposal is not considered to be (which are considered further in this report):

- Integrated Development (s4.46)
- Designated Development (s4.10)
- Crown DA (s4.33) - written agreement from the Crown to the proposed conditions of consent must be provided
- Requiring concurrence/referral (s4.13)

It is noted that the proposal was referred for comment to a number of external agencies including NSW Rural Fire Service, Transport for NSW, Tweed Byron Local Aboriginal Land Council and Gold Coast Airport (which are considered further in this report).

#### 3.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

**(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments**

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Industry and Employment) 2021*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Tweed Local Environmental Plan 2014;*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 4** and considered in more detail below.

**Table 4: Summary of Applicable Environmental Planning Instruments**

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Biodiversity & Conservation) 2021	<u>Chapter 2: Vegetation in non-rural areas</u>  Lot 2 and 3 are mapped as having areas of high biodiversity value on the NSW Biodiversity Values Map. The Development Application was supported by a Biodiversity Development Assessment Report dated 2 August 2024 prepared by Cumberland Ecology (BDAR 2024).	Yes
	<u>Chapter 4: Koala Habitat Protection 2021</u>  Tweed Shire Council is listed in Schedule 2 and The Tweed Coast Comprehensive Koala Plan of Management 2020 (TCKPoM) is a koala plan of management approved by the SEPP. Therefore, this Chapter of the SEPP applies.	Yes
State Environmental Planning Policy (Industry and Employment) 2021	<u>Chapter 3: Advertising and Signage</u> <ul style="list-style-type: none"><li>• Section 3.6 – granting consent to signage</li><li>• Section 3.11(1) – matters for consideration</li><li>• Section 3.21 – freestanding advertisements</li></ul> The proposal provides for a cohesive signage strategy which includes both business identification signs and advertising. Council considers the two pylon signs are excessive in height. The plans demonstrate that the proposed pylon sign on Lot 2145 could meet the criteria under Section 3.11(1) – matters for consideration if the	Recommended conditions ensure compliance

	height was reduced. Council has included recommended conditions to reduce the pylon signs in height to ensure compliance with Section 3.21.in this regard. However, the applicant disagrees with Council's assessment and a justification for such large signs is provided in Attachment I. As such, the consent authority may grant consent to the signage pursuant to Clause 3.6.	
State Environmental Planning Policy (Planning Systems) 2021	<p>Chapter 2: State and Regional Development</p> <ul style="list-style-type: none"> <li>Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 2 of Schedule 6 as it comprises general development over \$30 million.</li> <li>A review of the proposal indicates that the proposal is not state significant development pursuant to Schedule 1 or Schedule 2 of this Chapter.</li> </ul>	Yes
State Environmental Planning Policy (Resilience & Hazards) 2021	<p>Chapter 2: Coastal Management</p> <ul style="list-style-type: none"> <li>Section 2.7(4) – Development on certain land within coastal wetlands and littoral rainforest areas on the <i>Coastal Wetlands and Littoral Rainforests Area Map</i> Habitat restoration proposed within Coastal Wetlands area is considered to conform to 'environmental protection works' in accordance with Section 2.7(1) and (2). APZ have been revised to ensure they do not extend into mapped Coastal Wetlands Area.</li> <li>Section 2.8(1) - Development on land in proximity to coastal wetlands or littoral rainforest Majority of Lots 2 and 3 fall within the proximity area to coastal wetlands.</li> </ul> <p>Chapter 4: Remediation of Land</p> <ul style="list-style-type: none"> <li>Section 4.6 - Contamination and remediation has been considered in the revised Detailed Site Investigation for Contamination report and the proposal is satisfactory subject to conditions.</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
State Environmental Planning Policy (Transport and Infrastructure) 2021	<p>Chapter 2: Infrastructure</p> <ul style="list-style-type: none"> <li>Section 2.122(4) - Traffic-generating development Proposal considered to be traffic-generating development as a carpark with more than 200 parking spaces is provided, commercial premises with GFA exceeding 10,000m2 and traffic generation exceeding 200 vehicles per hour. Application has therefore been referred to Transport for NSW. No objection however Works Authorisation</li> </ul>	Yes

	Deed (WAD) required to complete upgrades outlined in traffic report should Council condition them. Applicant will be required to undertake upgrade works (not Council).	
Proposed Instruments	Planning Proposal (PP24/0007) Tweed Conservation Zone Review Stage 1 (Lot 3 DP 1077990)	Yes
Tweed Local Environmental Plan 2014	<ul style="list-style-type: none"> <li>• Clause 1.2 – Aims of the Plan</li> <li>• Clause 2.3 – Zone objectives and Land Use Table</li> <li>• <b>Clause 4.3 – Height of buildings – No</b></li> <li>• Clause 4.4 – Floor space ratio</li> <li>• Clause 4.6 – Exceptions to development standards</li> <li>• Clause 5.10 – Heritage conservation</li> <li>• Clause 5.11 – Bush fire hazard reduction</li> <li>• Clause 5.21 – Flood planning</li> <li>• Clause 5.22 – Special flood considerations (not adopted at lodgement)</li> <li>• Clause 7.1 – Acid sulfate soils</li> <li>• Clause 7.2 – Earthworks</li> <li>• Clause 7.4 – Floodplain risk management – N/A</li> <li>• Clause 7.6 – Stormwater management</li> <li>• Clause 7.8 – Airspace operations</li> <li>• Clause 7.9 – Development in areas subject to aircraft noise</li> <li>• Clause 7.10 – Essential Services</li> </ul>	Yes Yes <b>No</b> Y – (Cl 4.3) Y Y Y Y N/A Y Y N/A Y Y Y Y
Tweed Development Control Plan 2008	<ul style="list-style-type: none"> <li>• Section A2 – Site Access and Parking</li> <li>• Section A3 – Development of flood liable land</li> <li>• <b>Section A4 – Advertising signs</b></li> <li>• Section A6 – Biting midge and mosquito control</li> <li>• Section A13 – Socio-economic impact assessment</li> <li>• Section A15 Waste minimisation and management</li> <li>• <b>Section A17 – Business, enterprise corridor and general industrial zones</b></li> <li>• Section A19 – Biodiversity and habitat management</li> <li>• Section B3 – Banora Point – Tweed Heads South</li> </ul>	Y Y <b>No</b> Y Y Y <b>No</b> Y Y

Consideration of the relevant SEPPs is outlined below:

*State Environmental Planning Policy (Biodiversity & Conservation) 2021*

## Chapter 2: Vegetation in non-rural areas

Lot 2 and 3 are mapped as having areas of high biodiversity value on the NSW Biodiversity Values Map (Figure x). These mapped areas correlate with the mapped coastal wetlands areas.

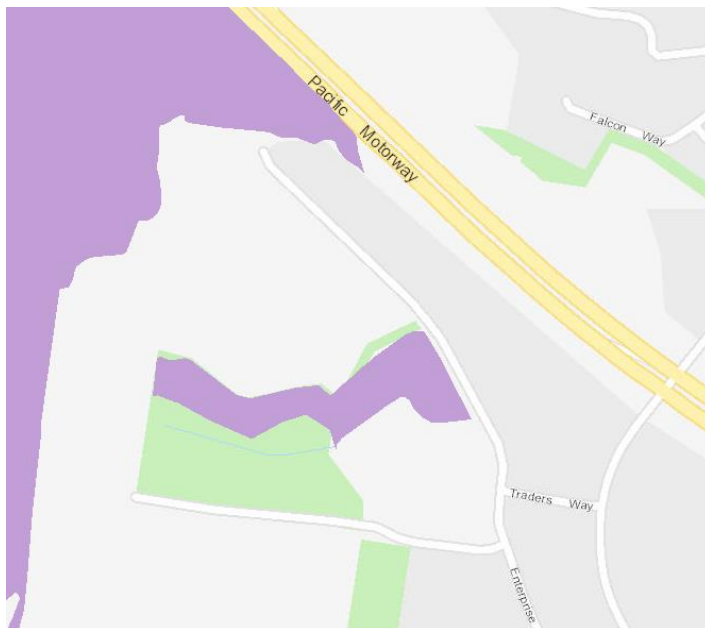


Figure 6: NSW Biodiversity Values Map and Threshold Tool

Units of remnant vegetation on and immediately adjacent to the subject sites are representative of candidate Endangered Ecological Communities listed under the Biodiversity Conservation Act 2016 (BC Act) - Swamp Sclerophyll Forest on Coastal Floodplains of the New South Wales North Coast, Sydney Basin and Southeast Corner Bioregions. The site also supports potential threatened fauna species (listed under the BC Act) habitat.

The proposed development exceeds the NSW Biodiversity Offsets Scheme clearing threshold. The Development Application was supported by a Biodiversity Development Assessment Report dated 2 August 2024 prepared by Cumberland Ecology (BDAR 2024).

The BDAR 2024 calculated the following biodiversity offset scheme ecosystem credits required to be retired:

- o PCT 693 Regrowth: two (2) credits
- o PCT 1230 Regrowth: four (4) credits

Council's Sustainability and Environment Unit are satisfied that the BDAR 2024 has been prepared in accordance with the Biodiversity Assessment Method 2020 and that sufficient measures have or will be undertaken to avoid and minimise biodiversity impacts. The number of credits calculated to be retired to offset residual impact are considered acceptable. Notwithstanding, conditions are recommended to avoid and minimise adverse environmental impact.

#### Chapter 4: Koala Habitat Protection 2021

Tweed Shire Council is listed in Schedule 2 and The Tweed Coast Comprehensive Koala Plan of Management 2020 (TCKPoM) is a koala plan of management approved by the SEPP. Therefore, this Chapter of the SEPP applies.

Concerns were initially raised by Council's Sustainability and Environment Unit in regards to the applications compliance with the TCKPoM. The TCKPoM offset provisions requires the **creation of new Koala habitat** and the originally proposed offset areas predominantly comprised areas of **existing** native vegetation on Lot 2 and Lot 3. To consider the merits of a variation under Part 5.12 of the TCKPoM and clearly demonstrate that a better ecological

outcome for Koalas is assured, the habitat restoration areas shown in the KHA&HRP 2023 would need to be amended to:

- Avoid conflict with bushfire asset protection zones; and
- Existing title restrictions

The application was supported by a revised Koala Habitat Assessment and Habitat Restoration Plan dated 23 April 2024 prepared by Cumberland Ecology (KHA&HRP 2024). It is noted that Preferred Koala Food Trees (PKFT) occur on site and that vegetation that occurs on site and adjacent to the site is regarded as Preferred Koala Habitat (PKH). No Koala activity was recorded during a targeted Koala survey.

The proposed development involves the removal of 2 x PKFTs and removal/modification of 0.1ha of PKH.

Under the TCCKPoM Appendix C, the following offset requirements are applicable:

- 1 x PKFT <100mm dbh at 1:8 offset ratio = 8 trees
- 1 x PKFT 100-250 mm dbh at 1:12 offset ratio = 12 trees
- 0.1ha of PKH at 1:12 offset ratio onsite = 1.2ha

The KHA&HRP 2024 identifies an offset and habitat restoration area of approximately 1.46ha and planting of 20 PKFT's (within the 1.46ha offset area).

The development site is to be regarded as an enclaved area that prevents the egress of Koala within the site. Chain mesh fencing is proposed around the perimeter of the development area.

Council's Sustainability and Environment Unit are satisfied that the proposal complies with the TCCKPoM and demonstrates that a better ecological outcome for koalas is assured.

### *State Environmental Planning Policy (Industry and Employment) 2021*

#### Chapter 3: Advertising and Signage

This chapter applies to all advertising and signage which can be displayed with or without consent under an EPI and that is visible from any public place or public reserve. In accordance with section 3.1, this chapter aims to ensure that signage (including advertising):

- (i) is compatible with the desired amenity and visual character of the area; and
- (ii) provides effective communication in suitable locations; and
- (iii) is of high quality design and finish.

The following signage is proposed:

#### Lot 2 DP 1077990

- Eight (8) wall signs including text "Bunnings Warehouse" and hammer logo (defined under the Tweed LEP 2014 as 'business identification signs')
- A direction sign showing the location of trade timber area
- A 10m pylon sign including text "Bunnings Warehouse" and hammer logo (defined under the Tweed LEP 2014 as 'business identification signs')

#### Lot 2145 DP 879149

- A 8m pylon sign including text "Harvey Norman", "Computers, electrical, furniture, bedding", "Bunnings Warehouse 44 Enterprise Avenue" and directional signage to the new Bunnings site (defined under the Tweed LEP 2014 as 'business identification signs' and 'advertising')

All signage is proposed to be illuminated either internally (pylon signs) or by external lighting (wall signs).

Section 3.6 outlines that the consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:

- (a) that the signage is consistent with the objectives of this Chapter as set out in section 3.1(1)(a), and
- (b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 5.

In response to the objectives under section 3.1(1)(a), the proposal includes a cohesive signage strategy for the site incorporating both business identification signs and advertising. The character of the area comprises industrial and commercial uses with no residential development in close proximity. The signage identifies the Business at Lot 2 whilst the sign at Lot 2145 provides directional signage for the new Bunnings location. Signage is either painted wall signs with minimal maintenance required, or pylon signs constructed from high quality materials. Based on the assessment of Schedule 5 below, the proposed pylon signs are not considered to be in keeping with the character of other signage in the area, is visually obtrusive and dominates the skyline. Council has included recommended conditions that the signage be reduced to a more appropriate height (6m for Lot 2 and 5m for Lot 2145). Therefore, Council considers that using the recommended conditions, the signage could be consistent with the objectives under section 3.1(1)(a). However, the applicant disagrees with this assessment and has provided justification for the pylon signs which is contained in Attachment I.

The following table provides an assessment of the proposed signage against Schedule 5.

Assessment Criteria	Comment
<b>1. Character of the area</b> <ul style="list-style-type: none"> <li>Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</li> </ul>	<p>The site falls within an existing large industrial (E4 zoning) and productivity support (E3 zoning) area. The scale and location of the proposed signage has been designed to provide a professional signage schematic for the site.</p> <p>The proposed signage strategy is considered to be compatible with the desired character of the site and surrounds. In particular the character of the signage is consistent with the Bunnings branding and colours.</p> <p><u>Lot 2 signage</u> - 10 of the signs are attached to the walls of the building and do not protrude above the building. The pylon sign proposed has a maximum height of 10m which is considered excessive in terms of the character of the area and other surrounding signs, especially when it will be located on an approximate 3m high retaining wall when viewed from the street. A 6m high sign is considered more acceptable. The signage is associated with the business being conducted at the site.</p> <p><u>Lot 2145 signage</u> - the proposed sign has a maximum height of 8m. This sign is considered visually obtrusive and out of character with signage in the area and surrounding buildings, especially when viewed from the Pacific Motorway. A 5m high sign is considered more acceptable. The signage is partially</p>



Assessment Criteria	Comment
	associated with the business being conducted at the site (Harvey Norman portion) whilst the remainder provides directional signage to Bunnings located on another site.
<ul style="list-style-type: none"> <li>Is the proposal consistent with a particular theme for outdoor advertising in the area or locality</li> </ul>	<p>There is no site-specific theme for advertising for the area.</p> <p>An assessment against the Shire wide Advertising and Signs Code is provided in a later section of this report.</p>
<p><b>2. Special areas</b></p> <ul style="list-style-type: none"> <li>Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?</li> </ul>	<p>The site is located within an existing large industrial (E4 zoning) and productivity support (E3 zoning) area that is characterised by an urban landscape character unit pursuant to Councils Scenic Landscape Protection Policy.</p> <p>The proposal does not seek to significantly alter the landform beyond that already approved. The provision of signage in accordance with the schematics provided in the Architectural Plans are considered to be consistent with the scale of the proposed building (with the exception of the pylon signs discussed below). An assessment of the proposed development including signage has been conducted against the Scenic Landscape Protection Policy contained later in this report. This found that the pylon sign on Lot 2145 is visually obtrusive when viewed from the Pacific Motorway.</p> <p>The subject sites are not located adjacent or within the vicinity of any heritage areas, natural or other conservation areas. Whilst Lot 2 is located within 200m of residential zoned land, it is considered that the topography of the surrounding area and mature vegetation will screen views to the proposed signage from residential areas.</p> <p><u>Lot 2 signage</u> – the proposed signage attached to the building is considered to be consistent with the scale of the proposed building and will not negatively impact the viewsheds given the site is barely visible due to mature vegetation. Whilst the signage is oversized, this is consistent with Bunnings brand and warehouses designs.</p> <p>In respect to the proposed 10m high pylon sign, this will be located on an approximate 3m high retaining wall so will appear more like 13m high from the street. It is considered that this is not in keeping with the existing character of the area and therefore will affect the visual character. A reduced sign to 6m high is considered more appropriate.</p> <p>Lot 2 is mapped as being an environmentally sensitive area (coastal wetland and proximity area).</p>

Assessment Criteria	Comment
	<p>The proposed development provides a minimum distance of 27m between the mapped coastal wetland and any built form. The coastal wetland is also surrounded by tall mature vegetation. The proposed development will also sit behind a landscaped street frontage. Therefore, it is not considered that the wall signs and reduced pylon sign will detract from the amenity or visual quality of the coastal wetland area.</p> <p><u>Lot 2145 signage</u> - the sign will be visible from the Pacific Highway as a fleeting glance. Given the height of the sign (8m), it will look out of character with the existing surrounding urban landscape. As such Council recommends the signage be reduced to 5m and a draft condition has been provided.</p> <p>As such, it is considered that subject to recommended conditions reducing the height of pylon signs, the proposal would not detract from the amenity or visual quality of the site or views to the site.</p>
<p><b>3. Views and vistas</b></p> <ul style="list-style-type: none"> <li>Does the proposal obscure or compromise important views?</li> </ul>	<p>The proposed signage does not obscure important views and vistas of the surrounding area.</p>
<ul style="list-style-type: none"> <li>Does the proposal dominate the skyline and reduce the quality of vistas?</li> </ul>	<p><u>Lot 2 signage</u> – the proposed signage is attached to the walls of the building and do not surpass the roofline. Whilst the single pylon sign is below the height of the building proposed (which exceeds the allowable building height), it will exceed the height of surrounding development due to it being on an approximate 3m high retaining wall. A reduced sign to a maximum height of 6m is considered more appropriate (recommended conditions included). This will ensure that the sign does not dominate the skyline nor reduce the quality of vistas.</p> <p><u>Lot 2145 signage</u> - the sign (8m) will be above the height of surrounding buildings and signage and therefore is considered to dominate the skyline. A reduced sign to a maximum height of 5m is considered more appropriate (recommended conditions included). This will ensure that the sign does not dominate the skyline nor reduce the quality of vistas.</p>
<ul style="list-style-type: none"> <li>Does the proposal respect the viewing rights of other advertisers?</li> </ul>	<p>The proposed signs provide an opportunity for improved wayfinding to visitors and aid to highlight the identification and use of the proposed building. The signage will not interfere with the rights of other advertisers.</p>

Assessment Criteria	Comment
<p><b>4. Streetscape, setting or landscape</b></p> <ul style="list-style-type: none"> <li>Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?</li> </ul>	<p><u>Lot 2 signage</u> – the dimension of the wall signs whilst oversized are consistent with the Bunnings brand and other Bunnings warehouse buildings. Therefore, these wall signs are considered appropriate to the location and existing streetscape of the industrial/productivity support precinct.</p> <p>Whilst the proposed pylon sign (10m) is compliant with the maximum building height allowable under the Tweed LEP 2014, it will sit atop an approximate 3m high retaining wall, resulting in it appearing as 13m high from the street level. This is not consistent with the scale of adjoining development and signage. Council recommends the signage be reduced to 6m to better suit the streetscape and setting of the site.</p> <p><u>Lot 2145 signage</u> - the pylon sign (8m) is not considered appropriate or in keeping with the scale of surrounding buildings. Whilst there are other pylon signs which are of a similar height along Greenway Drive, these signs are considered to dominate the skyline. In addition, Harvey Norman already has a pylon entry sign which is 11.2m high (not visible from this signs location). The proposed 8m high sign is considered excessive and not in keeping with the area. Council recommends that this sign be reduced to 5m high which will better suit the streetscape.</p>
<ul style="list-style-type: none"> <li>Does the proposal contribute to the visual interest of the streetscape, setting or landscape?</li> </ul>	<p><u>Lot 2 signage</u> – the signage replicates the Bunnings branding and provides a uniform presentation to the streetscape. The proposed signage (and considered a reduced height pylon sign) is considered to add to the visual interest of the streetscape in an urban/industrial area.</p> <p><u>Lot 2145 signage</u> – The sign provides for a business identification sign for Harvey Norman whilst providing directional signage for Bunnings. Both are in keeping with the branding for each company. A reduced height pylon sign will improve wayfinding whilst adding visual interest to the streetscape</p>
<ul style="list-style-type: none"> <li>Does the proposal reduce clutter by rationalising and simplifying existing advertising?</li> </ul>	<p><u>Lot 2 signage</u> – The proposed development relates to the first use of the site and construction of new buildings. The signage proposed relates to the sole use of the site as a Bunnings. The proposed signage is not considered to clutter the site and provides simple and uniform signage across the site.</p> <p><u>Lot 2145 signage</u> – The proposed pylon sign will provide an additional sign for Lot 2145 and advertising relating to Lot 2. This site contains a significant number of signs relating to the multiple businesses which occupy this site. Currently, Harvey Norman appear to have thirteen (13) signs on this site that specifically relate to their business.</p>

Assessment Criteria	Comment
	Given that Harvey Norman and the new Bunnings location are not easily visible, it is considered acceptable to provide an additional sign to inform visitors of their respective locations. Signage on this site needs rationalising to reduce the clutter that currently exists. This is considered more appropriate to deal with under a separate application.
<ul style="list-style-type: none"> <li>Does the proposal screen unsightliness?</li> </ul>	No unsightliness to screen. Development comprises of a new building.
<ul style="list-style-type: none"> <li>Does the proposal protrude above buildings, structures or tree canopies in the area or locality?</li> </ul>	<p><u>Lot 2 signage</u> –The proposed wall signs will sit flush with external building walls and not protrude above the proposed building on site. Whilst the proposed pylon sign does not exceed the maximum height limit for the site under Tweed LEP 2014, or the height of the proposed Bunnings building which exceeds the allowable height, it will protrude above existing built form in the area and is not considered in keeping with the current character of the area. A reduced height of 6m will ensure that the sign does not project above the height of nearby buildings.</p> <p><u>Lot 2145 signage</u> – Yes – The sign is below the height of the nearby Super Amart building (8.8m) but above the height of the main roofline of various businesses in the background (7m &amp; 5.3m). The 8m sign is considered to be visually obtrusive. It is recommended that the sign be reduced to 5m to be more in keeping with the character and existing built form of the area.</p>
<ul style="list-style-type: none"> <li>Does the proposal require ongoing vegetation management?</li> </ul>	The proposed signage will be located on grassed/low planted areas where maintenance would be expected in the absence of such signage. There is no obligation for Council or adjoining property owners in relation to management of vegetation on their land.
<p><b>5. Site and building</b></p> <ul style="list-style-type: none"> <li>Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?</li> </ul>	<p><u>Lot 2 signage</u> – The dimension of the wall signs whilst oversized are consistent with the Bunnings brand and other Bunnings warehouse buildings. Therefore, these signs are considered appropriate given the size and overall scale of the building. In relation to the pylon sign, this has been appropriately positioned to identify the principal entry points for customers. However, it is considered that an oversized pylon sign is unnecessary, and a reduced height and scale sign can similarly indicate the main entry point whilst not being so dominant in the landscape.</p>

Assessment Criteria	Comment
	<u>Lot 2145 signage</u> – No –The sign is below the height of the nearby Super Amart building (8.8m) but above the height of the main roofline of various businesses in the background (7m & 5.3m). Therefore, this sign is considered to be visually obtrusive and not compatible with the scale, height and proportion of surrounding buildings. It is considered that an oversized pylon sign is unnecessary, and a reduced height and scale sign can similarly indicate the locations of Harvey Norman and Bunnings stores whilst not being so dominant in the landscape.
<ul style="list-style-type: none"> <li>Does the proposal respect important features of the site or building, or both?</li> </ul>	<u>Lot 2 and Lot 2145 signage</u> - The signs are appropriately situated on the building and the site.
<ul style="list-style-type: none"> <li>Does the proposal show innovation and imagination in its relationship to the site or building, or both?</li> </ul>	The signs are appropriately situated on the building and the site.
<p><b>6. Associated devices and logos with advertisements and advertising structures</b></p> <ul style="list-style-type: none"> <li>Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?</li> </ul>	<p><u>Lot 2 and Lot 2145 signage</u> - The proposed signs are either free standing or mounted on the external walls. There are no externally protruding safety devices or platforms. The signage attached to the walls of the Bunnings building will be lit by outrigger arms.</p> <p>The content of the signage conveys corporate messages and are not considered to be excessive or inappropriate.</p>
<p><b>7. Illumination</b></p> <ul style="list-style-type: none"> <li>Would illumination result in unacceptable glare?</li> </ul>	<p><u>Lot 2 and Lot 2145 signage</u> - It is proposed to illuminate all 12 signs. The pylon signs are proposed to be internally illuminated whilst the signs attached to the wall of the new building will be illuminated with outrigger arms which direct the light towards the building. The signage is located within an industrial/productivity support area where illuminated signage is common. There are no residential properties in close proximity which would be affected by the illumination. It is not considered that the signage will result in unacceptable glare. However, the standard condition relating to illumination is to be applied requiring all signage to be fitted with necessary devices capable of permitting the change in intensity of illumination of the sign in order to regulate glare or other like impacts.</p>
<ul style="list-style-type: none"> <li>Would illumination affect safety for pedestrians, vehicles or aircraft?</li> </ul>	<u>Lot 2 signage</u> – This lot is located at the end of a road and there is no passing traffic. Some of the illuminated signs may be visible from the Pacific Highway, however this will only be a fleeting glance, and the signage is not flashing or changing, and therefore is not considered to be a distraction to drivers. The application was referred to Transport for NSW who advised their key interests are the safety

Assessment Criteria	Comment
	<p>and efficiency of the transport network, the needs of customers and the integration of land use and transport in accordance with the Future Transport Strategy. The Pacific Motorway is under the care of Transport for NSW. No concerns were raised in relation to the signage proposed which could potentially be visible.</p> <p><u>Lot 2145 signage</u> – This sign is to be located at an intersection, that as a result of the proposed development, will become signalised. The proposed signage has been considered by Council's Traffic Engineer, however no safety concerns have been raised, given the sign is not within the road reserve and does not appear to be a distraction for drivers. Further assessment may be required when details of the proposed traffic signal upgrades are provided.</p> <p><u>Lot 2 and Lot 2145 signage</u> – all signage falls within the ANEF zones and therefore in close proximity to overhead aircraft. The application was referred to the Gold Coast Airport however no concerns were raised in relation to the illuminated signage. Notwithstanding, the standard condition relating to illumination is to be applied requiring all signage to be fitted with necessary devices capable of permitting the change in intensity of illumination of the sign in order to regulate glare or other like impacts.</p>
<ul style="list-style-type: none"> <li>Would illumination detract from the amenity of any residence or other form of accommodation?</li> </ul>	<p><u>Lot 2 and Lot 2145 signage</u> – No, the sites fall within an Industrial zoned area. In addition, the location of proposed signage is separated from any residential areas through topographical changes and mature vegetation. These features are likely to obscure views of any illumination. It is noted that no submissions were received in relation to illumination concerns for the proposed development.</p>
<ul style="list-style-type: none"> <li>Can the intensity of the illumination be adjusted, if necessary?</li> </ul>	<p>The standard condition relating to illumination is applied requiring all signage is to be fitted with necessary devices capable of permitting the change in intensity of illumination of the sign in order to regulate glare or other like impacts.</p>
<ul style="list-style-type: none"> <li>Is the illumination subject to a curfew?</li> </ul>	<p><u>Lot 2 and Lot 2145 signage</u> – No, a curfew is considered to be irrelevant for an Industrial zoned area. In addition, the location of proposed signage is separated from any residential areas through topographical changes and mature vegetation. These features are likely to obscure views of any illumination. It is noted that no submissions were</p>

Assessment Criteria	Comment
	received in relation to illumination concerns for the proposed development.
<b>8. Safety</b> <ul style="list-style-type: none"> <li>Would the proposal reduce the safety for any public road?</li> </ul>	<p><u>Lot 2 signage</u> – The proposal is considered to be acceptable as it's contained wholly within the subject site and is not considered to reduce the safety of any public roads, pedestrians or cyclists. The signage is not considered to obscure any sightlines from public areas, being either attached to a building or the pylon sign is setback from the front boundary and provides 3m underneath clearance for views to and from the main vehicle entry point. The signage is not considered to obstruct visibility from any public road.</p> <p><u>Lot 2145 signage</u> - The signage was considered by Council's Traffic Engineer as it will be located in close proximity to a signalised traffic intersection. The Traffic Engineer concluded 'the proposed sign is not within the road reserve and does not appear to be a distraction for drivers or at this stage impact on the intersection. However, further assessment may be required when detail of the proposed traffic signal upgrades are provided. The proposed sign is considered acceptable and that it would not reduce the safety of users of any public road, pedestrians or cyclists.</p> <p>Conditions of consent are recommended to ensure these outcomes.</p>
<ul style="list-style-type: none"> <li>Would the proposal reduce the safety for pedestrians or bicyclists?</li> </ul>	As above.
<ul style="list-style-type: none"> <li>Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?</li> </ul>	As above.

Based on the above, the proposed signage (including the reduced pylon signs) are considered to be consistent with the intent and objectives of Schedule 5 - Assessment Criteria of the SEPP.

Therefore, the proposed development is able to be determined as it satisfies the requirements of section 3.6.

Part 3.3 Advertisements applies to all signage other than the following:

- (a) business identification signs,
  - (b) building identification signs,
  - (c) signage that, or the display of which, is exempt development under an environmental planning instrument that applies to it,
  - (d) signage on vehicles.
- (2) Despite subsection (1)(d), section 3.26 applies to signage on a trailer (within the meaning of the [Road Transport Act 2013](#)).



The signs proposed on Lot 2 are all considered business identification signs. The sign proposed on Lot 2145 is considered to be advertising. Therefore, assessment of the sign on Lot 2145 against this part is required. The following table includes an assessment against the relevant sections contained in Part 3.3.

Provision	Assessment comment	Complies
3.8 Prohibited advertisements	Lot 2145 is not considered to be: <ul style="list-style-type: none"> <li>• An environmentally sensitive area</li> <li>• Heritage area</li> <li>• Natural or other conservation area</li> <li>• Open space</li> <li>• Waterway</li> <li>• Residential</li> <li>• Scenic protection area</li> <li>• National park</li> <li>• Nature reserve</li> </ul> Therefore the sign is not prohibited.	Y
3.9 Requirement for consent	This DA seeks approval for the advertisement sign which is not yet erected.	Y
3.10 Consent authority	The NRPP is the consent authority for the sign, as it is included in a Development Application where works exceed \$30 million.	Y
3.11 Matters for consideration	An assessment has been conducted against Schedule 5 and the pylon sign on Lot 2145 was found to be excessive in height, dominating the skyline and not in keeping with the character of the area and surrounding development. It is recommended that this sign be reduced to 5m high which would then meet the provisions of Schedule 5. A reduced height sign is considered to be consistent with the objectives of this Chapter as set out in section 3.1(1)(a). In addition, section 3.16 or 3.22 are not applicable to the proposed development.	Y
3.15 Advertisements with display area greater than 20m <sup>2</sup> or higher than 8m above ground.	The portion of the sign which is considered advertising (Bunnings portion) has a display area of under 18m <sup>2</sup> (both sides included). The sign has a maximum height of 8m.	N/A
3.16 Advertisements greater than 20m <sup>2</sup> and within 250m of, and visible from, a classified road.		N/A
3.17 Advertising display area greater than 45m <sup>2</sup>		N/A

3.21 Freestanding advertisements	The reduced signage (to 5m) for Lot 2145, as discussed earlier, would not protrude above the dominant skyline, including any buildings, structures or tree canopies, when viewed from ground level within a visual catchment of 1 kilometre.	Y
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## *State Environmental Planning Policy (Planning Systems) 2021*

### Chapter 2: State and Regional Development

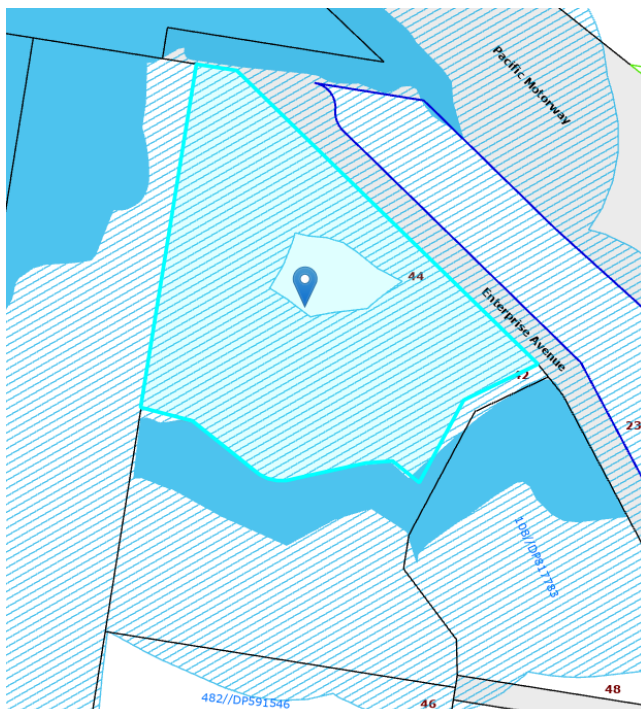
The proposal is regionally significant development pursuant to Section 2.19(1) as it satisfies the criteria in Clause 2 of Schedule 6 of the Planning Systems SEPP as the proposal is general development over \$30 million. Accordingly, the Northern Regional Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

A review of the proposal indicates that the proposal is not state significant development pursuant to Schedule 1 or Schedule 2 of this Chapter.

## *State Environmental Planning Policy (Resilience and Hazards) 2021*

### Chapter 2: Coastal Management

Lots 2 and 3 DP 1077990 are mapped as containing a coastal wetland and as being in a coastal wetland proximity area. Therefore Clause 2.7 Development on certain land within coastal wetlands and littoral rainforests area, and Clause 2.8 Development on land in proximity to coastal wetlands or littoral rainforest is applicable.



*Figure 7: Coastal wetlands and coastal wetlands proximity mapping under the SEPP (Resilience and Hazards) 2021*

## **2.7 Development on certain land within coastal wetlands and littoral rainforests area**

In accordance with 2.7(1)(c)(iv), habitat restoration is proposed within a mapped coastal wetland area. Habitat restoration works are considered to conform to 'environmental protection works' in accordance with Section 2.7(2) of the SEPP. Development consent is being sought for these works through this application. As Environmental protection works are proposed, the application does not trigger designated development. It was noted that the original Bushfire Hazard Assessment Report prepared by BlackAsh Bushfire Consulting dated July 2023 recommended that the entire site being Lot 2 to be managed as an APZ to Inner protection area standards. This extended into the mapped coastal wetland area. Subsequently a revised Bushfire Hazard Assessment Report prepared by BlackAsh Bushfire Consulting dated May 2024 provides for smaller discrete areas of APZ which do not affect the mapped coastal wetland areas.

In accordance with 2.7(4), a consent authority must not grant consent for development referred to in subsection (1) unless the consent authority is satisfied that sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland or littoral rainforest.

No development or activity other than habitat restoration is proposed within the mapped coastal wetland area.

The proposed development has been reviewed by Council's Flooding and Stormwater Engineer and Sustainability & Environment Unit who are satisfied that:

- o On site detention limited to 200 l/s/ha provides suitable stormwater detention to ensure the adjoining wetlands are not affected by an increase in stormwater flow. In addition the water reuse tank also limits stormwater flow from the site.
- o The proposed development incorporates a range of stormwater quality measures. Stormwater quality treatment for the development complies with Tweed Shire's Development Design Specification D7 Stormwater Quality.
- o Sufficient measures will be taken to protect, and enhance, the biophysical, hydrological and ecological integrity of the coastal wetland
- o The proposed development will not significantly impact on:
  - the biophysical, hydrological or ecological integrity of the adjacent coastal wetland, or
  - the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland.

Therefore, it is considered that the proposed development incorporates sufficient measures to protect, and enhance, the biophysical, hydrological and ecological integrity of the coastal wetland, and therefore the NRPP can determine this application.

## **2.8 Development on land in proximity to coastal wetlands or littoral rainforest**

**Note**

The *Coastal Wetlands and Littoral Rainforests Area Map* identifies certain land that is inside the coastal wetlands and littoral rainforests area as "proximity area for coastal wetlands" or "proximity area for littoral rainforest" or both.

In accordance with 2.8(1), Lots 2 and 3 DP 1077990 are mapped as being in coastal wetlands proximity area. As discussed earlier in this report, the new proposed Bunnings building will be located on Lot 2, whilst habitat restoration works are to be conducted on Lot 3.

As indicated in the earlier comments pertaining to Clause 2.7, Council's Flooding and Stormwater Engineer and Sustainability & Environment Unit are satisfied that the proposed development will not significantly impact on the biophysical, hydrological or ecological integrity of the adjacent coastal wetland and the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland.

Therefore, the provisions of this section are considered satisfied.

#### Chapter 4: Remediation of Land

The provisions of Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021* (*the Resilience and Hazards SEPP*) have been considered in the assessment of the development application. Section 4.6 of Resilience and Hazards SEPP requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

A search of Council's records and mapping indicates that the closest cattle dip site is Dry Dock Dip, which is located over 200m from the site. The site is not within any mapped Heavy Mineral Sands Mining Paths. A review of historical aerial images supports the mapping.

The application was supported by a Detailed Site Investigation for Contamination and Acid Sulfate Soils Investigation Report prepared by Douglas Partners Pty Ltd dated July 2023.

The report revealed that uncontrolled fill is present at the site, although well compacted. It also states that there is a potential risk for potential asbestos containing material to be present on a site where builders waste was found at 5.1 m depth borehole in the northernmost corner of the site and possible other area(s). The investigation recommends that a licenced asbestos assessor is engaged to provide a clearance certificate prior to ground disturbance. Concerns were raised by Council's Environmental Health Unit who requested a revised Detailed Site Investigation and Remedial Action Plan (where required) be submitted to ensure that the site is suitable for the proposed development, includes a protocol for managing unexpected finds, and includes Council' Northern Rivers Contaminated Land Program – Contamination Report Summary Table for each report outlining key findings and recommendations.

A revised report on Detailed Site Investigation for Contamination prepared by Douglas Partners Pty Ltd dated April 2024 has been submitted to Council. According to the report:

- Broadscale contamination has not been detected at concentrations that would represent a significant risk when assessed against the criteria for a commercial/ industrial site.
- The site is suitable for the proposed development, provided the following recommendations are implemented:
  - No obvious potential asbestos containing material (PACM) was observed across the surface of the site during the DSI, but due the presence of dense vegetation and the presence of PACM fragments on the site inspection in 2013, a licenced asbestos assessor/ occupational hygienist must be engaged to inspect the site and to provide a clearance certificate prior to ground disturbance.
  - Builders' waste was identified at depth in some on-site locations, and although they were not considered a contamination risk, an Unexpected Finds Protocol (UFP) has been prepared and must be implemented during development of the site.
  - If any de-watering is to occur with release into stormwater drains or sewage systems, then testing and treatment of the groundwater will need to occur prior due to the concentrations of zinc in groundwater.

- Based on the current contamination soil results, all excavated material should be able to be disposed of off-site to an accepting landfill facility or to another commercial / industrial property.
- The excavation and disposal of the soil must be conducted in accordance with the Acid Sulfate Soil Management Plan submitted with this application.

The revised Report on Detailed Site Investigation for Contamination includes a Contingency Plan and Unexpected Finds Protocol. The protocol confirms that although the site has been subjected to previous investigations, it remains a potential for soil contamination to be present between sampled locations and below the termination depths of sampled locations. The document defines a protocol in the event of potential soil contamination is encountered during the development, as estate below:

- The Site Manager is to be notified and the affected area cordoned off by the use of barrier tape and warning signs.
- The Environmental Consultant is to be notified to inspect the area and assess the significance of the potential contamination and establish the extent of remediation or management works (if deemed necessary) to be conducted.
- An assessment report and management plan detailing this information will be compiled by the Environmental Consultant and provided to the Principal's Representative.
- The assessment results together with a suitable management plan shall be provided by the Principal's Representative to the Consent Authority (if required by the development consent).
- The agreed management / remedial strategy, based on a remediation action plan (RAP) and relevant guidelines (e.g., WA DoH (2021), for asbestos issues), shall be implemented; and
- All details of the assessment and remedial works (if deemed necessary) are to be included in the site validation report.

The Unexpected Finds Protocol defines that should signs of concern be observed, the Site Manager, as soon as practical will:

- Stop work in the affected area and ensure the area is barricaded to prevent unauthorised access;
- Notify authorities needed to obtain emergency response for any health or environmental concerns (e.g., fire brigade);
- Notify the Principal's Representative of the occurrence;
- Notify any of the authorities that the Contractor is legally / contractually required to notify (e.g., EPA or Council); and
- Notify the Environmental Consultant.

Further, a Northern Rivers Contaminated Land Program- Contamination Report Summary Table has been submitted to Council. The report has been prepared and signed by a suitably qualified and experienced contaminated land consultant. The report has been prepared in general accordance with the NSW EPA guidelines. The report concludes the site is suitable for the proposed development, provided the recommended actions are implemented. No further consideration to contaminated land is required. Appropriate conditions have been imposed.

The proposal therefore satisfies the Section 4.6(1) of the Resilience and Hazards SEPP.

*State Environmental Planning Policy (Transport and Infrastructure) 2021*

## Chapter 2: Infrastructure

Clause 2.48 - Development likely to affect an electricity transmission or distribution network (referral to Essential Energy)

The proposed development is not triggered by the requirements of this policy. In particular, an assessment of the proposal having regard to Section 2.48(2) has been undertaken and it does not involve the penetration of ground (earthworks) within 2m of the existing underground power infrastructure. The proposed development therefore does not trigger referral to Essential Energy pursuant to Clause 2.48(1)(a) or (b).

#### Clause 2.122 Traffic Generating Development

A review of the proposal having regard to Clause 2.122 and the thresholds in Schedule 3 indicates that the proposal is considered to be traffic-generating development, as the carpark has more than 200 parking spaces, commercial premises with GFA exceeding 10,000m<sup>2</sup> and traffic generation exceeding 200 vehicles per hour.

Therefore, in accordance with Clause 2.122(4), the application was referred to Transport for NSW. No objection to the proposed development was received (refer to Attachment E), however it was noted that a Works Authorisation Deed (WAD) is required to complete upgrades as outlined in traffic report. Applicant will be required to undertake upgrade works (not Council). Appropriate conditions have been included.

It is considered that the proposed development meets the specific provisions of clause 2.122.

#### Tweed Local Environmental Plan 2014

The relevant local environmental plan applying to the site is the Tweed Local Environmental Plan 2014 ('the LEP'). The aims of the LEP include:

- (aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) to give effect to the desired outcomes, strategic principles, policies and actions contained in the Council's adopted strategic planning documents, including, but not limited to, consistency with local indigenous cultural values, and the national and international significance of the Tweed Caldera,*
- (b) to encourage a sustainable local economy and small business, employment, agriculture, affordable housing, recreational, arts, social, cultural, tourism and sustainable industry opportunities appropriate to Tweed,*
- (c) to promote the responsible sustainable management and conservation of Tweed's natural and environmentally sensitive areas and waterways, visual amenity and scenic routes, built environment, and cultural heritage,*
- (d) to promote development that is consistent with the principles of ecologically sustainable development and to implement appropriate action on climate change,*
- (e) to promote building design which considers food security, water conservation, energy efficiency and waste reduction,*
- (f) to promote the sustainable use of natural resources and facilitate the transition from fossil fuels to renewable energy,*
- (g) to conserve or enhance the biological diversity, scenic quality and geological and ecological integrity of Tweed,*
- (h) to promote the management and appropriate use of land that is contiguous to or interdependent on land declared a World Heritage site under the Convention Concerning the Protection of World Cultural and Natural Heritage, and to protect or enhance the environmental significance of that land,*
- (i) to conserve or enhance areas of defined high ecological value,*

- (j) to provide special protection and suitable habitat for the recovery of the Tweed coastal Koala.

The proposal is consistent with these aims as the proposal encourages a sustainable local economy and additional employment opportunities in the Tweed. The proposal is considered to promote the responsible sustainable management and conservation of Tweed's natural and environmentally sensitive areas and waterways through the protection and rehabilitation of Koala Habitat. Visual amenity of the area is protected as the proposal is not considered to negatively impact on the scenic values of the area. The design provides for a modern Bunnings building which will compliment the existing built environment of the area. The proposed development is also considered consistent with the principles of ecologically sustainable development, through water conservation, energy efficiency and non-renewable energy use measures.

#### *Zoning and Permissibility (Part 2)*

Zoning and permissibility assessment can be seen in **Tabel 5** below.

Table 5 - Zoning and Permissibility Table

Site	Zoning	Works	Permissibility
Lot 2 DP 1077990; 44 Enterprise Avenue	E4 General Industrial	<ul style="list-style-type: none"> <li>• Hardware &amp; building supplies,</li> <li>• associated works,</li> <li>• signage.</li> </ul>	Permissible with consent
Lot 3 DP 1077990; 42 Enterprise Avenue	RE2 Private Recreation	Environmental protection works	SEPP (Resilience and Hazards) requires consent for such works within a coastal wetland area
Lot 2145 DP 879149; 13-17 Corporation Circuit	E3 Productivity Support	Signage	Permissible with consent

#### **ZONING MAP**



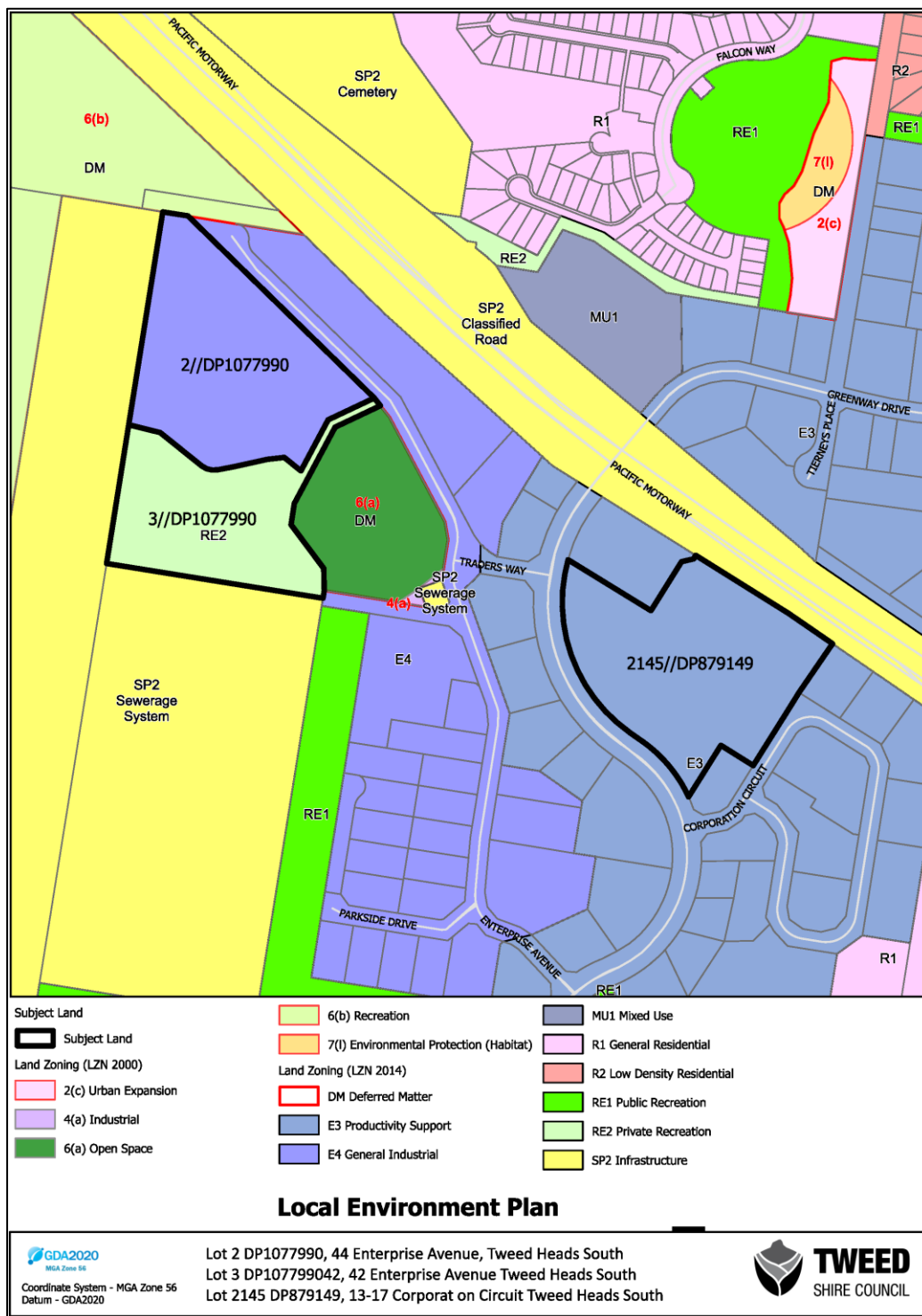


Figure 8. Zoning Mapping of Subject Site (as Highlighted in Blue) – Tweed Shire Council 2023

The zone objectives for land zoned **E4 General Industrial** include the following (pursuant to the Land Use Table in Clause 2.3):

- To provide a wide range of industrial, warehouse, logistics and related land uses.
- To ensure the efficient and viable use of land for industrial uses.
- To minimise any adverse effect of industry on other land uses.
- To encourage employment opportunities.

- To enable limited non-industrial land uses that provide facilities or services to meet the needs of businesses and workers in the area.

The proposal is considered to be consistent with these zone objectives for the following reasons:

- The proposed Bunnings building is a specialised land use that suitably integrates with other uses permitted in the E4 zone. That is, the likely impact on local amenity are significantly reduced having regard to the sites locality in the E4 zone;
- The proposal provides for employment opportunities in a relatively accessible location;
- The proposal has been designed to cater for future growth of the region and has capacity to provide additional product offerings;
- The subject site contains the appropriate infrastructure to support the proposal and has been designed to minimise impact on other nearby land uses and;
- The intended future use of the subject site and surrounds is conducive to the proposed use and poses negligible conflict between land uses.

The zone objectives for land zoned **RE2 Private Recreation** include the following (pursuant to the Land Use Table in Clause 2.3):

- To enable land to be used for private open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.

The proposal is considered to be consistent with these zone objectives for the following reasons:

- The proposal is for Koala habitat restoration works which will protect and enhance the natural environment.

The zone objectives for land zoned **E3 Productivity support** include the following (pursuant to the Land Use Table in Clause 2.3):

- To provide a range of facilities and services, light industries, warehouses and offices.
- To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres.
- To maintain the economic viability of local and commercial centres by limiting certain retail and commercial activity.
- To provide for land uses that meet the needs of the community, businesses and industries but that are not suited to locations in other employment zones.
- To provide opportunities for new and emerging light industries.
- To enable other land uses that provide facilities and services to meet the day to day needs of workers, to sell goods of a large size, weight or quantity or to sell goods manufactured on-site.
- To encourage a range of compatible uses, including recreational and community facilities to maximise cross utilisation of urban infrastructure.
- To encourage and promote good urban design through the integration of structures and landscaped areas with strong visual and aesthetic appeal.

The proposal is considered to be consistent with these zone objectives for the following reasons:

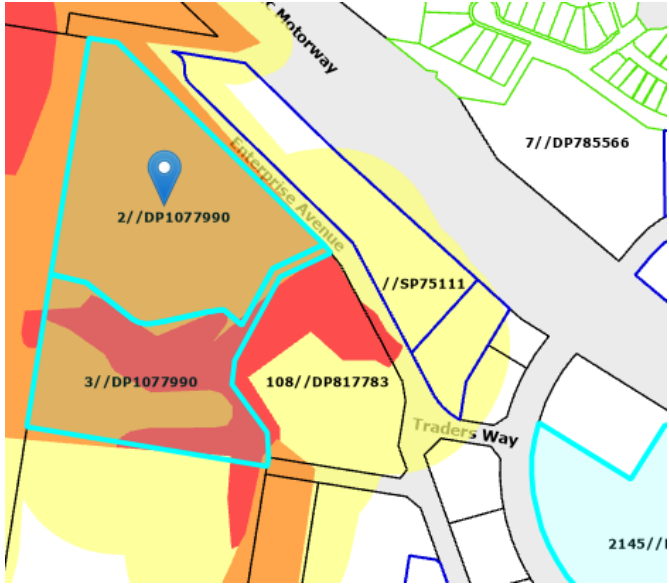
- The proposed signage relates to an existing business on the site, whilst providing directional signage to the new Bunnings location.
- The sign incorporates clear branding for both companies and is located within a landscaped area which provides a strong visual and aesthetic appeal.

#### *General Controls and Development Standards (Part 2, 4, 5 and 6)*

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in **Table 6** below. [The proposal does not comply with the development standard in Part 4 of the LEP being Clause 4.3 Height of buildings, accordingly, a Clause 4.6 request has been provided with the application for the exceedance of the maximum building height.

**Table 6: Consideration of the LEP Controls**

Control	Requirement	Proposal	Comply
Height of buildings (CI 4.3(2))	10 metres	15.52m building proposed 10m pylon sign 8m pylon sign	No – CI 4.6 variation
FSR (CI 4.4(2))	Lot 2: NIL Lot 2145: 2:1	Lot 2145: signage will not affect the current GFA of the site.	Yes
Heritage (CI 5.10)	The site is not heritage listed or in a conservation area however the site is mapped to contain predictive Aboriginal Cultural Heritage under Tweed Byron Aboriginal Cultural Heritage (ACH) Management Plan.	<p>The application was supported by a Aboriginal Heritage Due Diligence Assessment Report prepared by Everick Heritage dated December 2022. Following a site inspection with the Tweed Byron Aboriginal Land Council (TBALC) on 30 November 2022, the following conclusions were drawn:</p> <ul style="list-style-type: none"> <li>• No previously recorded Aboriginal sites are located within the Project Area.</li> <li>• No Aboriginal objects, or areas where Aboriginal objects are likely to occur beneath the ground surface, were identified within the Project Area.</li> <li>• The Project Area is of low Aboriginal archaeological sensitivity and low archaeological potential.</li> </ul> <p>The proposal was also referred to Tweed Byron Aboriginal Land Council (TBALC) in accordance with the Tweed Aboriginal Cultural Heritage Management Plan 2018 whom advised that the application is consistent with previous cultural advice and no objections were raised, subject to the precautionary condition.</p> <p>As such, based on the findings of the 2022 report and comments by TBLALC in relation to this application, the consent authority can be satisfied that matters pertaining to Aboriginal Cultural Heritage have been considered and are satisfactory.</p>	Yes
Bush fire hazard	This clause allows bushfire hazard reduction work	<u>Section 4.14 Bushfire assessment</u>	Yes

<p>reduction (CI 5.11)</p>	<p>authorised by the Rural Fires Act 1997 to be carried out on any land without development consent.</p> <p>No bushfire hazard reduction is proposed.</p> <p>The subject site is mapped as being bushfire prone.</p>	<p>Lots 2 and 3 are mapped as bushfire prone land. The location of the new Bunnings building is mapped as being within vegetation category 3.</p>  <p><i>Bushfire prone mapping: Red denotes vegetation category 1 and orange denotes vegetation category 3.</i></p> <p>The proposed development is in relation to a hardware and building supplies business which is not listed as special fire protection purposes under the NSW Rural Fires Act 1997 or Rural Fires Regulation 2022.</p> <p>The application was referred under the EP&amp;A Act s4.14 to the NSW Rural Fire Services.</p> <p>It is noted in the PBP 2019 that for Class 5-8 buildings, the NCC does not provide for any specific bushfire performance requirements, however the following objectives are applicable in relation to the following:</p> <ul style="list-style-type: none"> <li>• Access – perimeter road access is provided for the proposal</li> <li>• Emergency and evacuation planning – a Bushfire Emergency Management and Evacuation Plan is to be produced as part of the development.</li> <li>• Water Supply – water supply and utilities in compliance with Section 7.7.</li> <li>• Storage of hazardous materials – design to provide for the storage of hazardous materials away from the hazard wherever possible.</li> </ul>	
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		<p>The applicant provided an amended Bushfire Hazard Assessment report prepared by BlackAsh Bushfire Consulting who are BPAD-L3 Accredited Practitioner. The report was revised in May 2024 to consider the conflicts between expert reports with respect to the extent of the asset protection zone.</p> <p>The bushfire assessment report provides the following recommendations:</p> <ul style="list-style-type: none"> <li>• Discrete areas within the site will be established and managed as an Asset protection Zone (APZ) to Inner Protection Area (IPA) standards in accordance with the NSW RFS "Asset protection zone standards" and Appendix 4 of PBP 2019 (included as Appendix 2). Site will be managed as an Asset Protection Zones.</li> <li>• The design and construction of the building is to be provided in compliance with Section 7.6.1 of this report. [Parts of the building are nominated as being BAL Flame Zone to BAL 12.5].</li> <li>• The design is to consider and provide for the storage of hazardous materials away from the hazard wherever possible.</li> <li>• Fire hydrants are to be provided in accordance with the Building Code of Australia Section E1.3 and AS2419.1:2021.</li> <li>• A swept path width analysis should be provided for the internal access arrangements with the DA pack for a Medium Rigid (MR) vehicle.</li> <li>• A Bushfire Emergency Management and Evacuation Plan is to be produced as part of the development to ensure suitable emergency and evacuation arrangements for occupants of the proposed site.</li> </ul> <p>The proposal was referred to the NSW Rural Fire Service for comment. The NSW Rural Fire Service provided conditions on 2 July 2024 which are included at the end of this report.</p> <p>This matter is considered satisfied and appropriate conditions have been applied.</p>	
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<p>Flood planning (CI 5.21)</p>	<p>(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—</p> <p>(a) is compatible with the flood function and behaviour on the land, and</p> <p>(b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and</p> <p>(c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and</p> <p>(d) incorporates appropriate measures to manage risk to life in the</p>	<p>The subject sites are mapped to be affected by flooding with the following flooding information being held on each lot:</p> <p><u>Lot 2</u>  Design Flood Level (DFL)(1 % AEP flood) = 2.6m AHD  Probable Maximum Flood (PMF) = 5.7m AHD  Building ground floor level = 5.95m AHD</p> <p><u>Lot 2145</u>  Design Flood Level (DFL)(1 % AEP flood) = 2.6m AHD</p> <p>Based on the flood affectations of the site and the proposed land uses and ground floor levels occurring on the land (as detailed above), the design of the proposal is compatible with the flood risk of the land now and in the future. The proposed development was reviewed by Council's Flooding and Stormwater Engineer and no concerns were raised in relation to flooding. As such, the consent authority can be satisfied the development meets Clause 5.21(2) and (3).</p>	<p>Yes</p>
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	<p>event of a flood, and</p> <p>(e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.</p> <p>(3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—</p> <p>(a) the impact of the development on projected changes to flood behaviour as a result of climate change,</p> <p>(b) the intended design and scale of buildings resulting from the development,</p> <p>(c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the</p>		
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	<p>event of a flood,</p> <p>(d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.</p>		
Special Flood Considerations (CI 5.22)		At the time of lodgement, the provisions of CI 5.22 were not applicable – only coming into effect on 10 November 2023. With respect to Special Flood Considerations, refer to CI 7.4 comments below.	N/A
Acid sulphate soils (ASS) (CI 7.1)	<p>Class 2: Works below the natural ground surface. Works by which the water table is likely to be lowered.</p> <p>Class 5: Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the water table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.</p>	<p>Lot 2: mapped as being Class 2 and Class 5 ASS.</p> <p>Lot 2145: mapped as being Class 2 and Class 5 ASS</p> <p>The application was supported by a Detailed Site Investigation for Contamination and Acid Sulfate Soils Investigation dated July 2023. The report confirmed:</p> <ul style="list-style-type: none"> <li><i>The pHF values of the samples ranged from moderately acidic (4.2) to neutral (7.6). As all results were greater than 4, there is no indication that AASS is present.</i></li> <li><i>The pHFOX values of the samples were highly acidic (2.6) to slightly acidic (6.2). Two of the pHFOX results (from Test Pit 15 at a depth of 1.5 m and from Test Pit 18 at a depth of 1.5 m) were below 3. Both samples also recorded an extreme reaction with peroxide and a pHFOX value greater than two units below the pHF value. The combination of these three factors is considered to be a 'positive field sulfide identification', which is an indication that the samples tested are PASS.</i></li> <li><i>The above criteria as well as visual assessment of samples were used to select samples for quantitative laboratory analysis by the chromium reducible sulfur suite.</i></li> </ul>	Yes

		<p>Based on the report, the ASS investigation results, an Acid Sulfate Soils Management Plan will be required if material is to be moved off site or is to be left exposed and disturbed or stockpiled.</p> <p>The report also noted that the investigation undertaken only addressed to excavations of up to a maximum depth of 1 m across the site. If bulk excavations below 1 m depth are proposed, then further ASS investigation should be carried out to inform the ASSMP.</p> <p>Based on recent drawings supplied following completion of the investigation it appears that deeper excavations are proposed to allow for the installation of underground stormwater tanks and traffic ramps and therefore additional ASS investigation will be required to facilitate the preparation of an ASSMP.</p> <p>In response to the RFI issued, an Additional Acid Sulfate Soils Investigation and Management Plan dated September 2023 was provided. This report found that all excavated soil should be considered as ASS and will require treatment and should be managed accordingly.</p> <p>Based on the above and subject to the recommended condition to require works in accordance with the submitted Acid Sulfate Soil Management Plan dated September 2023, the proposal satisfies the requirements of this Clause.</p>	
Earthworks (CI 7.2)	The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.	<p><u>Lot 2</u></p> <p>The proposal includes earthworks on Lot 2 to facilitate the proposed building. The site is generally flat due to filling of the site which occurred under the subdivision (S89/0085 and 0050/2001 CCSU), however stripping of topsoil and minor excavation up to approximately 300mm across most of the proposed building footprint to establish the level of undercroft car parking as close as practical to existing ground level is proposed. Localised fill is also proposed between 0-500mm to smooth out landform depressions. Localised excavation of up to approximately 2.8m is proposed in relation to vehicle access points from Enterprise Avenue with 3.5m excavation proposed for the stormwater detention tank. The earthworks results in 11,109m<sup>3</sup></p>	Yes

		<p>of surplus material which will be exported from the site.</p> <p>Civil works plan has been provided which indicates earthworks over the site. Above ground rainwater tanks and above ground firefighting tank/s are proposed.</p> <p>The SEE provided the following assessment:</p> <ul style="list-style-type: none"> <li>• <i>drainage patterns and soil stability in the locality will not be adversely impacts as all run-off from the development footprint will be directed to Enterprise Avenue via stormwater quality treatment measures within the site;</i></li> <li>• <i>the works facilitate the future use and development of the land;</i></li> <li>• <i>the quality of the soil to be excavated has been assessed and will be subject to further testing prior to removal off-site;</i></li> <li>• <i>construction works can be appropriately managed to minimise potential amenity impacts (such as dust and noise) of adjoining properties;</i></li> <li>• <i>any excavated material will be required to be disposed of in accordance with prevailing statute;</i></li> <li>• <i>the likelihood of disturbing relics has been assessed as low although unexpected finds protocols can be employed;</i></li> <li>• <i>the stormwater design directs run-off via quality controls measures to the street such that the potential for adverse impacts on any waterway, drinking water catchment or environmentally sensitive area are minimised;</i></li> <li>• <i>appropriate construction and operational measures are detailed in this SEE and supporting documents to avoid, minimise or mitigate the impacts of the development; and</i></li> <li>• <i>the works are not proximate to any known or potential heritage items, archaeological sites or heritage conservation areas.</i></li> </ul> <p>As discussed in more detail later in this report, the proposed stormwater management plan includes appropriate provision for stormwater collection, treatment and disposal into the existing stormwater drainage system and therefore subject to recommended conditions of consent, the proposed earthworks are unlikely to have a detrimental impact on environmental functions, neighbouring</p>	
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		<p>uses, cultural or heritage items or features of the surrounding lands. Given the earthworks are associated with the construction of the buildings, the consent authority can be satisfied that the objectives of this Clause are satisfied.</p> <p><u>Lot 2145</u> Minimal excavation is required for the footings associated with the pylon sign. It is not considered that this will have a detrimental impact on environmental processes and functions, neighbouring uses, cultural or heritage items or features of the surrounding land.</p>	
Floodplain Risk Management (CI 7.4)	The objectives of this clause is to enable evacuation of land subject to flooding in events exceeding the flood planning level (for development with particular evacuation or emergency response issues) and protect the operational capacity of emergency response facilities and critical infrastructure during extreme flood events.	N/A - Hardware and Building Supplies is not listed as one of the uses under CI 7.4(3).	N/A
Stormwater Management (CI 7.6)	The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.	<p>A Stormwater Management Plan prepared by C &amp; M Consulting dated February 2023 proposes the following stormwater mitigation measures for the development:</p> <ul style="list-style-type: none"> <li>• A pit and pipe network to collect minor storm runoff from areas;</li> <li>• Overland flow paths to carry major storms through the site;</li> <li>• A below ground OSD tank with orifice and weir control;</li> </ul>	Yes

		<ul style="list-style-type: none"> <li>• A below ground rainwater reuse tank.</li> </ul> <p>The legal point of discharge for Lot 2 is Enterprise Avenue or adjoining land Lot 108 DP 817783 which is a designated drainage reserve. The existing stormwater network in Enterprise Avenue discharges into Lot 108 DP 817783. It is noted that Lot 108 also contains a mapped coastal wetland.</p> <p>The developed site has approximately 100% more impervious area than pre-development. A below ground OSD tank with orifice and weir control and a storage capacity of 2601m<sup>3</sup> is proposed. Drains modelling has been used to determine the sizing of the tank with the results presented in the report which is acceptable.</p> <p>In addition to OSD, water reuse is proposed with a below ground rainwater reuse tank. Water reuse is proposed for the nursery and in store toilets. A 34,000L rainwater tank is proposed with 3,000m<sup>2</sup> of roof area directed towards the rainwater tank.</p> <p>It is noted Coastal Wetlands are located to the south of Lot 2 DP 1077990. OSD limited to 200 l/s/ha provides suitable stormwater detention to ensure the adjoining wetlands are not affected by an increase in stormwater flow. In addition the water reuse tank also limits stormwater flow from the site.</p> <p>The following stormwater quality measures are proposed for the development:</p> <ul style="list-style-type: none"> <li>• 28 x OceanGuard litter basket (OceanProtect) in nominated inlet pits will form part of the water quality treatment train, removing gross pollutants.</li> <li>• 30 x 690mm PSORB stormFilter cartridges (OceanProtect) fitted in a StormFilter chamber within the OSD tank to treat the water by removing suspended solid, sediments and nutrients prior to leaving the site.</li> <li>• 1 x Jellyfish JF3250-28-5 manhole (OceanProtect) to treat the water prior to it leaving the site.</li> </ul> <p>Sediment and erosion control during construction works will be subject to a s68 approval, as is the stormwater connection, OSD and water quality</p>	
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		<p>treatment devices. Appropriate conditions have been imposed.</p> <p>Based on the above considerations, the developments stormwater run off from the site is appropriately treated to protect adjoining lands and the environment.</p> <p>Conditions of consent are recommended to ensure the outcomes in the Stormwater Management Plan dated February 2023 are achieved on site and therefore subject to recommended conditions, the development is considered to meet the objectives of this Clause.</p>	
Airspace Operations (CI 7.8)	Inner Horizontal Surface RL 49.5m AHD	<p>Proposed maximum RL is 21.220m AHD on Lot 2 for the apex of entry. This is well below the OLS for the site.</p> <p>The application was referred to the Gold Coast Airport Limited (Airspace Protection) for comment. Airspace Protection recommended that a condition be included requiring an application be made to Gold Coast Airport for a blanket clearance of 32.0m for the duration of construction (e.g. cranes). Once approved all operations under this height would be exempt from application. However, if any operations are required above this, separate application and approval would be required on a case by case basis.</p>	Yes
Development in areas subject to aircraft noise (CI 7.9)	<p>(2) This clause applies to development that—</p> <p>(a) is on land that—</p> <p>(i) is near the Gold Coast Airport, and</p> <p>(ii) is in an ANEF contour of 20 or greater, and</p> <p>(b) the consent authority considers is likely to be adversely affected by aircraft noise.</p>	<p>Lot 2 is affected by aircraft noise (ANEF 20-30 – ANEF 2047 Zones and Contours).</p> <p>The application was supported by an Environmental Noise Impact Assessment dated December 2022.</p> <p>The proposal is a commercial building, and it is likely to result in the increase of the number of people affected by aircraft noise.</p> <p>The report referenced the AS 2021:2015 Acoustics – Aircraft Noise Intrusion – Building Siting And Construction. The report confirms:</p> <ul style="list-style-type: none"> <li>- The ANRs required for habitable and non-habitable areas have been determined for the proposed development.</li> </ul>	Yes

	<p>(3) Before determining a development application for development to which this clause applies, the consent authority—</p> <p>(a) must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and</p> <p>(b) must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021:2015, and</p> <p>(c) must be satisfied the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021:2015.</p>	<ul style="list-style-type: none"> <li>- The weighted sound reduction indexes (Rw's) for building components to be used in each area, have been calculated.</li> <li>- Given the high level of external noise due to aircraft, special attention will be required to achieve the stated Rw values, particularly for hinged or sliding windows or glass doors.</li> <li>- The results of the noise modelling and predictions indicate that the site represents an appropriate location for the proposed works, and the site can be designed to achieve compliance with the relevant criteria.</li> </ul> <p>The assessment is considered satisfactory and has addressed the requirements of this clause by following AS2021-2025. Standard conditions to apply.</p>	
Essential Services (CI 7.10)	Development consent must not be granted to development unless the	<p><u>Water</u></p> <p>Water infrastructure is located in Enterprise Avenue. The Hydraulic Plan (Drawing No. 02570_201 prepared by C&amp;M Consulting</p>	Yes



	<p>consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—</p> <ul style="list-style-type: none"> <li>(a) the supply of water,</li> <li>(b) the supply of electricity,</li> <li>(c) the disposal and management of sewage,</li> <li>(d) stormwater drainage or on-site conservation,</li> <li>(e) suitable vehicular access.</li> </ul>	<p>Engineers and dated 29 April 2024) indicates a connection to the existing water infrastructure, bulk water meter and proposed water/hydrant booster locations.</p> <p>It is noted that the current pressures and flows are insufficient for firefighting purposes. The proposed development will provide water supply for firefighting via an on-site storage tank and pump. This is located at the rear of the carpark. Council has an approved project proposal to provide additional mains supply which should provide the necessary fireflows to meet Council's service standards. These works are likely to occur within the next 2 years.</p> <p>The proposed arrangements for supply of water are suitable for the proposal. Councils Water and Wastewater Unit have reviewed the proposal and raised no objection to the provision water supply associated with the proposal.</p> <p><u>Electricity</u></p> <p>Lot 2 DP 1077990 – Electricity has been provided to this vacant allotment through the subdivision process (DA03/0169). Letter provided by Country Energy dated 10 January 2005 confirming this.</p> <p>Lot 2145 DP 879149 – Electricity available at this site.</p> <p><u>Sewage Management</u></p> <p>There is public sewer infrastructure located within the site. Concerns were initially raised by Councils Water and Wastewater Unit in relation to the proximity between existing public sewer infrastructure and proposed stormwater infrastructure, and that the access ramps may negatively impact the existing sewer infrastructure.</p> <p>The Hydraulic Plan (Drawing No. 02570_201 prepared by C&amp;M Consulting Engineers and dated 29 April 2024) indicates that it is proposed to relocate the sewer line clear of the stormwater infrastructure and outside of the proposed access ramps. A s68 application will be required for such works and an appropriate condition has been included.</p>	
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		<p>Councils Water and Wastewater Unit have reviewed the proposal and raised no objection to the disposal and management of sewerage associated with the proposal.</p> <p><u>Stormwater drainage</u></p> <p>The proposed stormwater drainage for the site will utilise the existing approved legal point of discharge in Enterprise Avenue which will be collected and detained on site via a proposed OSD tank under the carpark area.</p> <p>The submitted Stormwater Management Plan prepared by C &amp; M Consulting dated February 2023 includes measures to collect, clean and reuse stormwater from the site. Council's Flooding and Stormwater Engineer has reviewed the proposed measures and are satisfied that they are appropriate for the site. OSD limited to 200 l/s/ha provides suitable stormwater detention to ensure the adjoining wetlands are not affected by an increase in stormwater flow. In addition the water reuse tank also limits stormwater flow from the site.</p> <p><u>Vehicle Access</u></p> <p>Vehicular access will be provided to Lot 2 via four new crossovers from Enterprise Avenue. These all require modification of the existing rock retaining wall. Certification and sign off post-construction will be required from an NER Engineer to certify that the structural integrity of the wall is intact once all construction works have completed. An appropriate condition has been included.</p> <p>The proposed access arrangements are adequate for the envisaged use and overall function of the site.</p>	
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#### *Clause 4.6 Request*

#### *The Development Standard to be varied and extent of the variation*

Clause 4.3 stipulates a maximum building height of 10m above natural ground (existing) to the highest point of the building. The Bunnings building proposed on Lot 2 provides for a maximum building height of 15.52m above natural ground level. The proposal therefore exceeds the maximum building height. The non-compliance is to the extent of 5.52m or 55.2%. As the extent of variation is more than 10%, the Northern Regional Planning Panel has the function of determining this application. The application is accompanied by a Clause 4.6 variation to height of building development standard.

Clause 4.6 - Exceptions to development standards of TLEP 2014 Subclause (3) reads:

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating-*
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

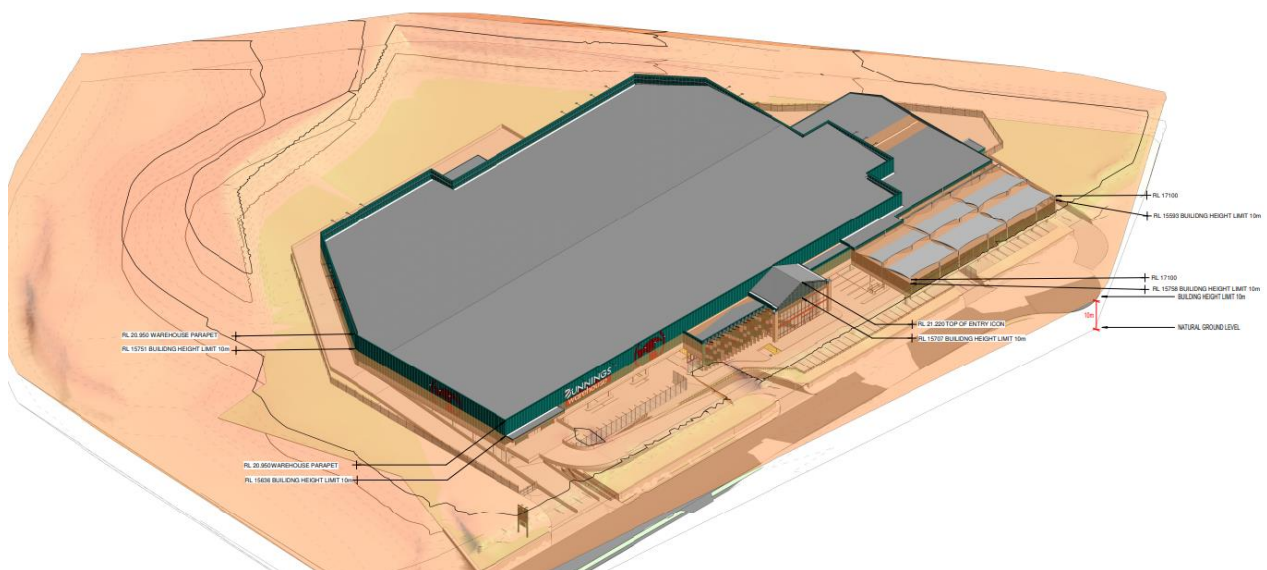
The extent of the non-compliance is generally described as follows:

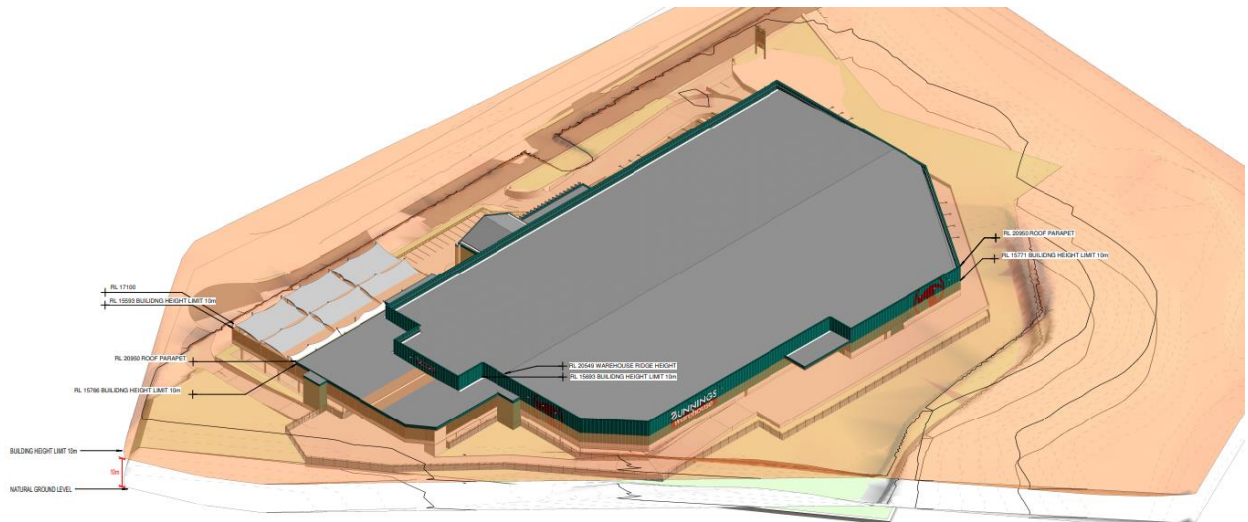
- The roof ridge over the main entry is at RL 21.22m, which is 15.52m above the natural ground level below at RL 5.7m (i.e. a variation of 5.52m);
- The top of the parapet wall surrounding the main roof of the building is at RL 20.95m, which is 15.25m above the natural ground level below at RL 5.7m (i.e. a variation of 5.25m); and
- The roof ridge of the main roof of the building is at RL 20.549 which is 14.85m above the natural ground level below at 5.7m (i.e. a variation of 4.85m).
- The outdoor nursery shade sail and columns is at RL 17.1 which is 11.507m above the natural ground level below at 5.593m (i.e. a variation of 1.507m).
- Other elements which exceed the maximum building height limit include the bagged goods roof and parapet, canopies for timber and trade entry and goods inward, signage and signage lighting arms.

The applicant has outlined in the Clause 4.6 Variation request, the planning grounds to justify such a contravention of the Height of Buildings standard:

- *ensuring the proposed building complies with flood controls;*
- *limiting unnecessary excavation and transport of soil off-site;*
- *locating car parking beneath the building in an undercroft to minimise urban heat gain;*
- *maximising landscaping and vegetation retention/restoration on the land; and*
- *that there are no significant adverse environmental amenity impacts arising from the proposal.*

The following diagrams have been provided which indicate the extent of the non-compliance above the maximum building height level of 10m.





*be relocated to the perimeter of the Site, the loss of vegetation would be greater and this is not considered to be an appropriate outcome or the orderly and economic development of the land.*

- That the proposed development is considered to be consistent with the objectives of the height of buildings development standard as follows:
  - (a) *to establish the maximum height for which a building can be designed,*
    - *The proposed height exceedance does not alter the underlying height limit for the land or the E4 Zone more generally and this objective remains unaffected by the proposal. Notwithstanding that the proposal exceeds the limit set by the LEP, the subject land is capable of achieving a building height of greater than 10m as it is a large site, removed from contiguous developable land, not proximate to any residential or land uses that would be visually sensitive to the proposal and does not result in adverse amenity impacts as set out herein and within the SEE that accompanies the DA.*
  - (b) *to ensure that building height relates to the land's capability to provide and maintain an appropriate urban character and level of amenity,*
    - *The land is zoned E4 General Industrial and large and tall buildings are a feature of this zone. As indicated above, the context of this specific Site is one which is not typical of the broader locality given the surrounding land uses and the height exceedance will not result in significant adverse character or amenity impacts.*
  - (c) *to ensure that taller development is located in more structured urbanised areas that are serviced by urban support facilities,*
    - *The Site is already serviced with essential services and utilities and is well connected to the surrounding road network, noting that the proposal identifies several localised intersection improvements that will be required to be completed prior to occupation of the development.*
  - (d) *to encourage greater population density in less car-dependant urban areas*
    - *This objective is not relevant to the proposal which is not a residential land use although the attainment of the objective on other land that is subject to a height control is not thwarted by the proposal.*
  - (e) *to enable a transition in building heights between urban areas comprised of different characteristics*
    - *The Site does not represent a transition between any particular urban settings and strict adherence to the height limit in this instance would be contrary to the Site specific context.*
  - (f) *to limit the impact of the height of a building on the existing natural and built environment,*
    - *The detailed assessment of natural and built environmental impacts within this cl4.6 request, the SEE report and other specialist reports which accompany the DA, demonstrate that the impacts of the proposal can be minimised and mitigated and that the additional height is beneficial as it reduces the building footprint and maximises natural environmental outcomes.*
  - (g) *to prevent gross overshadowing impacts on the natural and built environment*
    - *The proposed height exceedance will create additional overshadowing compared to a compliant development although any shadows cast will be predominantly within the site and not to any residential or other such land or significant public domain areas.*

### **Sufficient environmental planning grounds**

- That the site-specific environmental planning grounds that support the proposed variation to the height of buildings development standard in this circumstance include:
  - *Flooding - The land at No. 44 is subject to a flood planning level of RL 3.1m and a probable maximum flood (PMF) level of RL 5.7m. The proposed carpark level is RL5.95m which is above the FPL and PMF. If the proposed undercroft carparking were to be constructed as a basement carpark to achieve compliance, it would require at*

*least 5m of excavation below the existing ground level which would place the basement below the FPL and the PMF which is not considered a desirable or acceptable outcome for any development of the land;*

- *Excavation – irrespective of the need to comply with flood provisions, the proposed development seeks to minimise the amount of excavation and the need to transport significant amount of material off the site. Whilst some excavation is required, the total volume of material required to be exported has been minimised which also minimises changes to stormwater conditions;*
- *Urban Heat Gain - locating car parking beneath the building in an undercroft is considered preferable to placing large expanses of hard surface around the perimeter of the building which would add to urban heat gain; and*
- *Vegetation Retention/Restoration – the condensing of the development footprint by locating the car parking under the building also maximising the ability to retain and revegetate/landscape parts of the Site. As explained in Section 2 the design objective to retain vegetation and allow for its restoration has influenced the building design which along with operational requirements for clearances for cars and racking systems has informed the building height.*

### **Public interest**

- That the proposed development is consistent with the relevant objectives of the development standard to be varied (described above) and all of the relevant zone objectives (described below). Accordingly, it follows that the proposed development is in the public interest.
- Assessment against the zone objectives is as follows:
  - *To provide a range of industrial, warehouse, logistics and related land uses.*
    - *The proposal will provide a large, warehouse style retail uses which will support local industry through a broad range of products and services.*
  - *To ensure the efficient and viable use of land for industrial uses.*
    - *The proposal will utilise the Site for a permissible land use in an orderly and economic fashion.*
  - *To minimise any adverse effect of industry on other land uses.*
    - *The proposal will not generate any significant adverse impacts on surrounding land uses in terms of noise or traffic, subject to various mitigation measures.*
  - *To encourage employment opportunities.*
    - *The proposal will retain the employment opportunities created by the existing Bunnings warehouse. Additional employment will be created through increased building and landscape maintenance and the larger floor area will allow greater choice in product lines providing for greater multipliers to local industry.*
  - *To enable limited non-industrial land uses that provide facilities and services to meet the needs of businesses and workers.*
    - *The proposal will provide a broad range of facilities and services to meet the needs of businesses and workers in the area.*

### **Preconditions to be satisfied**

Clause 4.6(4) of the LEP establishes preconditions that must be satisfied before a consent authority can exercise the power to grant development consent for development that contravenes a development standard. Clause 4.6(2) provides this permissive power to grant development consent for a development that contravenes the development standard is subject to conditions.

The two preconditions include:

1. Tests to be satisfied pursuant to Cl 4.6(4)(a) – this includes matters under Cl 4.6(3)(a) and (b) in relation to whether the proposal is unreasonable and unnecessary in the

circumstances of the case and whether there are sufficient environmental planning grounds to justify contravening the development standard and whether the proposal is in the public interest (Cl 4.6(a)(ii)); and

2. Tests to be satisfied pursuant to Cl 4.6(b) – concurrence of the Planning Secretary.

These matters are considered below for the proposed development having regard to the applicant's Clause 4.6 request

*Precondition 1 – Clause 4.6(4)(a)*

In respect of Clause 4.6(4)(a)(ii), the submitted Clause 4.6 variation request identifies that compliance with the standard is unreasonable having regard to the site constraints especially limiting vegetation removal and flooding, and intended use of the building which offers hardware and building supplies and therefore clearance requirements for trade vehicles and forklifts. It further articulates that if a basement carpark to achieve compliance with the development standard, it would require at least 5m of excavation below the existing ground level which would place the basement below the flood planning level and the probable maximum flood level which is not considered a desirable or acceptable outcome for any development of the land. The design approach of using undercroft parking also avoids at grade external carparking which would result in more hard surfaces and a poorer design outcome. Furthermore, it outlines that the parapet is wrapped around the perimeter of the building to conceal the roof and ridge as well as hide roof plant and the apex/gable at the main entry is designed to project slight above (270mm) the parapet level (RL 21.220) to provide definition to the apex so that it does not blend with the parapet.

The applicant identifies that the objectives of the standard are achieved (as outlined in the summary provided by the applicant and detailed above), and that the non-compliance does not cause environmental harm. In addition, the applicant has addressed that the development is consistent with all the relevant objectives of the E4 General Industrial zone within which the development is to be carried out. In the Judgment of *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ clarified that sufficient environmental planning grounds may also include demonstrating a lack of adverse amenity impacts. The applicant has provided justification that the proposal satisfactorily manages or mitigates adverse amenity impacts. Accordingly, it follows that the proposed development is therefore in the public interest.

Based on the above merit assessment, the consent authority can be satisfied that the precondition test pursuant to Clause 4.6(4)(a) is satisfactory given the applicant has demonstrated that compliance with the development standard is unreasonable in the circumstances of this case and that the objectives of the standard can be achieved therefore satisfying a way in which an objection may be well founded under the '5 part test' established by NSW Land and Environment Court. Whilst the applicant has not specifically addressed the '5 part test' established from the case of *Wehbe v Pittwater Council* [2007] NSWLEC 827, the applicant has demonstrated point 1 being objectives of the development standard are achieved notwithstanding the non-compliance.

*Precondition 2 - Clause 4.6(4)(b)*

Precondition test No. 2 listed above is satisfied given that the proposed development is considered Regionally significant development under Schedule 6 of SEPP (Planning Systems) 2021, and therefore the Regional Planning Panel can assume the Secretary's concurrence for any extent of variation, in accordance with Planning Circular 20-002.



Having regard to the above planning assessment comments, the proposal is considered to be consistent with TLEP2014.

## **(b) Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments**

There are no draft SEPP's or LEP's that apply to the proposal. However, there is an upcoming Planning Proposal (PP24/0007) Tweed Conservation Zone Review Stage 1 which is applicable to the proposal.

This Planning Proposal concerns the spatial application of conservation zones within the Stage 1 Tweed Coast area through amendments to the Tweed LEP 2014 and Tweed City Centre LEP 2012. Stage 1 includes public and private land east of the Pacific Motorway, and areas west of the motorway in the suburbs of Banora Point, Chinderah, Cobaki, Tweed Heads West, Piggabeen and some parts of Bilambil Heights and Terranora. Future Stage 2 Tweed Hinterland covers the remainder of the Tweed Shire.

The current environmental protection zones are substantially based on legacy zoning of the Tweed LEP 1987. Council has long recognised the need to improve its environmental planning controls to ensure areas of high ecological value are afforded long-term protection.

A Planning Proposal seeking introduction of the C2 Environmental Conservation Zone and C3 Environmental Management Zone land use tables to the Tweed Local Environmental Plan 2014 was approved by the Minister for Planning and Public Space on 28 August 2023 (PP23/0001). Council resolved on 18 July 2024 to submit this Planning Proposal to the NSW Government for Gateway Determination to apply conservation zones to eligible land within Stage 1. The resolution also notes that land not eligible for a conservation zone is included for re-zoning in accordance with the Standard Instrument format.

The subject sites are located within the Stage 1 area. Based on Council's mapping, Lot 3 DP 1077990 is proposed to have C2 Environmental Protection zone imposed as per the below images.



*Figure 10: Current Tweed LEP 2014 zoning and proposed Conservation zones under PP24/0007.*

It is noted that the C2 Environmental Protection zone generally encompasses the coastal wetland area.

The application seeks approval to conduct Environmental protection works on Lot 3 which would fall within the C2 Environmental Protection zone. Under the Tweed LEP 2014,



Environmental protection works are permissible without consent in the C2 Environmental Protection zone. The Planning Proposal maintains such a landuse as being permissible without consent. Therefore, this application maintains compliance with the expected future use of this site and zoning.

The proposal is generally consistent with this proposed instrument.

### (c) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

- Tweed Development Control Plan 2008 ('the DCP')

Tweed DCP 2008 came into effect on 30 April 2008 and aims to:

1. *Achieve development that is consistent with the social, economic and environmental values of the shire;*
2. *Promote ecologically sustainable development and aims to provide a safe living and working environment;*
3. *Form part of a range of documents that provides a guide towards a more sustainable future for the Tweed Shire; and*
4. *Provide design issues, performance criteria and standards for development both on a shire wide basis and those that relate specifically to particular development areas.*

This DCP operates in two parts to account for development standards that operate on a shire wide basis and to account for development controls that are applicable to specific sites or localities. The subject site falls within the area covered by the Banora Point West – Tweed Heads South specific section (B3) which has been addressed below.

The applicant has addressed the Sections of the DCP as they apply to the proposal having regard to the site locality and various aspects of the proposal. Councils' assessment of the proposal against those sections is contained herein.

### Section A2 – Site Access and Parking Code

Section A2 provides design principles and a schedule for access and parking demands for developments. Detail of the DCP requirements and the proposal having regard to access and parking is outlined below.

### Parking

Table 2 of the DCP prescribes rates of parking based on land use as indicated below:

DCP A2 – SITE ACCESS AND PARKING CODE

Item	Development	Comment	Public Transport, Bus Stop Seating	Bicycle parking Rate (class)	Delivery/ Service Vehicle parking	Resident Parking	Staff parking	Customer car parking
C13	Hardware and building supplies				1/500m <sup>2</sup> storage area, AV		0.5/staff	1.6/100m <sup>2</sup> GFA + 0.8/200m <sup>2</sup> outside storage area + 1/50m <sup>2</sup> showroom/retail area

Car parking rates as per Section A2	Required	Provided
Delivery/Service Vehicle 1/500m <sup>2</sup> storage area, AV	Goods inwards space 123m <sup>2</sup> = <b>1 AV space</b>	<b>Compliant</b> - Plans provided indicate 2 x (4.1x15m) spaces. The Traffic and

		Parking Assessment indicates a swept path diagram for a 19m AV.  Additional spaces available on the ramp.
Staff parking 0.5/staff	250 staff = <b>125 parking spaces</b>	16 marked spaces
Customer parking 1.6/100m2 GFA + 0.8/200m2 outside storage area + 1/50m2 showroom/retail area	19,226.5 GFA <b>307.6 parking spaces</b>	498 spaces
<b>Total</b>	<b>432.6 spaces</b>	<b>514 spaces</b>

Councils Traffic Engineer has reviewed the Traffic and Parking Assessment (TPA) to ensure it includes adequate information and details to verify the parking supply for the proposal having regard to operations occurring on the site. The parking proposed was considered to be acceptable.

The proposal provides for a GFA of 19,226.5m<sup>2</sup>. The TPA outlines that Bunnings typically experiences normal peak demands of 1 space per 48-50m<sup>2</sup>. Based on this, a peak requirement of carparking would be 401 parking spaces. The applicant has advised that there will be 250 staff employed (not full time equivalent). If all staff were present and if peak customer demand was occurring, this would require a total of 526 parking spaces for customers and staff.

A total of 514 parking spaces for customers and staff have been provided on ground floor which includes 11 accessible parking spaces and 8 car/trailer bays.

Council is satisfied with the amount of parking provided. Any overflow caused by peak customer demands and all staff being present can be accommodated within the Enterprise Avenue road reserve (max 12 spaces). It is considered that the excess of carparking spaces provided above the DCP Section A2 requirements will assist to accommodate peak seasonal demands.

It is noted that there is no provision for a reduction in carparking numbers applicable to the proposed development in either Section A2 or Section B3.

The proposed parking arrangements satisfy the objectives of this DCP and are deemed to be suitable for the development.

### Access

The site is benefited by an existing pathway along the front of Lot 2 DP 1077990. The proposal provides pedestrian access connecting the existing footpath to the ground level carpark. No internal pathways within the ground floor carpark are proposed. The proposal provides 11 accessible parking spaces on the ground level. Access can be gained to the retail area via the lifts located on the ground level.

It is noted that no bicycle parking or EV charging has been nominated on the application plans, and there is no numerical requirement for such parking under this plan. The Panel may impose a condition in this regard if it deems it necessary.

There is no existing public transport services which pass the subject site. The closest bus route travels along Greenway Drive with the closest bus stop located adjacent to 36-38 Greenway Drive and 13-17 Corporation Circuit. The bus stops have existing bus shelters. There are footpaths which link the subject site to the Greenway Drive bus stop. Due to the nature of Enterprise Avenue and that a bus route is located on Greenway Drive, it is considered acceptable that there is no request for additional public transport to service this site.

The proposal provides for 4 driveway access points. The access point located at the south-eastern end of the site provides a combined driveway access point for entry for delivery/service vehicles and entry and exit point for vehicles using the ground level carpark, as well as pedestrian access path. The second driveway access point provides entry and exit access to the level 1 carpark area and timber trade/building materials and landscape yard. The third driveway access point provides entry and exit vehicle access to the ground level carpark. The fourth driveway access point provides exit access to delivery/service vehicles. The access points have been somewhat evenly spaced along the frontage of Lot 2 DP 1077990. Access has been designed for HRV delivery/service vehicles with 2 spaces available on level 1 to load/unload goods. Additional queuing space is provided on the access ramp contained within the site. Waste collection vehicles will be able to utilise the delivery/servicing vehicle access which is separate to customer access and parking areas. Adequate sight lines from the four access points has been provided. A condition will be imposed to ensure that any landscaping does not affect sightlines. A dedicated taxi rank has not been provided.

There is an existing rock retaining wall approx. 2-3m high fronting Enterprise Avenue. Works will need to be undertaken to this retaining wall to provide the proposed access points and sightlines.

The access proposed has been considered by Council's Traffic Engineer as was found to be appropriate and compliant with AS2890.2.

### **Traffic**

The submitted Traffic and Parking Assessment ('TPA') Report has considered the impacts the new proposed Bunnings will have on the operational performance of nearby intersections. This also included an allowance for a 15% increase in traffic for 10 years (2022-2032). The operational performance has been assessed using SIDRA modelling and the results are summarised below.

This analysis found that the following upgrade works are required:

- Greenway Drive/Leisure Drive – Council has already completed additional upgrade works to this roundabout, no additional works required
- Greenway Drive/Enterprise Drive – provide traffic signals at this intersection
- Greenway Drive/Traders Way – provide traffic signals at this intersection
- Enterprise Drive/Traders Way – intersection will continue to function with satisfactory level of service

The TPA outlines additional SIDRA modelling which was conducted on these intersections post upgrades and they all provided a satisfactory operational performance levels.

The application was referred to Transport for NSW in accordance with s2.121 of the SEPP (Transport and Infrastructure) 2021. Referral comments have been discussed earlier in this report, however it is noted that no concerns were raised by Transport for NSW in relation to the proposed intersection upgrades.

Council's Traffic Engineer has reviewed the TPA and concluded that

“the applicant has reviewed the existing surrounding road network and using acceptable modelling that intersections impacted by the development will require upgrading to ensure the road network is safe and unencumbered by the proposal”. No concerns were raised in relation to Traffic Generation.

A condition has been imposed that approval must be sought from Transport for NSW in relation to traffic signal intersection upgrade works.

	WDPM		SAT MD	
	LOS	AVD	LOS	AVD
Greenway Dr/Leisure Dr	F	81.4	F	103.7
Greenway Dr/Enterprise Dr	A – D	9.9	A – F	26.4 (worst 121.5)
Enterprise Dr/Traders Way	A	3.6	A	5.7
Greenway Dr/Traders Way	A – D	3.4	F	22.8 (worst 229.1)

### Criteria for Interpreting Results of SIDRA Analysis

#### 1. Level of Service (LOS)

LOS	Traffic Signals and Roundabouts	Give Way and Stop Signs
'A'	Good	Good
'B'	Good with acceptable delays and spare capacity	Acceptable delays and spare capacity
'C'	Satisfactory	Satisfactory but accident study required
'D'	Operating near capacity	Near capacity and Accident Study required
'E'	At capacity; at signals incidents will cause excessive delays. Roundabouts require other control mode	At capacity and requires other control mode
'F'	Unsatisfactory and requires additional capacity	Unsatisfactory and requires other control mode

#### 2. Average Vehicle Delay (AVD)

The AVD provides a measure of the operational performance of an intersection as indicated on the table below, which relates AVD to LOS. The AVD's listed in the table should be taken as a guide only as longer delays could be tolerated in some locations (ie inner city conditions) and on some roads (ie minor side street intersecting with a major arterial route).

Level of Service	Average Delay per Vehicle (secs/veh)	Traffic Signals, Roundabouts	Give Way and Stop Signs
A	Less than 14	Good operation	Good operation
B	15 to 28	Good with acceptable delays and spare capacity	Acceptable delays and spare capacity
C	29 to 42	Satisfactory	Satisfactory but accident study required
D	43 to 56	Operating near capacity	Near capacity and accident study required
E	57 to 70	At capacity; at signals incidents will cause excessive delays. Roundabouts require other control mode	At capacity and requires other control mode





Figure 11. Intersection upgrade for Greenway Drive/Enterprise Avenue from Traffic and Parking Assessment

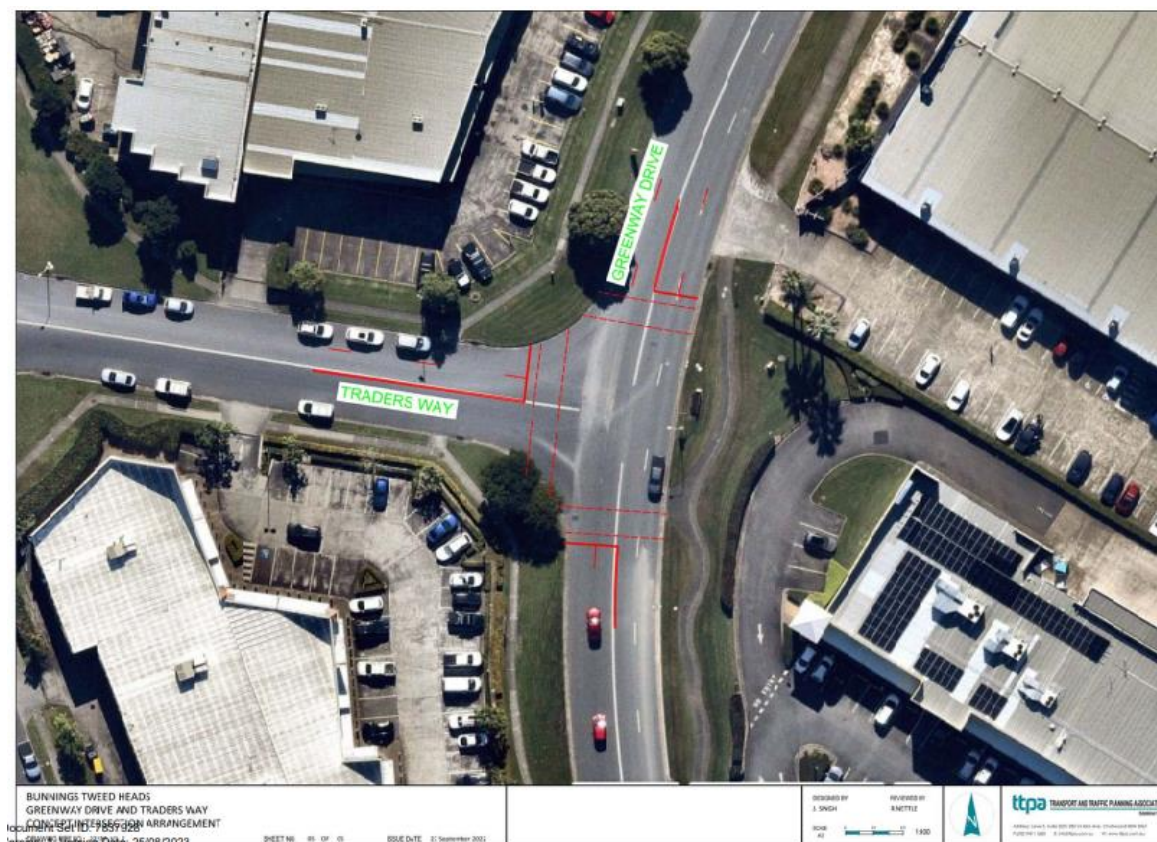


Figure 12. Intersection upgrade for Greenway Drive/Traders Way from Traffic and Parking Assessment

	Weekday PM		Saturday MD	
	LOS	AVD	LOS	AVD
Greenway Drive/Leisure Drive	A – B	13.6	A – B	15.8
Greenway Drive/Enterprise Drive	B	18.9	B	22.0
Greenway Drive/Traders Way	B	20.9	B	26.0

A VPA is applicable to the proposed development. The VPA specifies that trip ends will be calculated based 30 trips per 100m<sup>2</sup> of Approved GFA and that a credit of 1804 trips will be transferred to this site. These monetary contributions must be paid prior to the issue of the first Occupation Certificate (whether interim or final) in respect of the Development. Relevant condition has been included.

Post consent, the applicant may be eligible for a credit for works carried out to the road network (works in kind). A deed of agreement would be required which would convert the monetary amount to trip credits. The intersection of Traders Way and Greenway Drive is identified in Council's Tweed Road Development Strategy.

The NRPP raised concerns about the potential impacts of the proposed development on the Minjungbal Drive/Greenway Drive intersection. Additional information was requested from the applicant who provided a Supplementary Traffic Statement. Council's Traffic Engineer has reviewed the additional information and provided the following comments:

*The TIA advises that the intersection will operate at a reduced level of service being Level D to Level E on a Saturday Peak hour. This is based on the existing Bunnings site being used as Bulky Goods store. If the use is a Warehouse or Light Industrial use, then the impact would be negligible.*

*The issue is whether the proposed Bunnings has a nexus with future upgrades that may be required for the intersection as recommended in Council's Tweed Road Development Strategy. Any intersection upgrades are highly unlikely to involve additional lanes or road widening and would involve improved technology associated with the signals' operation which are controlled by TfNSW [Transport for NSW].*

#### Conclusion

- *The proposed Bunnings is over a 1km away from the intersection.*
- *The proponent proposed intersection upgrades at Greenway Drive/Traders Way and at Greenway Dr/Enterprise Ave are intrinsically linked to the proposal.*
- *There may be an argument that the proposed interaction upgrades (additional 2 traffic signals) may reduce the desirability of the Machinery Dr and Greenway Dr as a through carriageway and result in a reduction of traffic using the Machinery Dr/Minjungbal Dr intersection.*
- *The current signal configuration is not operating at a desirable level of service and is expected to worsen even without the proposed development. There is reliance on other road upgrades or connections, as identified in the Tweed Road Development Strategy, to reduce the pressure on this intersection.*
- *The ability to upgrade the signal phasing at Machinery Dr/Minjungbal Dr is to some extent beyond the control of Council (being an asset owned and managed by TfNSW [Transport for NSW]) and it would be difficult to justify that the proposed development would be responsible for those upgrades.*

- *There is limited justification in requiring the applicant to upgrade the traffic signals at Minjungbal/Machinery Dr as identified within the Tweed Road Development Strategy.*

### **Road safety impacts**

Council's Traffic Engineer has reviewed the TPA and raised no concerns in relation to road safety impacts. No crash history was noted for the area. No concerns were raised in relation to site accessibility and pedestrian and cyclists. It was considered that:

"The proposed intersection upgrades particularly the traffic signals will address potential issues that may arise from the proposal. The signals would enable the existing pedestrian refuge to be removed on Greenway Drive (east of Traders Way) and enable Greenway Drive to be line marked with 2 lanes (both directions). The signals will also create gaps in the traffic flow which would benefit egress from other commercial accesses along Greenway Drive".

Council's Traffic Engineer raised concerns relating to the Traders Way/Enterprise Ave intersection as there is limited sight distances for northbound traffic on Enterprise Ave from drivers exiting Traders Way. It is considered that additional line marking at this intersection will allow vehicles on Traders Way to understand where they need to stop to improve sight lines. A condition has been imposed in this regard.

### **Section A3 – Development of Flood Liable Land**

Section A3 of the DCP aims to present Councils flood mitigation strategy, set detailed standards for land development in order to minimise the adverse effect of flooding on the community and progressively implement the provisions of the NSW Floodplain Development Manual (April 2005) and implement Part 1 – 3 of Tweed Valley Flood Risk Management Study and Policy.

Section A3.2 outlines a flood mitigation strategy in the context of Tweed Heads South and highlights that for Urban Areas; levee's at Murwillumbah and Tweed Heads South provide structural protection against flood inundation to varying degrees. In other areas, planning controls are used to contain future flood damage.

Only a very small area at the south-eastern corner of the site is mapped as being affected by a Design Flood Level (DFL) of RL 2.6m AHD. Parts of the site are mapped as being affected by the Probable Maximum Flood which has a level of RL 5.7m AHD. The land is not affected by high flow area or high flood hazard areas.

The carpark is located above the Probable Maximum Flood Level as it has a finished floor level of RL 5.95m AHD, with the main warehouse being located above the carpark level and well above the PMF.

The relevant development controls that apply to the proposal are contained under Section A3.3 Lower Tweed of this DCP. In particular, pursuant to Section A3.3.4 commercial and industrial development is required to make adequate provision for flood free storage areas for stock and equipment susceptible to water damage. In this instance, such is provided having regard to the proposed finished floor levels for the propose building.

Outside of the above provision for flood free storage, there are no other specific development controls that apply to the proposal pursuant to this Section of the DCP.

The location of the proposed sign on Lot 2145 is mapped as being affected by the Design Flood Level of RL 2.6m AHD. A condition has been imposed that all electrical wiring installed below the design flood level should be suitably treated to withstand continuous submergence in water.



Council's Flooding and Stormwater Engineer has reviewed the proposed development and concluded that the proposal complies with DCP A3.

#### Section A4 – Advertising Signs Code

The relevant aims of Section A4 of the DCP is to promote a high standard of signage quality and prevent excessive advertising and visual clutter by encouraging the rationalisation of existing and proposed signs. Further, the DCP aims to ensure that advertising signs do not detract from the scenic beauty and amenity of the Shire and advertising structures are compatible and compliment the character of a building site or area.

As previously discussed in this report, the proposal includes a signage strategy that comprises of:

##### Lot 2 DP 1077990

- Eight (8) wall signs including text “Bunnings Warehouse” and hammer logo (defined under the Tweed LEP 2014 as ‘business identification signs’)
- A direction sign showing the location of trade timber area
- A 10m pylon sign including text “Bunnings Warehouse” and hammer logo (defined under the Tweed LEP 2014 as ‘business identification signs’)

##### Lot 2145 DP 879149

- A 8m pylon sign including text “Harvey Norman”, “Computers, electrical, furniture, bedding”, “Bunnings Warehouse 44 Enterprise Avenue” and directional signage to the new Bunnings site (defined under the Tweed LEP 2014 as ‘business identification signs’ and ‘advertising’)

The DA is accompanied by Architectural Plans which includes plans that provide signage location, dimensions and proposed artwork (see Elevations Plan Drawing No. TP-07). The pylon signs are proposed to be internally illuminated whilst the wall signs will be illuminated by external lighting.

The following table provides a signage Schedule for the proposed development.

<b>Sign</b>	<b>Location</b>	<b>Dimensions</b>	<b>Quantity</b>	<b>Display Area</b>
Wall sign (externally illuminated) “Bunnings warehouse”	North-east elevation, South-west elevation & South-east elevation	5.956m high x 18.497m wide  Display area = 110.17m <sup>2</sup> each	3	330.50m <sup>2</sup> each
Wall sign (externally illuminated) – hammer logo	North-east elevation, South-west elevation, North-west elevation & South-east elevation	8.4m high x 12.33m wide  Display area = 103.57m <sup>2</sup> each	4	414.29m <sup>2</sup>
Wall sign (externally illuminated) “Bunnings warehouse”	North-west elevation	2.425m high x 7.705m wide	1	18.68m <sup>2</sup>



Directional sign (not illuminated) "Timber Trade"	North-east elevation	2m high x 3.4m wide	1	6.8m <sup>2</sup>
Pylon sign (illuminated) on Lot 2 "Bunnings warehouse, hammer logo, now open" (double sided)		10m high x 4m wide Display area = 27.56m <sup>2</sup> each side	1	55.12m <sup>2</sup>
		<b>Total</b>	<b>10 signs</b>	<b>825.39m<sup>2</sup></b>
Pylon sign (illuminated) on Lot 2145 "Harvey Norman, Computer, Electrical, Furniture, Bedding, Bunnings warehouse 44 Enterprise Avenue Entry via Traders Way" (double sided)		8m high x 2.5m wide Display area = 20.46m <sup>2</sup> each side	1	40.92m <sup>2</sup>
		<b>Total</b>	<b>1 sign</b>	<b>40.92m<sup>2</sup></b>

#### Section A4.2 – General Development Principles and Objectives

The following is applicable to the proposed development:

- Section A4.2.3 - a maximum number of 5 signs per business premises is permitted.
- Section A4.2.4 - a maximum area per business is permitted based on the site frontage of the land. In particular, the DCP states:

*"the maximum area per business for all signs shall not exceed the area as expressed in square metres and will be calculated by multiplying the first 10 metres of the frontage of the premises by 1 and each metre thereafter by 0.5".*

#### Lot 2 signage

On Lot 2, a total of nine (9) business identification signs are proposed and one (1) directional sign. This exceeds the allowable number by four (4) signs.

The applicant provided the following justification for such a variation:

*Whilst this exceeds the DCP provision of five (5) signs, the signage is integrated to the building design and the number of positioning of signs is not considered unreasonable given the scale of the building.*

In consideration of the proposed placement of the proposed signs, the two signs are not supported on the rear of the building (Bunnings Warehouse and hammer logo), as well as the hammer logo sign on the north west elevation. This is because these signs will not be visible from the street and are considered superfluous. Condition recommended in this regard. Such a reduction results in 6 signs for the site which is considered more appropriate.

The site frontage of the land for Lot 2 is 270m. Therefore a maximum advertising area of 140sqm is permitted. The proposal includes nine (9) business identification signs which have a display area of 818.59m<sup>2</sup>. This exceeds the allowable area by 678.59m<sup>2</sup>.

The applicant provided the following justification for such a variation:

*The total area of signage at No. 44 exceeds this although as indicated above, given the scale of the proposed building and given the signage is distributed across four elevations, the signage is not considered unreasonable*

With the removal of 3 signs discussed above, this display area reduces to 508.08m<sup>2</sup>. Whilst this is still a significant variation (exceedance of 368.08m<sup>2</sup>), consideration is given to accommodating the Bunnings brand and design of building, which includes a large warehouse with oversized signage. In addition, the site is located at the end of the cul-de-sac and is not easily visible from residential areas, the Pacific Motorway or frequently trafficked areas.

It is noted that the applicant does not agree to remove the 3 signs as discussed above, and have provided justification which is contained in Attachment I.

#### Lot 2145 signage

On Lot 2145, an additional one (1) business identification sign/advertising is proposed. This is in addition to the thirteen (13) existing signs on this site that relate to Harvey Norman.

Whilst the number of signs is exceeded at Lot 2145 for Harvey Norman, it is considered that due to the complexities of this site and the number of businesses operating from this site, a comprehensive assessment of signage for the site by way of a separate Development Application is required which would ensure more compliant signage. It is not considered appropriate to require this to be conducted under this application, given the current timeframes.

Insufficient information is available in regards to the area of signage on Lot 2145. As stated above, it is not considered appropriate to require this to be conducted under this application, given the current timeframes. Therefore, a separate application would be required to consolidate signage for Lot 2145.

#### *Section A.4.3.3 – Specific Development Principles and Objectives for Trade and Industrial Centres*

This Section of the DCP outlines that Signage associated with trade and industrial centre aims to:

- permit adequate display of information concerning the identification of premises, the name of the occupier and the activity conducted on the land;
- place advertising signs so that they enhance the architectural and landscape presentation of the trade or industry and appear proportional to the scale of the building or space within which they are located;
- improve the appearance of buildings with the design and placement of signs and;
- encourage a co-ordinated approach to advertising where there is multiple occupancy of sites.

The proposed signage satisfied these objectives given they are designed to:

- Highlight entry points to the site;
- Identify the use and function of the site;
- Assist visitors in legible paths of travel and wayfinding to the site and around the site;
- Deliver a signage schedule that is consistent with the branding of Bunnings;
- Improve the overall appearance of the building with the placement and design of the signage in scale with the building;
- Provide wall signage that is consistent with the desired future character of the area (employment/industrial uses); and
- Provides signage for a single business on Lot 2 and encourages coordination between Harvey Norman and Bunnings on Lot 2145 to identify a business on the site as well as directing visitors to the new Bunnings location.

However, it is considered that the oversized pylon signs proposed are excessive and do not enhance the character of the area as they will dominate the streetscape and skyline. Such signs are not consistent with the existing built form of the area. Council recommends that these signs are reduced in height and scale (Lot 2 to 6m and Lot 2145 to 5m) to better suit the character of the area.

#### Section A.4.4 – Types of signs

This Section of the DCP outlines specific controls that apply to certain types of signs. Specifically there are controls which relate to pylon signs which are addressed in the below table. In relation to wall signs, there are no applicable controls for flush wall signs.

DCP A4 sign requirements	Proposed signage	Complies?
<b>Pole sign</b>  A maximum of one pole sign per premises is permitted.  A pole sign may have an area not exceeding 44 m <sup>2</sup> and a height not exceeding 15 metres.	<u>Lot 2</u>  1 pylon sign is proposed which is 10m high with a display area of 27.56m <sup>2</sup> each side  <u>Lot 2145</u>  There is already 1 pylon sign approved for this site which is located at the main entrance to the site.  The proposed additional pylon sign is 8m high with a display area of 20.46m <sup>2</sup> each side.	Yes          No – however it is considered acceptable to provide signage directing customers to the new Bunnings site.

In accordance with **Section 4.5 Signs which are prohibited**, there are no roof or sky signs proposed. In addition, the proposed signs are not animated, nor do they flicker or change text which could reduce road safety. Therefore, the proposed signage is compliant with this section.

An assessment against the criteria in Appendix A of this part of the DCP is set out below:

Criteria for assessment	YES	NO
1. Is the type of advertising proposed appropriate to the general character of the area?	X	X for pylon signs on Lot 2 and Lot 2145
2. Is the proposed advertising in a business zone covered by a specific development control plan for the business centre?	X DCP Section B3 Banora Point – Tweed Heads South	
3. Does the proposal contain concise and informative advertising which relates specifically to the nature of the business <u>carried out on the premises</u> ?	X The messages relate to the business	X The sign on Lot 2145 also contains directional signage to the new Bunnings location.
4. Is the size of the proposal in scale with the building?	X	X for pylon signs on Lot 2 and Lot 2145

5. Does the proposal fit within the structure of the building?	X	X for pylon signs on Lot 2 and Lot 2145
6. Would the proposal be visually obtrusive?	X for pylon signs on Lot 2 and Lot 2145	X
7. Would the proposal conflict with the visibility of traffic control information?		X
8. Would the proposal restrict pedestrian movement?		X
9. Does the proposal interfere with the amenity of adjoining properties?		X Conditions have been imposed to allow the glare of the illuminated signs to be dimmed should it be causing any issues.
10. Does the proposal interfere with the existing advertising in scale and type?		X
11. Does all advertising meet the requirements of the Sign Code? – See above	X	X for pylon signs on Lot 2 and Lot 2145

The pylon sign proposed for Lot 2 is considered monolithic given it is 10m high and sits above an approximate 3m high retaining wall. From the street level, it will therefore appear as 13m high. Given the building already incorporates oversized signage, it is considered that a 6m high sign would be a more appropriate scale (based on surrounding signage). The sign proposed on Lot 2145 is considered visually obtrusive, especially when viewed from the Pacific Highway and is out of scale with the surrounding area. Whilst the maximum building height is 10m for the surrounding area, many of the surrounding buildings have not been constructed to this height. Harvey Norman also have an existing pylon sign of 11.2m located at their entrance, and it is considered to create additional advertising clutter. Customers will still be able to locate both sites from a smaller sign (5m high is considered appropriate). Condition imposed requiring an updated signage plan prior to issue of CC which incorporates a smaller pylon sign on both Lot 2 and Lot 2145 and removal of unapproved wall signage. This will ensure that signage is compliant with DCP Section A4.

However it is noted that the applicant does not agree with the removal of the 3 wall signs and reduction in height for the pylon signs. The applicant has provided justification which is contained in Attachment I.

#### Section A6 – Biting Midge and Mosquito Controls

The proposal is located less than 20 m Northeast from a mapped mosquito breeding area.

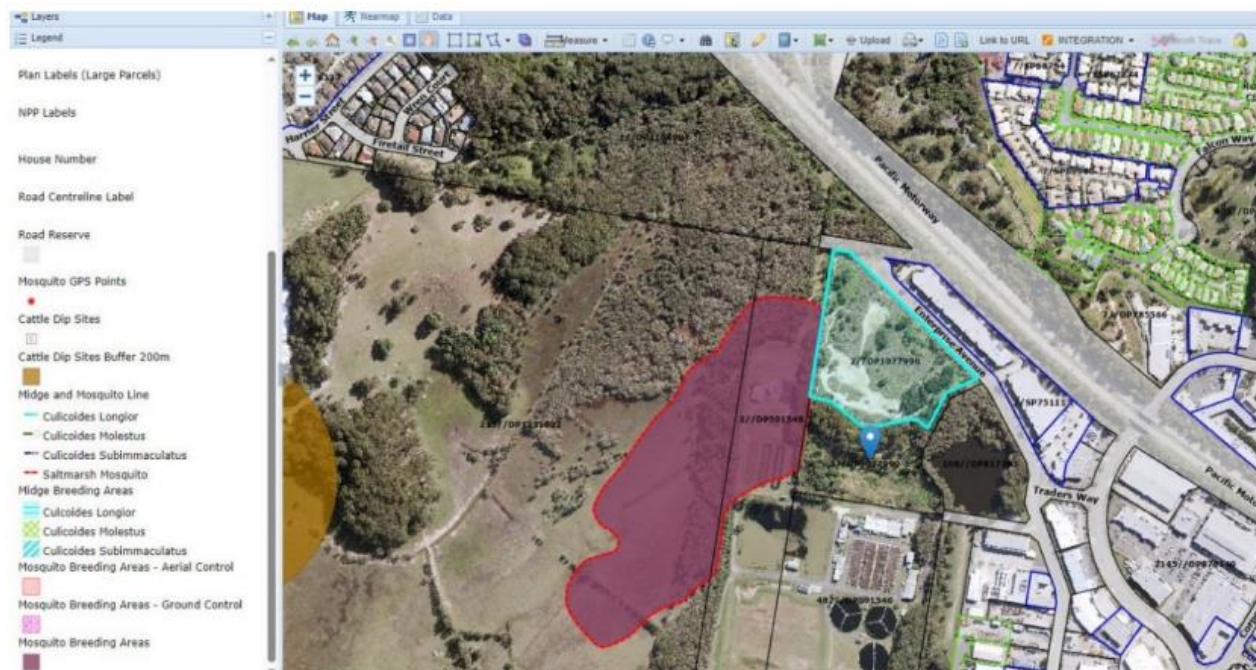


Figure 13. Mosquito Breeding Area

Tweed Shire Council prepared the Development Control Plan A6 (DCP A6)- Biting Midge & Mosquito Control to address all proposed and existing developments, including subdivisions, relating to residential and tourist development within the Tweed Council area. The DCP states that upon receipt of a development application by Tweed Council, where it has been identified as having a biting insect problem, the developer is required to outline in detail how the problem will be minimised. Where insect problems are considered severe, the development application must be accompanied by a report from a person qualified in addressing the biting insect problem in detail.

The main recommendation presented by the DCP A6 to reduce future biting insect nuisance around the development is to allow as much open buffer area around the known and mapped insect breeding areas as possible. However, the Koala Restoration Plan prepared for the proposal, which includes extensive Koala habitat restoration and vegetation management surrounding the site will potentially limit the ability of the proposal to follow this recommendation.

It is noted that DCP A6 repeatedly refers to residential and tourist development. The proposal is for hardware and building supplies. It is not considered that Development Control Plan A6 – Biting Midge and Mosquito Control strictly applies to the proposal.

Whilst the proposal is located less than 20 m northeast from a mapped mosquito breeding area, mosquitoes are generally most problematic around dawn, dusk and at night. This is obviously a concern for residential and tourist development, however, it is less of a concern for a business such as a hardware and building supplier.

Therefore it is not considered justified to require a biting midge and mosquito assessment report prepared by a suitably qualified person.

### Section A13 – Socio Economic Impact Assessment

The applicant provided the following comments with regards to Section A13:

*The proposal will enable the relocation of the existing Bunnings store at Greenway Drive to the land at No. 44 and all existing employees will be provided with the opportunity to transfer to the new store. In addition, the construction of the new building will create employment opportunities and the new store will providing for a broader range of products and services to service the local business and residential community of Tweed Heads and Tweed Heads South. In this instance, given that the proposal is a relocation of an existing store and is not located in a core retail area and does not seeks to compete with core retail speciality shopping, a detailed socio-economic impact assessment is not considered warranted.*

Section A13 of Councils DCP applies to the proposed development as it will employ more than 25 persons. The following is an assessment of the socio-economic impacts of the proposed development, based on the information at hand.

- *state the objectives of the development or activity proposed.*

The objective is to relocate the existing Bunnings store to a larger purpose-built site.

- *analyse any feasible alternatives to the carrying out of the development, including the consequences of not carrying out the development.*

Alternatives include continuing the use of the existing Bunnings Store which potentially has been outgrown. Redevelopment of the existing Bunnings Store, however the area for the potential redevelopment is limited given the site already houses a number of commercial tenancies. In addition, the new proposed building is nearly 3 times the size of the existing building (based on the site plan provided), and therefore given the constraints of the existing site (existing development, carparking areas, height limit), it would seem very difficult to achieve a similar sized building on this allotment. The consequences of not carrying out the development would be that customers would need to travel to the Burleigh Heads store to access a more comprehensive range of items.

- *identify the likely impacts of the development, their nature and extent, in terms of issues identified in the Matrix below for the specific development.*

Based on the matrix, the socio economic requirements for place of employments are:

- Investment – It is considered that the proposed development will positively affect the shire through jobs created during the construction and ongoing phases. This is an investment by Bunnings in the Tweed Shire which is also considered to have a positive effect by providing additional choice to residents/visitors.
- Community Networks – The new store will incorporate a café which provides a place for community social interaction. In addition, Bunnings often offers training sessions which are likely to be held at the new store. The traditional Bunnings BBQ will also provide fundraising opportunities for local community groups. The new store is not considered to impact existing residential amenity due to the distance between the new store and residential areas. It is noted from site visits conducted that this section of Enterprise Avenue is utilised for parking and living in motorhomes. Development of this site would displace these occupants, however it is not considered reasonable to sterilise Lot 2 for use given the use of the street for illegal camping.
- Public Realm – The proposed development does not impact on heritage sites or buildings or on Aboriginal Cultural Heritage, subject to the precautionary condition imposed. The proposed development will enliven this end of Enterprise Avenue and will enhance the public appeal of the area. No submissions either in favour or against were received in relation to the proposed development. The proposed development is for a large warehouse building which is required to accommodate the proposed development.

- Human Services – the proposed development is considered to be neutral in regards to providing welfare, health and special needs services for various community groups. The proposal does increase choice of local shopping facilities.
- Access – No additional public transport is proposed as part of the proposed development. Access to the site will predominately be via private vehicles. There is a bus stop located on Greenway Drive which is linked to the site via footpaths. The proposal incorporates accessible parking spaces.

### Section A15 – Waste Minimisation and Management

Section A15 of Councils DCP aims to minimise the generation of construction/demolition waste and facilitate effective ongoing waste management practices consistent with the principles of Ecologically Sustainable Development.

The applicant addressed waste in the Statement of Environmental Effects. It is noted that the proposal requires bulk earthworks which results in a surplus of 11,109m<sup>3</sup> soil being removed from the site. General conditions have been imposed regarding the quality and location for exported and imported waste (including fill and soil).

It is considered that general construction waste will be generated which can be managed through the imposition of standard waste management conditions.

A basic Waste Management Plan was submitted for the ongoing use of the site which indicates storage locations of bins and empty pallets on the delivery vehicle ramp. These areas are not visible from the public domain. The rear waste storage area also includes space for storage of hazardous waste. This has been designed to be 3m clear from emergency exits, 1.5m clear from ignition sources and drains and 1m clear from built up combustible material (empty pallet storage). Standard waste storage and collection conditions have been imposed.

### Section A17 – Business, Enterprise Corridor and General Industrial zones

Section A17 of Councils DCP applies to a range of zones including Business Development, Enterprise Corridor, Business Park and General Industrial. The purpose of this Section of the DCP is to establish a planning framework to deliver Council aim, objectives and control for site design, building and design, landscaping and ancillary uses.

The objectives of this Section are:

1. *Encourage establishing employment and land use synergies and integration by supporting built form variety, diversity and co-location of infrastructure.*
2. *Establish efficient site planning, land use and built form through an investigative site analysis process.*
3. *Ensure the utilisation of land is maximised by establishing an integrated suite of design controls and requiring design responses directly harness the attributes of the site identified through a thorough site analysis.*
4. *Establish a high quality built form character and urban environment through best practice site planning and urban design provisions.*
5. *Establish specific urban design provisions that create human scale outcomes, attractive streetscapes and moderating building mass for large floorplate development.*
6. *Encourage the inclusion of design features that provide high quality environments for staff and customers.*
7. *Ensure comfortable microclimates are created through adequate landscaping and the provision of water sensitive urban design.*
8. *Ensure that development with an interface to zone or precinct boundaries responds to potential external conflicts that arise from a land use and built form change.*



9. Encourage the implementation of active and passive design processes that sustainably respond to the sites climatic conditions.

10. Encourage the integration of fine-grain, ancillary and supplementary land uses within business and enterprise zones

The following table provides a comprehensive assessment of the proposal against the relevant development controls that apply under this Section of the DCP.

Development Control	Proposal	Complies
<b>3. Site Design</b>		
<b>3.1 Site Analysis</b>  A Site Analysis Plan including 'existing condition plan' which identifies the key opportunities and constraints of the site demonstrating a contextual understanding of the site and surrounding areas and a 'design response plan' demonstrating how the proposed design responds to these opportunities and constraints is to be provided with any new build development application.	Site Analysis provided	Yes
<b>3.2. Urban Design</b> Statement of Design Intent to be submitted to address core urban design principles as they relate to site the site and business uses including: i. Access, connectivity ii. Legibility iii. Human scale iv. Quality of edges v. Adaptability and versatility vi. Environmental sensitivity and sustainability.	Included in Design Response document	Yes
<b>3.3. Topography Cut and Fill</b>	C1 & C2 - Earthworks are only proposed on Lot 2.  Lot 2 is generally flat due to filling of the site which occurred under the subdivision (S89/0085 and 0050/2001 CCSU).	Yes



<p>C1• Post subdivision excavation and fill is limited to +/-3.0m</p> <p>C2• Details of all proposed earthworks is to accompany all development applications illustrating the extent, location, heights and levels (areas of cut and fill, retaining walls, batters, building pads etc). This can be represented on the site analysis, site plan and site sections.</p> <p>C3• Retaining wall to public interfaces max. of +/-1.0m before incorporating a landscape step. All earthwork batters are to be landscaped to mitigate adverse visual impacts.</p>	<p>The site has a slight fall from the south (rear) at approximately RL 5.9m to the north (front) at approximately RL 5.7m.</p> <p>Earthworks have been depicted on the Civil Engineering Design Plans. These include stripping of topsoil and minor excavation up to approximately 300mm across most the proposed building footprint to establish the level of undercroft car parking as close as practical to existing ground level. Fill is also proposed between 0-500mm to smooth out localised landform depressions.</p> <p>Localised excavation of up to approximately 2.8m is proposed in relation to vehicle access points from Enterprise Avenue with 3.5m excavation proposed for the stormwater detention tank. Whilst this exceeds the allowable excavation level of 3m, it is considered acceptable to accommodate the stormwater detention basin and as it is limited to a small portion of the site, will not affect the integrity of the topographic features, scenic landscapes and character of the site. Cut and fill has otherwise been minimised across the site.</p> <p>The earthworks results in 11,109m<sup>3</sup> of surplus material which will be exported from the site.</p> <p>C3 - An existing rock retaining wall fronts Enterprise Avenue. No additional retaining walls are proposed.</p>	<p>N/A</p>
<p><b>4. Building Envelope</b></p>		
<p><b>4.1 Setbacks</b></p> <p>C1 Front: Building Height exceeds 8m, therefore 15m is required</p> <p>Rear/Side: 0.0m where the site is directly adjoined by other business development/ industrial allotments. Same as front setback where the site directly adjoins a residential property or area of public open space. This setback is to be heavily landscaped to screen the development.</p> <p>In addition effects of overlooking, overshadowing, blocking breeze need to be considered which</p>	<p>C1. Front Setback: 33m generally 21m from main entry gable 4.2m from outdoor nursery</p> <p>Site adjoins Private Recreation (RE2) , and Infrastructure (WWTP) (SP2) zoned land. The site also adjoins areas of land currently zoned Recreation (6(b) which are in the process of being rezoned to Environmental Conservation (C2) zoned land.</p> <p>Side and Rear Setback: Min. 9m (Bagged Goods)</p> <p>Retention of intact vegetation, interplanting and landscaping around the site will assist with screening the development.</p> <p>The proposed development is not considered to result in overlooking, overshadowing and impact on breezes for neighbouring properties that would necessitate an increased setback.</p> <p>C2 – Variation required to front setback control for outdoor plant nursery.</p>	<p>No</p> <p>Yes</p> <p>Yes</p>

<p>may increase the setback requirement.</p> <p>C2• Variations to the above setbacks maybe considered where justified by a detailed site analysis which illustrates the circumstances warranting variation. These may include architectural articulation, active uses, transparent elevations, showrooms, irregular lot size, contextual or topographic constraints.</p> <p>C3• Outdoor amenity areas and small ancillary uses such as cafes or canteens including shade structures and seating areas for employees and visitors are permitted within the front setback.</p> <p>C4• Where the site is a corner lot, the primary (front) and secondary (side) setbacks are to be nominated as part of the site plan/site analysis.</p> <p>C5• With the exception of vehicular access, crossovers and access driveways, all front setbacks must be landscaped in accordance with Section 4.12.</p> <p>C6• Car parking areas located in front setback areas are to be setback behind a minimum three metre landscape buffer to the frontage.</p>	<p>Applicant variation request: <i>'this is a lighter weight structure near the cul-de-sac head of the road and on balance with the greater setback elsewhere, is considered acceptable in this instance'</i></p> <p>Council's variation assessment: A variation to the front setback is requested for a depth of 10.8m or 72% and a length of 59m. This equates to 30.3% of the allotment frontage. Whilst this is a significant variation, this particular element assists to add visual interest to the building which is otherwise a large square box. This element is located adjacent to the cul-de-sac head. It is not considered that it will impact negatively on the streetscape. Whilst this element is closer to the street than the rest of the building, it is of a smaller scale and form and is visually more open than the rest of the building, which assists to balance the bulk of the main warehouse building. Sufficient space is maintained to allow for mature planting which will assist with screening and further softening of this element. It is considered that this area still achieves the objectives of the setback controls.</p> <p>C3 – N/A – staff amenity area (lunchroom) and café are contained within the main warehouse building.</p> <p>C4 – N/A</p> <p>C5 – landscaping is proposed to the front setback areas with the exception of access points and car parking areas.</p> <p>C6 – Carparking is located behind a 3.5m landscaped buffer from front boundary.</p>	<p></p> <p>N/A</p> <p>N/A</p> <p>Yes</p> <p>Yes</p>
<p><b>4.2. Site Coverage and Landscape Area</b></p> <p>C1• Max site coverage is 70% of the site area</p> <p>C2• Min, Landscape area is 10% of the site area. Landscaped areas</p>	<p>C1 - Lot 2 has a site coverage of nearly 49.7%.</p> <p>C2 – nearly 31% of the site is retained for landscaping. A condition has been imposed requiring a detailed landscaping plan comprising at least 80% locally occurring native species.</p>	<p>Yes</p> <p>Yes</p>

includes all permeable and semi permeable surfaces outside of the defined site coverage area but does not include hardstand driveways, paths and parking areas. The minimum dimension of a landscaped area needs to be 2.0m.		
<p><b>4.3. Building Heights</b></p> <p>C1• Demonstrate how the height of proposed building/s responds and is appropriate to the role and desired future character of the business development and locality.</p> <p>C2• Buildings are to be constructed to a height that complements the surrounding built form and landscape character.</p> <p>C3• Demonstrate, through the provision of landscaping plan, the provision of plantings that assist in creating a human scale and reducing visual bulk, primarily to the streetscape and secondly within the site.</p>	<p>C1-C3 - The proposed building will have a maximum building height of 15.52m. This will present as a large two storey warehouse from the street, with parking underneath.</p> <p>The proposal exceeds the allowable building height of the site and area of 10m by 5.52m. Therefore this building will exceed the height of surrounding urban development.</p> <p>The applicant has advised that the project prioritised the retention of vegetation and vegetation restoration. This therefore reduces the developable footprint and preferenced an under croft car park rather than an at grade exposed car park. Clearance requirements for vehicles, loading roof racks and forklifts have been also been considered and incorporated resulted in the current building proposed.</p> <p>As such, the height of the building responds to the environmental constraints of the site, whilst providing a structure which responds to the mechanical clearance requirements to safely occupy and use the building. Whilst the building exceeds the height of surrounding buildings, the site is somewhat segregated and hidden from view from the main industrial/business support area. As the site is on the fringes of the industrial area and is otherwise surrounded by mature vegetation, it is not considered to impact on the character of the area. The building comprises features such as the entry gable, feature screen and nursery area which assist to define a human scale. Landscape planting will also be utilised at the front of the site to break down visual bulk of the building, whilst the signage creates additional visual interest for the building.</p>	Yes
<b>5. Building Envelope</b>		
<p><b>5.1. Designing for the Tweed Climate</b></p> <p>C1• Development applications for construction of buildings are to demonstrate integration of the following passive design</p>	<p>C1 – The design is consistent with other Bunnings stores. The applicant advised that the <i>'design and presentation to the street is driven by vehicular and pedestrian access and presenting the outdoor nursery spaces to the north, as well as a predominantly closed façade to the south and west adjoining the WWTP. In this context, it is not feasible or desirable to have large areas of open façade or activation and in this instance, the proposal is considered a suitable</i></p>	Yes

<p>principles where relevant:</p> <ul style="list-style-type: none"> <li>- design to moderate solar access into the building to reduce reliance on artificial lighting and to maximise sun entry during winter months, and maximise sun shading (especially north, western and southwestern elevations) during summer months;</li> <li>- design to promote natural cross ventilation and stack ventilation;</li> <li>- materials chosen for their climatic/diurnal appropriateness (including thermal mass), low toxicity and having low embodied energies in their production;</li> <li>- A high level of energy efficiency through building design, passive solar design, insulation, minimised reliance on mechanical HVAC (Heating, Ventilation and Air Conditioning), and lighting systems and smart metering;</li> <li>- Collection and reuse of rainwater throughout the building and surrounding landscaping areas;</li> <li>- A high standard for an energy efficient hot water supply system;</li> <li>- Reduced non-renewable energy use through efficient heating/cooling systems, water supply systems and electrical appliances.</li> </ul>	<p><i>design which corresponds to the site constraints and opportunities’.</i></p> <p>The large glass front entry gable will allow sunlight into the building in the morning until midday.</p> <p>Due to the odour constraint for the site, it is difficult to provide additional openings for cross ventilation and solar access. The applicant has removed the skylights previously indicated on the roof plan. The applicant has provided the following justification/comments:</p> <ul style="list-style-type: none"> <li>• <i>The amended plans attached remove the skylights to the Bagged Goods Canopy, Goods inwards and TTS [Timber Trade Sales and Building Materials and Landscape Yard] as the heat gain would require more energy to cool inside the building than the energy required for artificial lighting.</i></li> <li>• <i>Bunnings experience is that the skylights also pose a risk to trackability on the roof.</i></li> <li>• <i>Larger glazed elements are provided to the main entry are adjacent to the checkouts which will allow a balance of light penetration into the building whilst managing solar heat gain.</i></li> <li>• <i>Windows are also provided to the to the office / lunchroom although this was not clear on the previous plan set but are shown on the North-west Elevation attached.</i></li> </ul> <p>Large ceiling fans are proposed to assist with continuous airflow.</p> <p>Solar panels and a solar hot water are proposed and solar panel locations are indicated on the application plans. Rainwater tanks are proposed which will be utilised for toilet flushing and for irrigation in the Nursery.</p> <p>Landscaping has been designed to utilise locally occurring native species which are drought tolerant and low maintenance.</p> <p>The roof colour selected is surfmist (white) which will assist to reduce solar heat gain. Insulated panels are to be installed throughout the warehouse to reduce load on any heating and cooling systems.</p> <p>The applicant advised that <i>‘the design seeks to provide for a high level of thermal performance and will comply with the relevant provisions of the NCC’.</i></p>	
<p><b>5.2 Building Form and Materials</b> C1• The siting of business and</p>	<p>C1 – The building is designed to ‘address’ the street and provides a presentation that highlights the function and use of the building which is familiar to visitors. The front elevation provides articulation and human scale elements</p>	<p>Yes</p>

<p>commercial buildings are to be designed to:</p> <ul style="list-style-type: none"> <li>– to ‘face’ or ‘address’ the street frontage(s) in terms of building elevations and articulation;</li> <li>– Encourage pedestrian generating activities such as cafes, canteens and employee amenity areas located towards the public domain, creating visual interest, human scale and informal surveillance to the street.</li> <li>– clearly articulate entries to buildings and access pathways and where possible separate and delineate pedestrian and vehicle movement;</li> <li>– include awnings and or shade structures where development directly fronts a public road, outdoor amenity area or where a pedestrian access route is defined;</li> <li>– enhance integration and connection between internal and external spaces,</li> <li>– define and enhance the public domain and be in scale with surrounding buildings</li> </ul> <p>C2• The design of business and commercial buildings are to:</p> <ul style="list-style-type: none"> <li>– use a mix of materials, architectural features and colours which will improve the articulation and overall visual appearance and serve to breakdown the overall building scale, bulk and mass. (Refer to Figure</li> </ul>	<p>and visual interest through the use of the large entry gable, feature screen and outdoor nursery elements. Vehicular and pedestrian access is easily identifiable from the public domain. Careful consideration has been provided to ensure the separation of delivery vehicles, trade vehicles, general customer vehicles and pedestrian access which improves safety for the site. Informal surveillance to the street is provided from the carpark and entry areas.</p> <p>Landscaping is provided to the front of the site with plantings considerate of CPTED principles.</p> <p>C2 – the building utilises a mix of colours and materials, as well as the large front entry gable, feature screen, outdoor nursery, vehicular ramps and signage which all assist with providing articulation to the building and reducing the bulk and mass of the building. The building steps forward in relation to the entry gable and outdoor nursery components. The colours present and as cohesive palate and are consistent with the branding of Bunnings.</p> <p>Due to the height of the development, the roof will not be visible from the street. The proposal incorporates under croft screening which will aid in screening at grade car parking. Front landscaping will also assist in providing a human scale and increasing the visual interest and appeal of the streetscape.</p>	<p>Yes</p>
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<p>5.3 for design principles). A schedule of materials and finishes including proposed palette of colours is to be submitted with any development application. – articulate different three dimensional elements of the building by expressing volumes through form and material mix including stepping, recessing, cantilevering or projecting building form elements.</p> <p>– breakdown scale and bulk by incorporating architectural detail and human scale elements such as an entrance canopies, foyers and awning. – using a series of roofs rather than one single roof form to create architectural interest and reduce impacts of reflectivity and glare, and use visually mitigating colours where roofs will be visible or looked down on from surrounding areas.</p> <p>– provide screens to conceal loading, storage, rubbish disposal, plant, equipment and other similar uses in side and rear areas</p>		
<p><i>Additional controls for Large Floor Plate Development:</i></p> <p>C3• Large floor plate developments are to be designed to:</p> <p>– Activate at least 50% of the building frontage with generous and identifiable building</p>	<p>C3 – This clause applies as the main warehouse exceeds 5000m2.</p> <p>The building has a frontage of 195m. 48m has been articulated and activated with a feature wall and gabled entry feature, and 59m is provided for the nursery which has shade sails and screening.</p>	<p>Yes</p>

<p>entrance, display windows and human scale built form elements including shade structures, awnings, outdoor amenity spaces, landscaping, BBQ areas, canteens and cafes.</p> <ul style="list-style-type: none"> <li>- Limit large expanses of blank or unarticulated elevations to less than 15m in length and 5m in height.</li> <li>- Incorporate architectural detail and interest at visually prominent building locations such as entrances, lower level front facades, roof tops, on visible corners and at the terminations of street vistas.</li> <li>- Provide legible dedicated pedestrian access to the building and through car parking areas and street to the frontage allowing for pedestrians moving bulky good items and where possible, enhance pedestrian and cycle networks/ linkages to surroundings.</li> <li>- Not include large format signage or branding across whole elevations including large format images across display windows.</li> <li>- Minimise the impacts of overlooking, overshadowing, noise and lighting on adjoining landuses, and provide appropriate landscape buffers and visual screening treatments to mitigate impacts. This may included vegetation on raised mounds</li> </ul>	<p>No blank elevations have been provided. Articulation and interest is added through the use of colours and materials, signage and projecting building elements.</p> <p>A large front entry gable has been provided to indicate the entry location, which is a familiar feature at other Bunnings stores.</p> <p>Legible pedestrian access is provided from the street (via either a ramp or stairs), through the carpark and into the main entry.</p> <p>Large dominating signage/branding is proposed, however this is how Bunnings stores are presented.</p> <p>The proposed development is not considered to result in overlooking, overshadowing and noise impact on neighbouring properties. A condition is imposed to limit light spill. Appropriate landscaping has been incorporated into the design which will provide visual interest and screening. Carparking is predominantly located beneath the building with only minimal parks at the front of the site, behind a 3.5m landscaped buffer. Carparking will be further shielded from street view, due to the large retaining wall at the front of the site, and carparking being located approximately 3m above street level.</p> <p>Eight (8) car parking spaces has been provided on the ground level to accommodate vehicles towing trailers.</p> <p>Separate loading areas for goods inwards and outwards has been provided. Timber and hardware can be collected via a separate entrance on the upper level.</p> <p>Landscaping has been designed to utilise locally occurring native species which are drought tolerant and low maintenance.</p> <p>The Bunnings BBQ area has not been indicated on the plans, however it is considered that there is sufficient space on the ground floor to accommodate such an activity. A condition has been imposed that this must not be conducted within any car parking spaces so that it will not affect the number of parking spaces provided.</p>	
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<p>and/or feature acoustic walls.</p> <ul style="list-style-type: none"> <li>- Maintain nominated landscape buffer areas by keeping them free of parking or access roads.</li> <li>- Avoid large car parking areas fronting primary streets. The preference is for the building to define the street. Where this can not be avoided, an adequate landscape buffer is to be provided between the car park and street frontages.</li> <li>- Create dedicated car parking spaces for large vehicles and vehicles towing trailers.</li> <li>- Include all loading and unloading activity within the building and minimise detrimental amenity impacts on residential dwellings and other surrounding land uses. Create dedicated bulky good pick-up areas for customers to receive their bulky goods.</li> <li>- Provide landscaped car parking areas with adequate areas for water sensitive urban design treatment, infiltration and shade trees.</li> <li>- Allow for car parking concessions of 30% where bulky goods retail premises are co-located with a range of other business uses especially where visitors are likely to visit a number of different land uses on the same development site or precinct.</li> </ul> <p>Large floor plate development is defined</p>		
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as an individual tenancy which has a contiguous sales floor area accessible to the public of greater than 5000sqm.		
<p><b>5.3 Overshadowing</b></p> <p>C1• All development applications must prepare shadowing diagrams over the subject and adjoining sites for the Summer Solstice (21st December), Winter Solstice (21 June) at the times of 9am, 12pm and 3pm. Shadow cast by fences, roof overhangs and changes in level are to be considered and should be indicated on shadow diagrams submitted.</p> <p>C2• For neighbouring properties, ensure that:</p> <ul style="list-style-type: none"> <li>- sunlight to at least 50% of the principle area of outdoor amenity space of adjacent properties is not reduced to less than 2 hours between 9am and 3pm on June 21, and</li> <li>- where existing overshadowing by buildings is greater than this, sunlight is not to be further reduced by more than 20%.</li> </ul> <p>C3• New building design should minimise overshadowing on existing adjacent solar panels where other reasonable design alternatives are possible.</p>	<p>C1 - Shadow Diagrams provided</p> <p>C2 – Minimal shadowing occurs on the western neighbouring allotment (Lot 2 DP 591548 – Council owned WWTP) at 9am on 21 June, however no shadowing affects this site from 12pm onwards. Shadowing occurs on the southeastern neighbouring sites (Lot 3 DP 1077990 (subject to this application, and Lot 108 DP 817783 – Council operational land) from 3pm on 21 June. Shadowing impacts are therefore considered acceptable.</p> <p>C3 – no shadowing impacts due to the proposed development are expected on nearby solar panels.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<p><b>5.4 Views and Visual Amenity</b></p> <p>C1• Potential view and overlooking impacts and the design response/s pursued are to be</p>	<p>C1 – The proposed development is a large warehouse. Limited windows are provided, with views being limited to Enterprise Avenue. Therefore, no concerns raised in relation to view and overlooking impacts.</p>	<p>Yes</p> <p>Yes</p>



with shade and seats. Rather than occupying 'leftover spaces' these areas should have regard for outlook, sun and shade, and noise. These areas should be nominated on the site analysis or site plan with the size proportionate to proposed floor area and number of staff. As a guide the area should be at least 50sqm.		
<b>7. Ancillary Buildings, Uses and Structures</b>		
<p><b>7.3 Signs and Advertising</b></p> <p><b>C1•</b> Maximum of one sign per elevation and tenancy.</p> <p><b>C2•</b> Multi-unit developments are to include a single multiple business identification/index sign at the entrance to the site which details each occupant, its activity and unit number to a maximum height of 6 meters and display areas of 15m<sup>2</sup>. Each individual business signage area within the index sign is to be a maximum of 5m<sup>2</sup>.</p> <p><b>C3•</b> The design and construction of signs are to meet the following requirements:</p> <ul style="list-style-type: none"> <li>– Signs are situated near site entries and are well placed for viewing by pedestrians and drivers;</li> <li>– One free-standing pylon sign per freehold site to a maximum size of 4.0 metres high and 2.5 metres wide;</li> <li>– Wording on the sign is limited to the name, logo, location, business and products of the establishment;</li> </ul>	<p><u>Lot 2</u></p> <p><b>C1 -</b> There is only 1 business which will operate from this site. 9 wall signs are proposed including a directional sign to timber/trade entrance, and 1 pylon sign is proposed. This results in 2-3 signs per elevation. A condition has been imposed requiring the removal of 3 wall signs at the rear of the site, which will reduce the number of wall signs to 6, which is considered more acceptable.</p> <p><b>C2 –</b> N/A</p> <p><b>C3 –</b> A pylon sign is proposed at the main entrance point for vehicles and pedestrians. The signage of the front of the building assists to clearly identify the business for visitors. The pylon sign proposed is 10m high x 4m wide. This is considered unacceptable given that the sign will also be located on top of an approximately 3m high retaining wall, therefore appearing as 13m high from the street. It is considered a more acceptable size would be 6m which would be more in keeping with the signage in the area. An appropriate condition has been recommended.</p> <p>Wording on the signage is limited to the business name and logo of bunnings. A directional sign is also provided for the timber/trade area. The signs do not rotate, flash or move and a condition can be imposed that fluorescent or iridescent paints are not supported. Signs integrate with building and are appropriate in regards to scale. They are part of a cohesive design theme that is consistent with the branding of Bunnings.</p> <p>Council's variation assessment: <i>Objectives:</i> <i>O1. Ensure that signage and associated lighting has been designed and integrated into the overall building design, achieves building legibility but is also restrained as to not</i></p>	<p>No - Variation supported</p> <p>N/A</p> <p>No - Variation supported</p>

<p>– Fluorescent or iridescent paints or signs that rotate, flash or move are not supported;</p> <p>– Signs are to integrate with the form of development scale, colour and style and are not visually dominating.</p> <p>C4• Directional signage should assist with 'way finding' on the site for pedestrians, vehicles and cyclists, including entry and exits, parking controls and delivery and reception areas. Directional signage should be part of an overall signage 'language' of fonts, colours and other related imagery for the site.</p> <p>C5• No bunting, sandwich boards or any 'standalone' advertising structure, except pylon signs detailed above.</p>	<p><i>detract from streetscape character or dominate the visual amenity of an area.</i></p> <p><i>O2. Ensure that signage design is generally coordinated and consistent in terms of type and size with other businesses within the business development.</i></p> <p>Whilst the proposed pylon sign exceeds the allowable size of 4m by 2m (max 6m high sign supported), it has been designed to respect the scale of the new Bunnings building. The sign provides a clear nomination of the main entry point for visitors to the store. It is not considered that the reduced sign will detract from the industrial streetscape of the area. The sign is below the maximum building height of the proposed building on site. The sign is consistent with the branding of Bunnings and is considered acceptable with respect to nearby signage.</p> <p>C4 – A directional sign is proposed to indicate the entry point for timber/trade area. The pylon sign could also be considered to assist with 'way finding' as it highlights the main entrance to the site. This signage is consistent with the branding for Bunnings in terms of font and colours. If additional directional signage is required, this will be subject to separate approval where statutorily required.</p> <p>C5 – N/A</p> <p><u>Lot 2145</u></p> <p>C1 – N/A - the site contains multiple businesses and the pylon sign relates to one business on the site and provides directional signage to the new Bunnings location.</p> <p>C2 – N/A – no change proposed to the existing index sign.</p> <p>C3 – A pylon sign is proposed at the intersection of Greenway Drive and Traders Way. This is to provide a clear indication of the location of Harvey Norman as well as where the Bunnings store has been relocated to. The site has an existing pylon sign located at the entrance to the site. (11.2m high approved). Therefore, this sign would result in two pylon signs for the site. The proposed sign is 8m high x 2.5m wide. This is considered to be visually obtrusive especially when viewed from the Pacific Motorway. It is considered that 5m high would be more appropriate for this location and would better integrate with the form, scale and character of the existing streetscape.</p> <p>Wording on the sign is limited to the name and products associated with Harvey Norman that is located on Lot 2145, and Bunnings name and address which is moving from this site to a different site in the area.</p> <p>The sign does not rotate, flash or move and a condition can be imposed that fluorescent or iridescent paints are not supported.</p>	<p>Yes</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>No – Variation supported</p> <p>Yes</p>
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	<p>C4 – The directional signage provides clear ‘way finding’ to the new Bunnings location. The signage is consistent with the branding for Harvey Norman and Bunnings.</p> <p>C5 – N/A</p> <p>As indicated earlier in this report, the applicant does not agree with the reduction of the pylons signs. Justification has been provided by the applicant for such signs which is contained in Attachment I.</p>	N/A
<p><b>7.4 Fences</b></p> <p>C1• If a front fence is required for security purposes, it should be setback behind the 3.0 metres landscaping buffer to a maximum height of 1.8 metres with a maximum solid fence height of 600mm. Above the solid wall the fence is to have a minimum openness ratio of 60%.</p> <p>C2• The design of the front and return fence shall be integrated with the design of the building, visually permeable and unobtrusive with a mix of materials and/or integrated with landscape design. Unfinished galvanised chain link fencing to the front is not acceptable.</p> <p>C3• Side and rear fences behind the front setback may be built to a height of 2.1 metres.</p> <p>C4• Fencing should be sited so that it does not impede sightlines for drivers.</p>	<p><u>Lot 2</u></p> <p>C1 - Undercroft security fencing is proposed which is setback behind a minimum of 3m landscaped buffer. This will have a maximum height of 4.5m and is mostly contained within the footprint of the building. This is to be constructed from black chain wire mesh.</p> <p>An external pedestrian balustrade is also proposed at the front of the site. This will have a maximum height of 1.2m and is setback behind a minimum of 3m landscaped buffer.</p> <p>Perimeter security fencing is also proposed along the sides and rear of the development. The fence will have a maximum height of 2.7m (2.1m of chain wire mesh with 0.6m of barbed wire on top). It is noted that access gates will be required to allow access to the asset protection area for maintenance. Appropriate condition included.</p> <p>C2 - Based on the plans provided, these fences integrate with the design of the proposed development and are visually recessive given the large main warehouse structure. The fences are visually permeable and utilise a mix of materials and colours. They are set behind landscaping which will further assist to reduce visual impacts. An unfinished/natural galvanised chain link front fence is not proposed.</p> <p>C3 – The perimeter security fencing exceeds the allowable 2.1m high by 0.6m. However, under the SEPP (Exempt and Complying) fencing can be constructed to a height of 3m and therefore this is considered acceptable.</p> <p>C4 – Fencing is located so that it does not impact on sight lines for drivers. No concerns were raised by Council’s Traffic Engineer in regards to sight lines.</p>	<p>Yes</p> <p>Yes</p> <p>No – variation supported</p> <p>Yes</p>
<p><b>7.5 Temporary Outdoor Business Activities</b></p> <p>C1• The area allocated for the activity must be nominated on a site plan to ensure that any potential conflicts with</p>	<p>The Bunnings BBQ area has not been indicated on the plans, however it is considered that there is sufficient space on the ground floor to accommodate such an activity. A condition has been imposed that this must not be conducted within any car parking spaces so that it will not affect the number of parking spaces provided.</p>	Yes

movement and circulation or any other potential amenity impacts are considered and addressed.		
<p><i>7.6 Safety and Security</i></p> <p>C1• Developments must ensure that the following Crime Prevention Through Environmental Design (CPTED) principles have informed the design of the proposed development:</p> <ul style="list-style-type: none"> <li>– Surveillance – Developments should be designed and managed to maximise the potential for passive surveillance;</li> <li>– Access Control – Developments must be designed in order to make them legible for users without losing the capacity for variety and interest;</li> <li>– Territorial Reinforcement – Developments must be designed to define clearly legitimate boundaries between private, semi private, and public space, and</li> <li>– Space Management – Developments must be designed and detailed to minimise damage, and the need for undue maintenance, without undermining the aesthetic and functional qualities of the building.</li> </ul> <p>C2• A Crime Risk Assessment must be prepared and submitted to Council. The Crime Risk Assessment must be prepared by a suitably qualified person and should:</p> <ul style="list-style-type: none"> <li>– Analyse the types of crime that may be</li> </ul>	<p>C1 - A review of the proposed layout of the site highlights that there is limited opportunity for passive surveillance as the proposed development incorporates limited windows. The applicant has advised that security lighting and CCTV will be utilised.</p> <p>The development incorporates sufficient access control, territorial reinforcement and space management has been incorporated into the layout.</p> <p>C2 - No Crime Risk Assessment provided in the DA however comments on CPTED principle provided below:  Surveillance: Building orientation faces the street and provides a glassed entry, however this only provides limited opportunity for natural surveillance over a few parking spaces located directly in front of the entry and a small portion of the street. Surveillance of parking spaces and pedestrian access points will be provided through CCTV.  Access Control: Entry to the building will be controlled through three areas, the main entry, timber and trade access point (vehicular) and goods inwards/outwards (vehicular). A clear indication of these access points has been provided. Undercroft screening and a security fence is provided to prevent unauthorised access to vegetated parts of the site including Lot 3.  Territorial Reinforcement: The proposed development provides for a familiar façade to assist way finding, and incorporates signage to highlight entry points to the site, public access points, wayfinding and thus territorial reinforcement.  Space Management: The site layout and internal floor plans suitably identify the delineation of uses and space management to separate the public access points and service/delivery areas. Internal security doors and internal signage further enhances this aspect of the development having regard to the space management CPTED principles.</p> <p>C3 - Conditions of consent are recommended to secure outcomes in relation to lighting, maintenance of landscaping, graffiti removal and the like.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

<p>prevalent in the area, and to which the development may be susceptible,</p> <p>– Provide information as to how the design was informed by the CPTED principles, and – Inform the design, construction, or future management practises of the development (e.g. building materials, signage, lighting, landscaping, security patrols, maintenances, and graffiti removal practices).</p> <p>C3• Any recommendations or shortfalls identified by a Crime Risk Assessment are to be implemented into the design of the development to the satisfaction of the assessing officer.</p>		
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## Scenic Landscape Protection Policy

The Draft Scenic Landscape Protection Policy was adopted by Council at the Planning Committee on 7 May 2024.

The purpose of this policy is to ensure that the Tweed's exceptional and unique scenic landscape qualities are recognised, and steps are taken to enable their identification, protection and enhancement, to the greatest extent practicable in the context of new policy, development or land use.

The objectives of this policy are to:

1. Recognise the visual elements and qualities of the Tweed's landscape character and scenic views that are valued and important to the community.
2. Define a policy mechanism ensuring that local landscape characteristics are properly identified and inform design of new development.
3. Action a framework and matters for consideration for scenic landscape protection and enhancement through visual impact assessment and mitigation.

To achieve these objectives, the policy establishes an assessment framework and a suite of management principles to guide Council, landowners, land managers, developers, business and community. The policy is to be used to enable more informed decisions about the suitability of land use, and the design and placement of new development within the landscape.

The urban landscape character unit is applicable to the subject sites. This is described as:

### Description of landscape features

The urban landscape character unit includes Murwillumbah, the northern greater Tweed Heads area and coastal settlements.

This landscape character unit captures all land uses typically found in urban areas, such as housing estates, major infrastructure, industrial areas and business parks, structured recreation, commercial and retail areas.

Urban landscape is based on the interplay between the buildings, streets, and natural environment. All these elements accommodate the evolving social, economic and cultural needs of the local residents and visitors.

The urban landscape is highly diverse. Its visual character is dominated by manmade structures which create geometric and angular shapes, banded lines and changing spatial scales. Colours, textures, shapes and forms of buildings and structures vary individually and create a busy and sometimes chaotic visual environment. Some consistency is identifiable however across spatial scales, reflecting the limits to development put in place by planning regulations. For example, the more commercialised higher density areas of Tweed Heads are characterised by taller buildings and a grid street networks, while low density residential areas such as Seabreeze are limited to single storey development with similar external materials and more curved street configuration responding to the undulating landscape.

Signage and advertising play a significant role in the visual experience of some urban landscapes. This urban landscape character unit contains pockets of land that are not available or suitable for urban development such as areas of protected vegetation and foreshores. These areas, coupled with dedicated public open space, are of high visual importance within the altered landscape as they give viewers access to important view corridors.


Tweed Development Control Plan includes assessment of the character of key settlements located within this scenic landscape unit.

The proposed development is considered to be consistent with the above description of the urban landscape character unit.

The following table provides an assessment against the mitigation measures relevant to the urban landscape character.

Mitigation measures	Assessment comment	Complie s
Address relevant, site-specific sections of Tweed Development Control Plan 2008 to seek consistency with the local visual qualities of the urban landscape.	The sites are subject to the site specific Section B3 Banora Point - Tweed Heads South section of the Tweed DCP. A thorough assessment has been conducted elsewhere in this report and the proposed development was found to be acceptable.	Y



<p>Demonstrate a clear aesthetic intent that is attractive and engaging with the landscape .</p>	<p>The applicant has provided a Statement of Design Intent which identifies that the aesthetic intent of the design was to ensure that the store provided a familiar experience for visitors. The key design considerations were:</p> <ul style="list-style-type: none"> <li>• Access – optimises separation for vehicles and pedestrians and provide safe access for all visitors and suppliers</li> <li>• Legibility – the design provides an entry gable which is a familiar entry point for visitors and wayfinding signage is provided</li> <li>• Human scale – the store is a large warehouse but the façade and nursery providing intimate counter points to the scale of the main retail space. Articulation is provided to the facade through the entry gable, feature coloured vertical fins and the nursery.</li> <li>• Quality of edges – existing rock retaining wall and landscaping along Enterprise Ave frames the new store. Sufficient space is afforded at the front of the site for additional landscape planting.</li> </ul> <p>It is considered that the design provides for an attractive and engaging building in the landscape.</p> 	<p>Y</p>
<p>Building height should positively contribute to the prevailing urban character.</p>	<p>The proposed development exceeds the maximum allowable building height of 10m by 5.52m (15.52m height proposed). The applicant advised that the design incorporates undercroft parking to reduce urban heat gain and to maximise landscaping and vegetation retention/restoration on the site. The design also affords protection to above the probable maximum flood level. Basement carparking was not considered viable given the flooding constraints and that a significant amount of soil would need to be removed from the site. Operational and safety requirements also necessitate an increased height in relation to the parking and main warehouse levels.</p> <p>It is considered that the overall design contributes positively to the streetscape and prevailing urban character of the locality.</p>	<p>Y</p>
<p>Maintain and promote the separation of highly urbanised areas with the pockets of natural areas</p>	<p>The proposed development includes revegetation on adjacent Lot 3 which will enhance the amenity of the existing natural pocket which also includes a wetland on adjacent Lot 108.</p>	<p>Y</p>

including beaches, rivers, creeks and coastal forests.		
Built form/massing and dimensional envelopes should be appropriate to the context in terms of scale, proportions, and configuration.	The built form is considered appropriate for the proposed use and site capabilities.	Y
Consider the cumulative impact of signage in commercial areas. Aim to minimise advertising and emphasise wayfinding.	<p>The proposed signage has been assessed against the following applicable policies/plans elsewhere in this report:</p> <ul style="list-style-type: none"> <li>• State Environmental Planning Policy (signage)</li> <li>• Tweed Development Control Plan 2008 <ul style="list-style-type: none"> <li>○ Section A4 – Advertising signs</li> <li>○ Section A17 – Business, enterprise corridor and general industrial zones</li> </ul> </li> </ul> <p>The proposed wall signage was found to be compliant with these policies/plans and is therefore considered to be acceptable with regard to the cumulative impact in the area.</p> <p>The two proposed pylon signs were found not complaint with these abovementioned policies/plans and Council has recommended that they be reduced in scale. This will ensure they do not impact on the streetscape and character of the area.</p>	Y
Design should respond to the local landscape setting and contribute to a distinctive defined urban character.	The local landscape setting is typical of industrial and productivity support zones which comprises largescale warehouse buildings. The proposed Bunnings warehouse will maintain consistency with the local landscape setting and distinctive urban character.	Y
Built elements and structures should achieve balanced composition of colours, textures, finishes and landscaping.	Bunnings warehouse buildings are typically largescale warehouse/shed style buildings, and the proposed design is consistent with this. The colour scheme is consistent with the Bunnings brand of a green building with red and white signage. Additional design features include coloured feature screen, large glazed entry feature, vehicle ramps, shade sails and screening. These elements combine with landscaping to provide a structure which is both familiar as well as updated to provide increased visual interest.	Y

Maintain and promote large and mature trees as distinctive visual features within the urban landscape.	Whilst the proposal results in vegetation clearing, revegetation is proposed to offset this loss. Trees are proposed to be planted at the front of the site to provide visual interest from the public domain. In addition, two feature trees are proposed at the main vehicle and pedestrian entrance to the site to ensure this is clearly delineated.	Y
Develop green edges to major roadways of regional significance to screen views of urban development.	The site is visible and in close proximity to the Pacific Highway. The site is separated from the highway by tall mature vegetation. In addition, landscaping comprising street and shade trees to the front of the site are proposed. This will assist to screen the view from Pacific Highway.	Y
Development or land use on land adjoining the rivers and creeks landscape unit and beaches and headlands landscape unit is to consider mitigation measures of that landscape unit.	Subject sites are surrounded by urban landscape units and the sites do not adjoin rivers and creeks or beaches and headlands landscape units.	Y

In relation to the visibility of the site and proposed development within the Tweed Shire landscape from various viewing situations, it must be considered whether the view is dynamic or static and the priority of the viewing situation.

#### Viewing situations

Viewing situations are locations from which people experience and enjoy views. These are identified as dynamic and static viewing situations.

Dynamic viewing situations include roads, cycleways, walking trails, navigable waterways and any other route along which an observer appreciates a sequence of views from a series of locations as they move through the landscape.

Static viewing situations are locations from which a single unchanging view or scene is appreciated and where the viewer is for the most part stationary. They include lookouts, public parks and reserves, beaches, headlands and places of interest such as Tumbulghum Jetty or Tweed Regional Art Gallery.

It is important to distinguish between dynamic and static viewing situations because the way in which an observer is exposed to and experiences a scenic landscape from these situations is different, and this can affect their visibility and appreciation of certain landscape qualities or elements. Similarly, the way in which changes within a landscape affects or impacts the viewer experience is also different.

The dynamic viewing experience has the potential to change dramatically and rapidly as the observer moves through the landscape. More often the observer appreciates the broader vista and larger features as the finer details and foreground are obscured by movement and difficult to focus on.

When experiencing views from static viewing situations the viewer is stationary within the landscape. The view does not change with time or space and the observer has the ability to choose the duration of the viewing experience and appreciate finer details and more intricate components of the landscape. Observers of static views are therefore more likely to be affected by smaller or less obvious changes as they have the time to focus on and contemplate their impact within the broader landscape setting.

#### Prioritising viewing situations

Viewing situations and their associated viewsheds were then categorised as being regionally or locally significant depending on a combination of factors including accessibility, number of viewers, viewer activity and viewing time, viewer experience and community preference for the associated viewshed.

In order to prioritise the significance of viewsheds, the following ranking system was applied:

- Priority 1 – national or regional significance, promoted at a regional or national level, that attract a significant number of visitors, are easily accessed, highly trafficked and those repeatedly identified through community consultation as having high scenic value, quality or preference.
- Priority 2 – regional significance, promoted at a regional or local level, are moderately trafficked and easily accessed or those identified as having high scenic value quality or preference through community consultation.
- Priority 3 – local significance that are visible from publicly accessible and moderately trafficked locations, and those identified through community consultation as holding local scenic value, quality or preference.
- Priority 4 – locations with relatively low traffic or patronage and identified as holding local scenic value, quality or preference.

44 Enterprise Ave (Lot 2) is predominantly visible from up to 2 viewing locations whilst smaller areas are visible from up to 5 viewing locations. These locations have been nominated as follows:

- Priority 1 viewshed – Pacific Highway (dynamic)
- Priority 2 viewshed – Terranora Road (dynamic), Fingal Road (dynamic), Razorback Lookout (static)

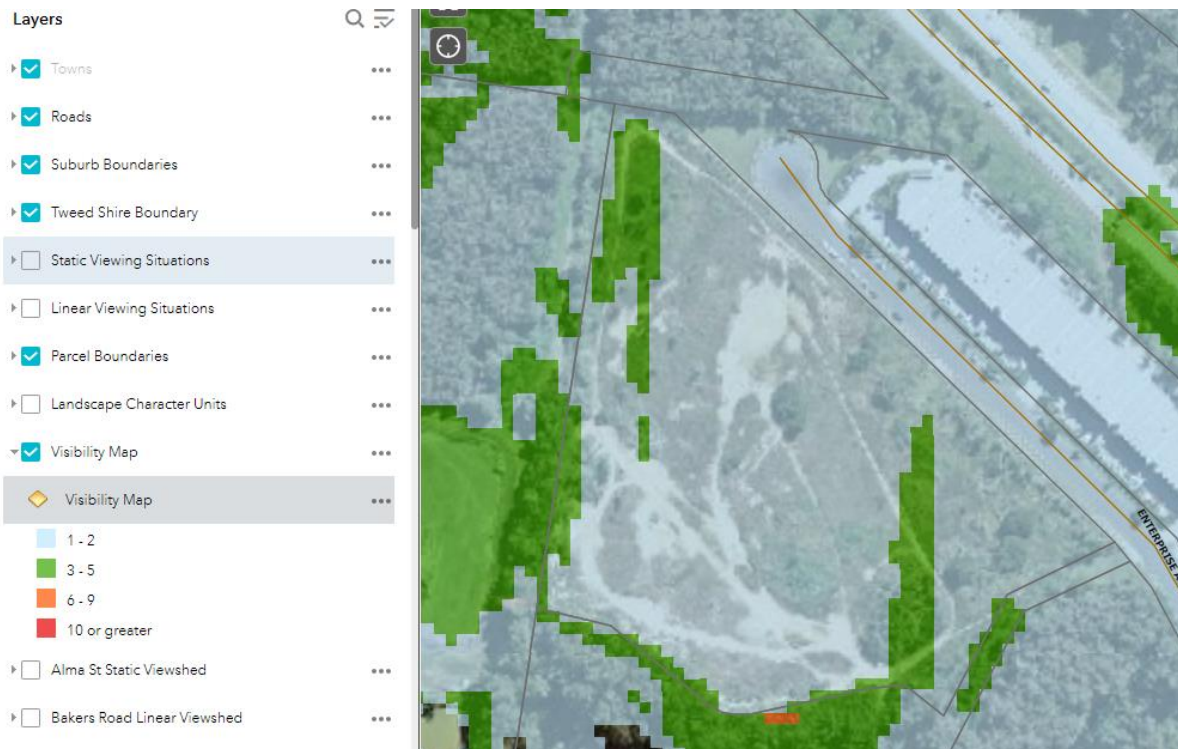


Figure 14. Scenic Landscape Strategy Visibility Map – Lot 2

The location of the sign at 13-17 Corporation Circuit (Lot 2145) is visible from up to 5 viewing locations. These locations have been nominated as follows:

- Priority 1 viewshed – Pacific Highway (dynamic), Fingal Headland (Grants Causeway) (static)
- Priority 2 viewshed – Terranora Road (dynamic), Razorback Lookout (static), The pinnacle lookout (static)

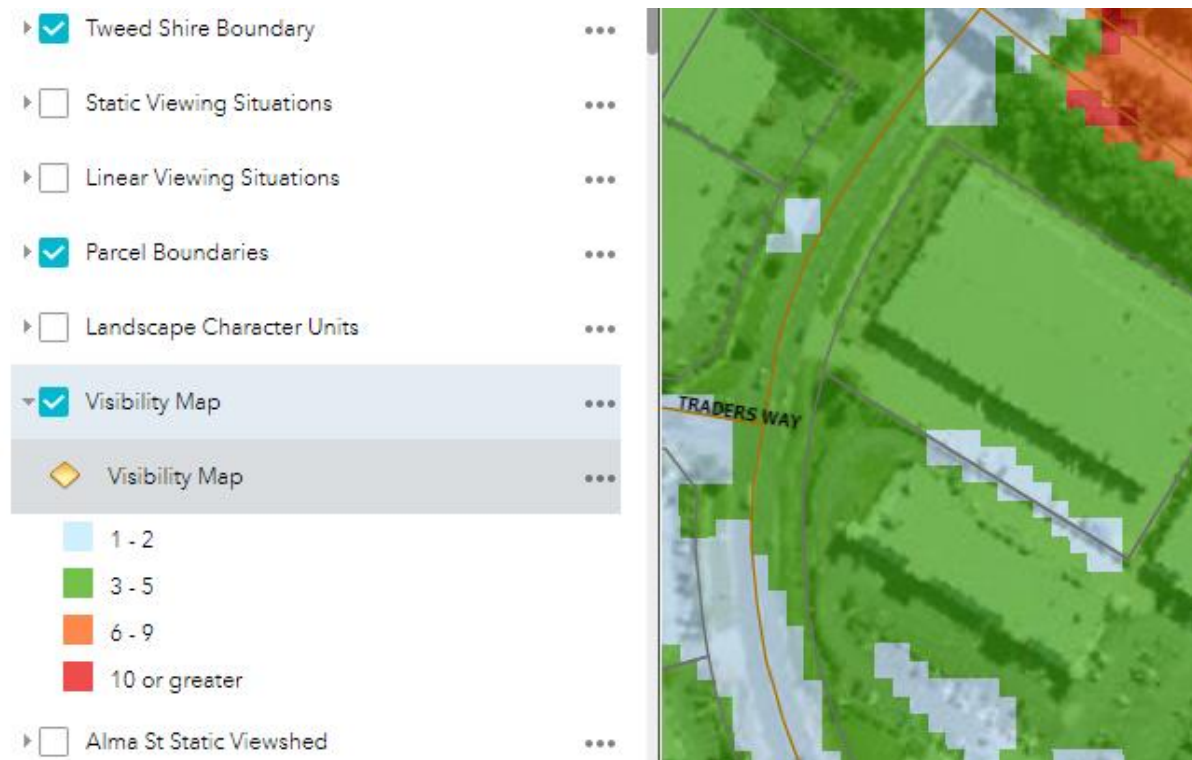


Figure 15. Scenic Landscape Strategy Visibility Map – Lot 2145



- Priority 1 viewshed – Pacific Highway

The Pacific Highway is a national or regionally significant viewing location which provides residents and visitors with a dynamic, fast paced and ever-changing viewing experience of the Tweed Shire. The proposed Bunnings Warehouse will be visible from this location, via a fleeting glance, however the proposal is not considered to detrimentally impact on the current view which incorporates urban buildings and mature vegetation. The green colour of the proposed building recesses the building behind the white building in the foreground and will assist the building to blend into the canopy trees in proximity to the building. The building and pylon sign located at 23 Enterprise Ave (north-east of the site) are 9.5m and 8m high respectively. However, based on the below perspectives it will be barely visible from the Pacific Highway.

The proposed sign on Lot 2145 will also be visible from the Pacific Highway. The sign is below the height of the Super Amart building (8.8m) but above the height of the main roofline of various businesses in the background (7m & 5.3m). This sign is considered to be visually obtrusive and should be reduced. A condition is recommended to reduce the height of this sign to 5m.

It is noted that an 11.2m pylon sign was approved under K98/0641 at the current entrance to the Harvey Norman/existing Bunnings site. However, this sign also includes signage to indicate most of the businesses operating from the site, which is considered acceptable.



*Image: Existing View from Pacific Highway May 2023*



*Image: Perspective showing the project in the background May 2023*

*Figure 16. Visual Impact Assessment images with views from Pacific Motorway provided by applicant*





Image: Existing View from Pacific Highway



Image: Perspective showing the project in the background

Figure 17. Visual Impact Assessment images with views from Pacific Motorway provided by applicant



Figure 18. Anticipated view to signage on Lot 2145 from Pacific Motorway

- Priority 1 viewshed – Fingal Headland (Grants Causeway)  
Fingal Headland is a static viewing location which allows the community and tourists the ability to take in the sweeping views and appreciate the finer details and more intricate components of the view. When Lot 2145 is viewed from Fingal Headland, it would be impossible to view the sign given the distance between locations and tall mature vegetation which blocks the view to the industrial area and associated buildings.



*Figure 19. View from Fingal Headland towards the site.*

- Priority 2 viewshed – Terranora Road  
Terranora Road is an urban arterial road which carries around 4500 vehicles per day (2017). When travelling along this road, only fleeting glances when vegetation and existing development permit, would allow users views towards Tweed Heads South. From the different vantage points, both Lot 2 and Lot 2145 would not be discernible in the urban landscape. In addition, the green warehouse building will fade into the vegetated landscape background.



*Figure 20. View from 570 Terranora Road towards the site.*





Figure 21. View from 436 Terranora Road towards the site.



Figure 22. View from 337 Terranora Road towards the site.



Figure 23. View from 266 Terranora Road towards the site.

- Priority 2 viewshed – Fingal Road  
Fingal Road is an urban distributor road which carries around 3000 vehicles per day (2019). This is the only road that services the Fingal community. The road is generally flat and low-set therefore whilst views are more abundant than Terranora Road towards the subject site due to a lack of development and dense vegetation, distant vegetation and ridgelines obscure views to Lot 2 from this location.



*Figure 24. View from Fingal Road (opposite Bambery St) towards the site.*



*Figure 25. View from 63 Fingal Road towards the site.*





*Figure 26. View from opposite Lot 746 DP 1211183 Fingal Road towards the site.*

- Priority 2 viewshed – Razorback Lookout  
Due to mature vegetation at the lookout, this site is not visible from this location.
- Priority 2 viewshed – The Pinnacle Lookout (Border Ranges National Park)  
The Pinnacle Lookout provides sweeping views over the Tweed Shire and towards the Gold Coast. This is a static viewing location which allows tourists the ability to appreciate the finer details and more intricate components of the view. However, given the distance from the lookout to the Tweed Heads South urban area, ridgelines and vegetation, the view is obscured, and the development will not be discernible from this location.



*Figure 27. View from the pinnacle lookout towards the site.*

It is considered that the proposed development is consistent with the Scenic Landscape Protection Policy.

## Section A19 Biodiversity and Habitat Management

The aim of this DCP is to ensure that, subject to any relevant overarching state or commonwealth legislation, the planning and design of new development maintains or improves ecological values within Tweed Shire.

The subject site (Lot 2) is greater than 2500sqm and supports area of mapped bushland, therefore this Section of the DCP applies.

The following red flagged values as identified in DCP A19 occur within Lots 2 and 3:

- Threatened Ecological Communities
- Important Wetlands
- Stags and hollow bearing trees
- Overcleared landscapes
- Drainage line (to the south, that is a first order stream)

Development envelope controls of DCP A19 relating to red flagged values apply. The applicant has prepared a BDAR. The BDAR 2024 includes an assessment with the relevant DCP A19 development envelope controls.

The following variations to the red-flagged value setbacks as specified under DCP A19 development envelope controls are considered acceptable to Council's Sustainability and Environment Unit.

- 'PCT 693 Intact' condition state to the south of the site between approximately minimum 5 m to 20 m separation to the proposed asset protection zone and between approximately minimum 12 m to 40 m separation to the proposed building and associated access ramps.
  - Whilst this PCT zone to the south is mapped as a Coastal Wetland Area (CWA) it is recognised that the vegetation does not conform to a wetland vegetation type. PCT 693 does not present as a red-flagged value. Areas of the PCT 693 to the south of the development envelope are to be subject to formal protection and a 5-year habitat restoration program as identified in the Koala Habitat Assessment and Habitat Restoration Plan dated 22 April 2024 prepared by Cumberland Ecology (KHA&HRP 2024).
- Incursion into the 50 m ecological buffer to the offsite CWA to the north. Refer to Level 1 Plan of Attachment C Architectural Plans.
  - The proposed access ramp at its closest point is positioned approximately 15 m from the edge of the adjacent CWA. However, the main building is positioned approximately 30 m from the edge of the adjacent CWA and extends to beyond 50 m along the western façade. The red-flagged biodiversity value is located outside the property. This variation is generally consistent with development envelope control C6 Of DCP A19 - ecological setbacks arising from adjoining land not in the same ownership.
  - Onsite and between the building/access ramp and CWA is an approximate 50 m<sup>2</sup> proposed habitat restoration area (as identified in the KHA&HRP 2024) to mitigate indirect development impacts upon the CWA. The habitat restoration area is clear of all structures, stormwater infrastructure and bushfire asset protection zone
- A 30 m setback to the south-east from Coastal Wetlands as opposed to 50 m. Refer to Level 1 Plan of Attachment C Architectural Plans.
  - The red-flagged biodiversity value is located outside the property. This variation is generally consistent with development envelope control C6 of DCP A19 - ecological setbacks arising from adjoining land not in the same ownership.

- The 30 m setback conforms to that applied to an EEC. A habitat restoration area is proposed onsite in the KHA&HRP 2024 between the development and red-flagged value.

A Koala Habitat Assessment and Habitat Restoration Plan dated 22 April 2024 prepared by Cumberland Ecology (KHA&HRP 2024) accompanied the application identifying habitat restoration areas (1.46 ha) to be the focus of a habitat restoration program over a 5-year period.

The habitat restoration area is to be afforded in-perpetuity protection under a positive covenant and restriction as to user on title.

The proposal is considered to meet the biodiversity planning principles and objectives of the DCP A19. Conditions are recommended to mitigate any known and/or potential ecological impact.

### Section B3 Banora Point – Tweed Heads South

The aim of this DCP is to give detailed guidance to those wishing to develop within the Banora Point West - Tweed Heads South Area, to indicate Council's policies with respect to development, and to form a basis for negotiations should a departure from the provision of this plan be requested.

The Banora Point West - Tweed Heads South project is essentially a residential development with associated recreational, tourist, community/educational facilities and industrial/trade activities. The site's proximity to the Gold Coast, Tweed River and the Shire's beaches resulted in the area being designated a living/holiday theme. As a consequence of this theme, site planning for the Banora Point West - Tweed Heads South Project has integrated conventional residential development with holiday-oriented facilities (eg motels, caravan/mobile home parks, sports clubs, golf courses, resort hotels, tourist condominiums etc) whilst incorporating an industrial/trade area to service the lower Tweed catchment.

In accordance with section B3.3, development of the locality must generally comply with the "layout plan". Lot 2 is located within Precinct 4 which is earmarked in the policy for industrial development, whilst Lot 2145 is nominated as trade & commerce.

As such, the provisions of B3.3.3 Commerce and Trade/Industrial apply to the site. This section requires that development occur in a landscaped 'park-like' setting. The proposed development on Lot 2 includes landscaping at the front of the site and additional street trees which will add to the 'park-like' setting of the development. The sign on Lot 2145 will maintain the existing landscaping of the site and no vegetation removal is required.

In addition, the provisions of B3.6.2 Industry – commerce and trade Guidelines apply to the development. The following table provides a comprehensive assessment of the proposal against these guidelines.

Development Control	Proposal	Complies
<b>B3.6.2 Guidelines</b>		
a. No buildings are to be erected within 9 metres from the street alignment. However, this requirement may be relaxed at the discretion of the Director, Planning & Development if a proposed development has balanced	The majority of the building is setback from the front boundary by 33m. The main entry gable is setback by 21m, whilst the outdoor nursery is setback 4.2m.	N – considered acceptable

landscaping and/or desirable architectural features or shape on the street alignment elevation.	It is considered that the proposal provides sufficient landscaping at the front of the site to add visual interest to the streetscape. In addition, it is considered necessary to have projecting elements for an otherwise large box. Whilst the setback is not compliant with the 9m, it creates visual interest to the streetscape, and aids in breaking down the bulk and mass of the building.	
b. No buildings are to be erected within 3 metres from a public reserve (including drainage reserves or the like).	No public reserves adjoin the sites	Y
c. Within this minimum building setback area at least 3 metres must be landscaped where a boundary is to the street alignment.	Minimum 3.5m of landscaping is provided to the front of the site, except where access points are provided.	Y
d. Fencing is permissible within the setback area provided that where such fencing is of the "closed type" it must be located behind the landscaped area immediately adjacent to the street frontage.	All fencing is setback behind the landscaped buffer.	Y
e. Areas to be landscaped and/or fenced are to be identified on development application plans. As a condition of development consent, developers will be required to submit plans and details of proposed landscaping/fencing for approval prior to release of building plans. Landscaping proposals should generally be in accordance with the following requirements: i. All landscaped areas are to be separated from vehicular areas by means of a kerb, dwarf wall or other effective physical barrier; ii. Earth mounding is encouraged within the landscaped area; iii. Trees to be planted are to have a minimum height of 1 metre at the time of planting; iv. Landscaping is to harmonise with buildings and should be in the form of ground cover, trees and shrubs; v. It is recommended that proposed trees and shrubs be native species due to their low maintenance characteristics, relative fast growth, aesthetic appeal and suitability to	Landscaping and fencing plans have been provided. Landscaped areas will be appropriately separated from vehicular access through kerbing and wheel stops. Condition can be imposed that all trees must be 1m at height when planted. Landscaping contains a mix of trees, shrubs, grasses and groundcovers. Landscaping. Condition imposed to provide a detailed landscape plan and planting schedule which comprises 80% locally occurring native species. The landscaping has been designed to utilise drought resistant and low maintenance species.	Y

natural habitat, and also in order to achieve continuity in streetscape.		
f. Advertising signs are to be designed, submitted for approval, constructed and licensed in accordance with Section A4 – Advertising Signs Code of this DCP. It is suggested that applicants submit full details of proposed advertising signs with development applications for new development to avoid the necessity for separate and subsequent development applications for approval of signs.	Signage has been assessed against Section A4 and A17. A reduction in the number of signs attached to the Bunnings building as well as a reduction in the height and scale of the pylon signs, results in the proposal being generally acceptable.	Y
g. Adequate vehicular entrance and exits (suitably sign posted) to the site are to be provided and designed in order to ensure safety for pedestrians and vehicles using the site and adjacent roadways. Where large/heavy vehicles are anticipated to use a particular site on a regular basis it may be a requirement that the road in front on the access points be concrete reinforced to prevent wheel scour.	Vehicle access has been designed to ensure safety of pedestrians and vehicles. This has been achieved through the segregation of access points for delivery vehicles, trade vehicles, customer vehicles and pedestrians. No additional works are proposed in relation to reinforcing in front of access points for delivery vehicles. This site has been created for industrial development, and the road should have been created in a manner to accommodate such a use. If any additional reinforcing is required in the future, this can be arranged through a separate s138 approval process with Council.	Y
h. Parking is to be provided in accordance with Section A2 – Site Access and Parking Code of this DCP, as adopted at the time a development application is lodged. The parking area, if possible, should be located immediately behind the landscaped area and in front of the activity on the site, thus encouraging the use of off-street car parking. All vehicular parking and manoeuvring areas are to be designed, constructed and maintained to prevent, as a minimum requirement litter, grease, oil, floatables and coarse sediment entering the public stormwater drainage system. For design purposes the abovementioned drainage treatment may be achieved with the use of grated drains and by installing and maintaining a suitable	Parking has been assessed against Section A2 and was found to be generally acceptable. Parking is provided behind the landscaped buffer and predominantly underneath the building. Stormwater inlet pits contained within the parking area are to be fitted with Oceanguard litter baskets which will remove gross pollutants and litter. Stormwater is to be treated through OceanProtect prior to entering the detention tank and leaving the site which will remove suspended solids, sediments and nutrients. No degreasing/washdown areas proposed.  Waste storage will occur at the rear of the site on the delivery vehicle ramp which is not visible from the street. This	Y

interception pit and/or grease arrester traps. Water from degreasing/washdown areas are to be discharged to the sewerage system via a silt trap and oil/water separator. All loading/unloading and storage areas shall drain to an interceptor capable of containing all spilled materials. External tanks containing liquids should be enclosed by an impervious bund having a volume of 110% of the largest tank. The floor of the bund should be graded to one corner where a collection sump is provided to allow removal of collected wastes by bucket or pump. Drain valves on bunded areas will not be permitted. A bunded area may be covered and screened to exclude rainwater. All pipe work from tanks and pumps within the bunded area should pass over the bund, not through it. Filling points for bunded tanks should be positioned so that spillages and leaks fall within the bund area.	also includes space for storage of hazardous waste.	
i. In considering Development Applications for the erection of buildings and/or occupation of developments Council will require that potential developers investigate possible noise consequences of the proposed development.	The application was supported by an Environmental Noise Impact Assessment which considered the impact of Aircraft Noise on the proposed development, as well as operational noise emission from the proposed development. The application was reviewed by Council's Environmental Health Unit and the proposal was found acceptable with regards to noise, subject to standard noise conditions included.	Y
j. Any open storage area shall be screened from view from any public place to the requirements and satisfaction of the Director, Planning & Development.	Waste storage will occur at the rear of the site on the delivery vehicle ramp which is not visible from the street.	Y
k. Provision must be made within all developments for the accommodation of waste disposal facilities and for adequate vehicular access to remove same. The waste disposal facilities shall not occupy approved parking or landscaped areas. All waste disposal facilities shall be screened from view from any public place to the requirements	<p>A waste storage area has been nominated on the delivery vehicle ramp where collection of this waste can also occur. This area does not consume parking spaces or landscaped areas. The waste storage area is not visible from any public place.</p> <p>The waste storage area also includes space for storage of hazardous waste. This has been designed to be 3m clear</p>	Y



and satisfaction of the Director, Planning & Development.	from emergency exits, 1.5m clear from ignition sources and drains and 1m clear from built up combustible material (empty pallet storage.	
<p>I. Development within Sewerage Treatment Works Buffer The objectives of this policy are: 1. To permit the development of the land while reducing risks to the health of employees of industrial development; 2. To prevent any intensification of residential development in the buffer zone; 3. To ensure the continued use of an essential community facility is not jeopardized.</p> <p>No additional dwellings will be permitted within the established buffer area for the Treatment Works.</p> <p>Industrial development within the buffer area is to be designed so that uses not requiring permanent or prolonged work station occupation (such as parking, open air storage) will be at that part of the lot closest to the Treatment Works. Open air ventilation of all buildings must be from the opposite side to the Works, and air conditioning must be provided in any commercial or office component of the building.</p> <p>In respect of buildings for the processing and storage of foodstuffs or other materials likely to be contaminated or tainted by exposure to airborne odours, Council will require a formal statement from a suitably qualified consultant that there are no adverse public health impacts arising from the location of the building within the nominated buffer area”.</p>	<p>The site falls within the WWTP Buffer zone.</p> <p>The application has been supported by an Odour Impact Assessment. This report found that odour impacts from normal and future operation of the WWTP will comply with established criteria at the proposed Bunnings building. However, during worst case emergency situations, high odour concentrations are predicted to impact the building.</p> <p>Any odour impacts are future reduced through the design of the proposed development restricting openings on the south of the site, whilst placing the plant nursery to the north of the site. The vegetation buffer is also considered to assist with reducing odour impacts. In addition, any aircon intakes should be located on the north-eastern facing frontage.</p> <p>Council's Water and Wastewater Unit reviewed the Odour Impact Assessment, and no objections were raised to the proposed development.</p>	Y

In summary, the proposed development is considered to satisfactorily address the provisions of this section of the DCP.

### Developer Contributions

A Draft VPA is relevant to the proposed development and is discussed in more detail below.

**(d) Section 4.15(1)(a)(iia) – Planning agreements under Section 7.4 of the EP&A Act**

The applicant has offered to enter into following draft planning agreement/s under Section 7.4 of the EP&A Act:

- **Draft Voluntary Planning Agreement – Enterprise Avenue & Greenway Drive, Tweed Heads South – not yet finalised**

As requested by the applicant, a condition has been imposed that the VPA is to be finalised prior to works commencing.

The parties to the Planning Agreement are:

- (1) Tweed Shire Council (ABN 90 178 732 496) (Council);
- (2) Bunnings Group Limited (ABN 26 008 672 179) (Future Tenant); and
- (3) Calardu Tweed Heads Pty Limited (ACN 080 347 548) and Calardu Tweed Heads Traders Way Pty Limited (ACN 096 136 211) (Developers).

The Planning Agreement applies to the following:

- (1) The land contained in Certificate of Title Folio Identifier 2/1077990 and located at 44 Enterprise Avenue, Tweed Heads.
- (2) The part of the land contained in Certificate of Title Folio Identifier 2145/879149 and located at 41 Greenway Drive, Tweed Heads South

The Planning Agreement relates to the proposed development and construction of a new Bunnings hardware and building supplies store at 44 Enterprise Avenue, Tweed Heads South which includes construction of a two (2) level commercial building to be used for hardware and building supplies, a garden centre, ancillary earthworks, tree removal and signage (the Development).

The applicant has identified the following within their SEE:

*On 3 February 2022, Council resolved to enter into a Planning Agreement (PA) with the Applicant.*

*The terms of the PA provide for a transfer of traffic 'trips ends' from the existing hardware and building supplies store at 41 Greenway Drive to 44 Enterprise Avenue.*

*In simple terms, the calculation of the final contribution is based on the number of actual trip ends for the proposed new store, less the trips ends that have been agreed to be transferred from the existing store plus an additional monetary contribution of \$21,435 (as at the date of the Council resolution).*

*The transferred trips ends essentially provide for a GFA for the proposed development of 19,000m<sup>2</sup> before a contribution based on trips ends is required.*

*The proposal entails a GFA of 17,581.35m<sup>2</sup> (excluding access from car parking, goods inward loading/unloading and external outdoor plant nursery) or 18,994.32m<sup>2</sup> of trade area including the outdoor nursery and accordingly, no development contributions are applicable to the subject DA based on trip ends.*

In addition, the applicant provided the following comments in an email dated 28 June 2024 in relation to the status of the VPA.

*The consent authority has the power to grant consent to the DA prior to the Planning Agreement being executed by all of the parties. This power is given under Section 7.7(3) of the EP&A Act which provides that a consent authority can require a planning agreement to be entered into as a condition of a development consent if it requires a planning agreement that 'is in the terms of an offer made by the developer in connection with the development application'.*

*Such an offer has been made, as reflected in:*

- the Letter of Offer from Bunnings and Harvey Norman to Council dated 7 August 2020 (in respect of which the Council resolved to accept the terms as the basis for preparing a VPA on 1 October 2020); and*
- the draft VPA (which the Council resolved to execute on 3 February 2022).*

*Accordingly, on behalf of Bunnings and Harvey Norman we propose that Council recommend a condition of consent as follows:*

*Prior to any works commencing pursuant to this consent, the Applicant must enter into a Voluntary Planning Agreement with Council in accordance with the Letter of Offer from the Applicant to Council dated 7 August 2020 and the draft Voluntary Planning Agreement which was the subject of Council's resolution on 3 February 2022. All obligations imposed by the Voluntary Planning Agreement must be complied with at all times in accordance with the terms of the Voluntary Planning Agreement, including payment of the agreed monetary contributions prior to the issue of an Occupation Certificate.*

Minutes from the Council Meeting dated Thursday February 3<sup>rd</sup> 2022 are as follows, showing the motion was carried:

#### *14.1. Voluntary Planning Agreement - 44 Enterprise Avenue and 41 Greenway Drive, Tweed Heads South*

*Cr Warren Polglase & Cr James Owen*

*RESOLVED that Council approves all necessary documentation in relation to this Voluntary Planning Agreement at 44 Enterprise Avenue and at 41 Greenway Drive, Tweed Heads South and that this matter be executed under the Common Seal of Council.*

*The Motion was Carried:*

*VOTE FOR - Cr Chris Cherry (Mayor), Cr Reece Byrnes (Deputy Mayor), Cr Rhiannon Brinsmead, Cr Meredith Dennis, Cr Nola Firth, Cr James Owen, Cr Warren Polglase*

*VOTE AGAINST - None*

*ABSENT. DID NOT VOTE - None*

A condition has been imposed that the VPA is to be finalised prior to works commencing. The Draft VPA is attached to this report. The following is an excerpt from draft VPA:

#### *6.1 Background*

*The parties acknowledge and agree as follows:*

- (1) The Development is being undertaken for the purpose of replacing the Existing Store with the New Store.*
- (2) The intention of the Developers and Future Tenant is to cease operating the Existing Store upon completion of the Development.*
- (3) Under the Contributions Plan, Council may impose a condition of consent under s7.11 of the Act in the Development Consent which requires the payment of a monetary contribution*

on account of "trip ends" (as those are described in the Contributions Plan) (Trip Ends) generated by the Development.

(4) The patronage of the Existing Store will almost certainly transfer to the New Store, meaning that the demand generated by the New Store for the provision of public amenities and services within the relevant Contributions Plan catchment will be less than it otherwise might have been.

In accordance with Clause 6.3(5) of the Draft VPA, the transfer of 1,804 "trip ends" from the existing Bunnings Development on Lot 2145 DP 879149 to Lot 2 DP 1077990 is permitted. The Monetary Contribution shall be calculated in accordance with the formula set out in clause 6.3(8) of the VPA. An additional monetary contribution in an amount of \$21,435.00 is also applicable as per Schedule 3.

These monetary contributions must be paid prior to the issue of the first Occupation Certificate (whether interim or final) in respect of the Development. Relevant condition has been included. In addition, the VPA recognises that the amount of the Monetary Contributions and Additional Monetary Contributions will be indexed (Clause 5.2) in the same way that contributions required to be paid under s7.11 of the Act for the Development would be indexed in accordance with either

- Council's Contribution Plan No. 18 - Council Administration Offices and Technical Support Facilities for the Additional Monetary Contribution; and
- Council's Contribution Plan No. 4 – Tweed Road Contribution Plan (subject to the contribution payable) for the Monetary Contribution,

from the date of this document until the date that they are paid to Council.

#### **(e) Section 4.15(1)(a)(iv) - Provisions of Regulations**

Section 61 of the 2021 EP&A Regulation contains matters that must be taken into consideration by a consent authority in determining a development application. The matters have been considered and are not relevant to the proposal.

Section 62 (consideration of fire safety) and Section 64 (consent authority may require upgrade of buildings) of the 2021 EP&A Regulation are not relevant to the proposal.

These provisions of the 2021 EP&A Regulation have been considered and are addressed in the recommended draft conditions (where necessary).

#### **3.2 Section 4.15(1)(b) - Likely Impacts of Development**

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

The consideration of impacts on the natural and built environments includes the following:

- Context and setting – The proposal is considered to be generally consistent with the context of the site, in that the proposed development is of an appropriate scale for the site. The character and amenity of the locality is maintained through the design (subject to a reduction in the height and proportions of pylon signs) whilst providing a store which is familiar for customers. Landscaping to the front of the site contributes to an interesting streetscape and assists in reducing the dominance of the large warehouse building.

- Access and traffic – The access and traffic issues are considered in Section A2 Tweed DCP section and key issues of this report. These matters are satisfactorily addressed subject to conditions
- Public Domain – The proposal suitably integrates with public domain. Pedestrian connections are available from the development to Enterprise Avenue, and to the nearest bus stops on Greenway Drive and further afield to Tweed City Shopping Centre. Retaining walls and landscaping are provided at the interface of the site which contribute to creating visual interest in the streetscape. The proposal provides for separated entrances for service/delivery vehicles, trade vehicles, customer vehicles and pedestrian entry with clear wayfinding. Adequate parking is provided within the site. Furthermore, landscaping around the site is also included in the proposal. This landscaping will integrate the existing landscape character of the public domain with the subject site.
- Utilities – It is noted that the onus will then be on the developer to provide a water supply for firefighting requirements within the site via internal infrastructure, pending future additional main supply works. All of the required utilities can be provided at the site.
- Heritage – There are no heritage items located on the site contain or on any adjoining or nearby sites. Aboriginal cultural heritage is considered under the Tweed LEP section of this report and is adequately addressed.
- Other land resources – The site is not located within or adjacent to a water catchment area or mining. There are residential land uses approximately 200m from Lot 2, however, the proposal does not affect, and is not affected by, such uses.
- Water/air/soils impacts - The potential for contaminated land is considered in the assessment under the Hazards & Resilience SEPP and key issues. The site is affected by Acid Sulphate Soils (refer to the assessment under Tweed LEP 2014). Appropriate conditions have been recommended in regards to dewatering, unexpected finds, hazardous material survey before construction, asbestos removal signage and acid sulfate soils. Council's Flooding and Stormwater Engineer has reviewed the Stormwater Management Plan, with no objections raised.
- Flora and fauna impacts - The removal of vegetation has been included and considered as part of this application (refer to key issues), with recommended conditions included to manage the removal and habitat restoration works.
- Natural environment – Lot 2 has been significantly altered through clearing and cut and fill and accordingly, the remaining vegetation is mostly comprised of native regrowth interspersed within exotic grasslands. Vegetation removal is discussed in the key issues. Minimal cut/fill earthworks are required across the development footprint with deeper cuts required for the stormwater detention tank and vehicle access points, as indicated on the Civil Plans.
- Noise and vibration – An Environmental Noise Impact Assessment was prepared by Acoustic Dynamics dated December 2022. This report addresses the impacts of external aircraft noise intrusion and noise emission resulting from the operation of the proposed development. The proposed development is considered satisfactory, subject to conditions.

- Natural hazards –The site is affected by bushfire and flooding, which have been considered by the NSW RFS and Council's engineers. Relevant conditions have been included in the recommended conditions.
- Safety, security and crime prevention – Refer to Section 3.1(c) of the report under Section A17 TDCP2008 assessment table for CPTED assessment. This element of the proposal is satisfactory subject to standard conditions.
- Social impact – The proposed new Bunnings will offer a range of events, programs, services and facilities which benefit the community such as DIY workshops, community workshops, café & playground and an increased product range. The development also provides for additional employment opportunities during construction and operational phases. In addition, no public submissions/objections were received in relation to this application. The proposal is considered to result in a positive social impact.
- Economic impact –The development provides for additional employment opportunities during construction and operational phases. The new Bunnings store will also provide continued support to the existing local businesses that use Bunnings for their day-to-day operations e.g. Trades. The two required intersection upgrades to Greenway Drive will assist the community with improved traffic safety and movement. As such, the development will achieve the strategic desired outcome for the area whilst encouraging a sustainable local economy.
- Site design and internal design –The proposal results in a design which is sympathetic to the site constraints and character of the area.
- Construction – Relevant conditions have been imposed to reduce potential construction impacts.
- Cumulative impacts – Based on the assessment detail contained in this report, the potential for cumulative impact has been mitigated to deliver a development that is conducive to the site and surrounds. The assessment of the proposal having regard to the statutory matters for consideration has demonstrated that the proposed is consistent with the planning controls that apply to the site, the site is suitable for the development and the proposal is in the broader public interest.

Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality as outlined above.

### **3.3 Section 4.15(1)(c) - Suitability of the site**

The site is considered to be suitable for the development given the site was created as part of an industrial subdivision and falls within the Tweed Heads South Industrial precinct. The area is typical of industrial and productivity support zones which comprises largescale warehouse buildings. The proposed Bunnings warehouse will maintain consistency with the local landscape setting and distinctive urban character.

As detailed previously and reiterated in Section 5 of this report, the merits of the proposal and ongoing operational management measures can be employed in order to ameliorate the impact of the proposal and reduce any land use conflict between the adjoining Water Treatment Plan and the proposed development.

The findings in the Detailed Site Investigation for Contamination report dated April 2024 have demonstrated that the subject site is suitable for the proposed land use and will not pose

adverse impact to future users. In addition, the site constraints in terms of bushfire and flooding have been considered as part of the proposal and demonstrate that the site is suitable for the development given the proposed use and the measures available to defend the site in a bushfire.

The site is capable of providing all essential services and associated infrastructure necessary to carry out the proposed development.

The site's attributes are conducive to the development in that the proposal will provide additional employment opportunities for the Shire. The Odour Impact Assessment has confirmed that the site is suitable for the proposed new Bunnings in respect to the proximity to the Water Treatment Plant. There are no other adjoining uses which are prohibitive of the proposal.

Based on the above considerations and having regard to the layout and design of the proposal, to limit the development footprint to reduce the amount of vegetation clearing required, reduce openings to the south of the site in proximity to the Water Treatment Plant, stormwater management measures and landscaping around the development, the development aims to limit any adverse impacts. As such, the subject site is considered to be suitable for the development.

### **3.4 Section 4.15(1)(d) - Public Submissions**

The proposal was notified in accordance with Council's *Community Participation Plan 2019 – 2024* for 14 days from 13 September 2023 until 27 September 2023. No submissions were received in relation to this application.

### **3.5 Section 4.15(1)(e) - Public interest**

The proposal is considered to generally be in the public interest as it will provide for a purpose-built Bunnings Warehouse which provides for additional employment opportunities and product offerings. The new store will also offer community events and workshops which provides social benefit to the local community.

The proposal is generally consistent with the applicable planning controls as outlined in this report. The proposal is also considered to result in positive social and economic impacts without impacting the amenity of the surrounding area.

The site is located in the Northern Rivers and is subject to the provisions of the North Coast Regional Plan 2041. The proposal is generally consistent with the regional strategy. The development is considered to be consistent with the principles of Ecologically Sustainable Development, as vegetation loss is offset by habitat restoration works, the development provides suitable landscape areas with rainwater tanks to capture water from the roof and reuse it on site.

Accordingly, on balance, it is considered that the proposal is consistent with the public interest.

## **4. REFERRALS AND SUBMISSIONS**

### **4.1 Agency Referrals and Concurrence**

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in **Table 7**.

There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommended conditions of consent being imposed.

**Table 7: Concurrence and Referrals to agencies**

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
<b>Concurrence Requirements (s4.13 of EP&amp;A Act)</b>			
Environment Agency Head (Environment, Energy & Science Group within DPIE)	S7.12(2) - <i>Biodiversity Conservation Act 2016</i>	<p>The application exceeds the NSW Biodiversity Offsets Scheme clearing threshold.</p> <p>A Biodiversity Development Assessment Report dated 13 April 2023 prepared by Cumberland Ecology (BDAR 2023) accompanied the application. The BDAR 2023 calculated the following biodiversity offset scheme ecosystem credits required to be retired:</p> <ul style="list-style-type: none"> <li>o PCT 693 Regrowth: two (2) credits</li> <li>o PCT 1230 Regrowth: four (4) credits</li> </ul> <p>Concurrence is not required as the application was supported by a Biodiversity Development Assessment Report and conditions have been imposed requiring the retirement of biodiversity credits to offset the residential impacts.</p>	N/A
<b>Referral/Consultation Agencies</b>			
RFS	S4.14 – EP&A Act Development on bushfire prone land	<p>No objection raised to for the proposed development.</p> <p>Conditions provided in respect to asset protection zones, construction standards and water and utility services.</p>	Y
Transport for NSW	<p>Section 2.122 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i></p> <p>Development that is deemed to be traffic generating development in Schedule 3.</p>	<p>No objection raised to for the proposed development.</p> <p>Developer would be required to enter into a Works Authorisation Deed (WAD) with Transport for NSW in respect to intersection upgrades.</p>	Y



Tweed Byron Local Aboriginal Land Council	Tweed Aboriginal Cultural Heritage Management Plan 2018	No objection raised to for the proposed development.  Precautionary condition included.	Y
Gold Coast Airport	CI 7.8 Airspace Operations – Tweed Local Environmental Plan 2014	No objection raised to for the proposed development.  Condition included regarding requirement for application to the airport for blanket 32.0m clearance.	Y
<b>Integrated Development (S 4.46 of the EP&amp;A Act)</b>			
Transport for NSW	S138 - Roads Act 1993 for works in the road reserve.  S87.4 - Roads Act 1993 Traffic control facilities. <i>4) However, the construction, erection, installation, maintenance, repair, removal or replacement of a traffic control light may not be carried out otherwise than by or with the consent of Transport for NSW.</i>	N/A – Council is the roads authority for S138 applications. • Proposal will require S138 application post consent for additional driveways and other works in road reserve. No S138 currently lodged.  Consent for S87 applications (Traffic lights) require consent from Transport for NSW, however this can be obtained post consent.	N/A  N/A

## 4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 8**.

**Table 8: Referrals to Council Officers**

Officer	Comments	Resolved
<b>Traffic Engineer</b>	Council's Traffic Engineer advised no issues raised. Provide advisory note to applicant from Transport for NSW regarding WAD. Deed of agreement (works in kind) with Council required for contributions if seeking discount for payment.	Yes (conditions) Refer to Key Issues
<b>Building Unit</b>	No objections subject to recommended conditions.	Yes (conditions)

<b>Environmental Health Unit</b>	Council's initial Environmental Health Unit assessment raised concerns in relation to contaminated land. A revised Report on Detailed Site Investigation for Contamination prepared by Douglas Partners Pty Ltd dated 23 April 2024 was submitted.	Yes (conditions) Refer to Key Issues
<b>Water and Wastewater Unit</b>	Council's initial Water and Wastewater Unit assessment raised concerns in relation to water pressure, connection to reticulated water and sewer, proximity between proposed stormwater infrastructure, access ramp and existing sewer infrastructure and the Odour Impact Assessment. Addition information submitted via letter from C&M Consulting Engineers dated 29 April 2024 responded to water pressure, connection to reticulated water and sewer, proximity between proposed stormwater infrastructure, access ramp and existing sewer infrastructure. An amended Odour Impact Assessment prepared by RWDI Australia Pty Ltd dated 3 June 2024 was submitted.	Yes (conditions)  Refer to Key Issues for Odour
<b>Stormwater &amp; Flooding Engineer</b>	No objections subject to recommended conditions.	Yes (conditions)
<b>Sustainability and Environment Unit</b>	Council's initial Sustainability and Environment Unit assessment raised concerns in relation to conflict between expert reports in respect to the extent of asset protection zone, habitat restoration areas, existing encumbrances and mapped coastal wetland areas. The applicant provided a revised Bushfire Hazard Assessment dated May 2024 prepared by BlackAsh Bushfire Consulting and an updated Koala Habitat Assessment and Habitat Restoration Plan dated 22 April 2024 prepared by Cumberland Ecology which have addressed and rectified these conflicts.	Yes (conditions)  Refer to Key Issues
<b>Subdivision Engineer</b>	Council's Subdivision Engineer has advised no issues raised.	Yes (conditions)
<b>Resource Recovery Unit</b>	No objections raised to the proposed development. It is noted that as it is a commercial operation, Council's would not be providing waste services, and this would need to be organised directly with a waste collection contractor.	Yes

The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

### 4.3 Community Consultation

The proposal was notified and advertised in accordance with Council's *Community Participation Plan 2019 – 2024* for 14 days from 13 September 2023 until 27 September 2023. The notification included the following:

- An advertisement in the local newspaper [Tweed Link contained in the Tweed Weekly Newspaper];
- A sign placed on the site;
- Notification letters sent to adjoining and adjacent properties (52 notification letters were sent);
- Notification on the Council's website (DA Tracker).

The Council received no submissions.

## 5. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

### 5.1 Odour impacts from Banora Point Wastewater Treatment Plant

The subject site is located within the buffer area of the Banora Point Wastewater Treatment Plan (WWTP), which is located on the adjoining properties. Concerns were raised by the Water and Wastewater Unit in respect to the initial Odour Assessment Report submitted by RWDI Australia Pty Ltd dated 19 April 2023. It was found that the report needed to be updated to accurately reflect the existing working order and emergency odour exposure to the surrounding area. It was requested that the Odour Report be updated to include:

- The evaluation of the report has indicated "Land use immediately surrounding the site is a mix of commercial and industrial suppliers and is located within the industrial area; therefore, in accordance with the criteria in Table 3-1, an impact assessment criterion of 6 OU [Odour Units] is applied" and expresses that the Wastewater Treatment Plan (WWTP) will only affect approximately 10 people.

It has been highlighted that the report has failed to include the development of the proposed 'Bunnings' development within the affected population. It has been indicated by a Senior W&WW Engineer that the affected population within the surrounding area of the subject site would more likely be approximately 500 people and would therefore impose an impact assessment criterion of 3 OU significantly impacting the contents of the supplied report.

- All three Dispersion Model Results submitted within the report ignore the inlet works and associated screening and grit retrieval systems of the WWTP. These site sources are known to generate odour and numerous points specific to the site have been indicated expressing that these facilities need to be included within the report to accurately model the impact of the odour during the three dispersion model scenarios.

- The report uses measurements based on a Malabar Plant Report which is based upon Biosolids Loadout Buildings. The Banora Point WWTP uses a Belt Press system therefore the assumed concentrations within the report cannot be taken as accurate for the development location.
- A significant issue that has been highlighted by the Water Unit is the large Storage Hopper, which is emptied daily, has high potential to release odour as the storage is not air sealed. a. The Storage Hopper has enough capacity to provide storage for three days but if collection of the sludge cannot be removed within this timeframe the sludge needs to be laid out to dry. The sludge drying area would need to be incorporated into the emergency dispersion model as the odour created from this activity is very significant and the odour created is present for some months following.
- Due to the importance of this report and to ensure the proposal can be developed without any negative odour effects affecting the development site it is requested a formal meeting with TSC and the applicant's Odour Consultant is conducted to ensure the report can be prepared with all relative information included to the satisfaction of TSC's Water Unit.

Resolution: An amended Draft Odour Impact Assessment prepared by RWDI Australia Pty Ltd dated 3 June 2024 was submitted. This report has been carefully considered by the Water & Wastewater Unit and was found to address all of the RFI items adequately and makes recommendations that should be included within the consent conditions. It was noted that there may be a typographical error in item 2.3.1, where the 750,000 EP should perhaps be 75,000 EP, and that a final report is required rather than the draft report submitted.

The applicant submitted a final report dated 22 July 2024 which also corrected the typographical error in item 2.3.1.

This issue is considered satisfied, and the design and proposed development is considered suitable from an Odour perspective.

## **5.2 Land contamination**

Concerns were raised by the Environmental Health Unit in respect to land contamination and the initial Detailed Site Investigation for Contamination Report prepared by Douglas Partners Pty Ltd dated July 2023. It was found that the report did not present a clear-cut statement that the consultants considered whether or not the site is suitable for the proposed use, as per the Consultants reporting on contaminated land Guidelines prepared by the EPA 2020. The report also did not include a Contaminated Land Summary Table as required since 1st July 2020 in respect to all contaminated land reports submitted to Council. It was also requested that such a revised report must provide clear information on future works required to be undertaken in order to confirm the site is suitable for the proposed land use and provide a protocol for managing unexpected finds during the development.

Subsequently, a revised Detailed Site Investigation for Contamination Report prepared by Douglas Partners Pty Ltd dated 23 April 2024 was submitted. According to this report, the site was used for residential or rural purposes until 1971 when commercial activities began, after which it was used for a variety of commercial activities such as a concrete batching plant and for storage of rock, soil, fill, pipes and machinery. The site was also subject to cut and fill activities, with fill considered likely to have originated from on-site material. The site appears to have remained vacant since at least 2013.

A preliminary conceptual site model (CSM) was developed to identify potential contamination sources, human and environmental receptors and potential pathways. Potential contamination sources included fill, buried waste, historic commercial/industrial activities and fly-tipping of waste. The CoPC were identified to include metals / metalloids, total recoverable hydrocarbons (TRH), benzene, toluene, ethylbenzene, xylene (BTEX), polycyclic aromatic hydrocarbons (PAH), polychlorinated biphenyls (PCB), organochlorine pesticides (OCP), organophosphorus pesticides (OPP), phenols and asbestos. Potential human receptors include construction and maintenance workers, end users (i.e. workers and visitors to Bunnings) and adjacent site users, while potential environmental receptors include surface water, groundwater and terrestrial organisms.

The investigation indicated that broadscale contamination has not been detected at concentrations that would present a significant risk of harm to potential receptors when compared against the adopted site assessment criteria for a commercial / industrial site use. Based on the results of the DSI, Douglas concludes that the site is suitable for the proposed Bunnings development, provided that the recommendations detailed below are implemented:

- No obvious potential asbestos containing material (PACM) was observed across the surface of the site during the DSI, but due to the presence of dense vegetation and the presence of PACM fragments on the site inspection in 2013, a licenced asbestos assessor/ occupational hygienist must be engaged to inspect the site and to provide a clearance certificate prior to ground disturbance.
- Builders' waste was identified at depth in some on-site locations, and although they were not considered a contamination risk, an Unexpected Finds Protocol (UFP) has been prepared and must be implemented during development of the site.
- If any de-watering is to occur with release into stormwater drains or sewage systems, then testing and treatment of the groundwater will need to occur prior due to the concentrations of zinc in groundwater.
- Based on the current contamination soil results, all excavated material should be able to be disposed of off-site to an accepting landfill facility or to another commercial / industrial property.
- The excavation and disposal of soil must be conducted in accordance with the Acid Sulfate Soil Management Plan submitted with the application.

The Contingency Plan and Unexpected Finds Protocol (UFP) confirms that although the site has been subjected to previous investigations, it remains a potential for soil contamination to be present between sampled locations and below the termination depths of sampled locations. This document defines a protocol in the event of potential soil contamination is encountered during the development, as stated below:

- The Site Manager is to be notified and the affected area cordoned off by the use of barrier tape and warning signs.
- The Environmental Consultant is to be notified to inspect the area and assess the significance of the potential contamination and establish the extent of remediation or management works (if deemed necessary) to be conducted.
- An assessment report and management plan detailing this information will be compiled by the Environmental Consultant and provided to the Principal's Representative.
- The assessment results together with a suitable management plan shall be provided by the Principal's Representative to the Consent Authority (if required by the development consent).
- The agreed management / remedial strategy, based on a remediation action plan (RAP) and relevant guidelines (e.g., WA DoH (2021), for asbestos issues), shall be implemented; and

- All details of the assessment and remedial works (if deemed necessary) are to be included in the site validation report.

All site personnel are to be inducted into their responsibilities under this UFP, which should be included or referenced in the Contractors Environmental Management Plan. All site personnel are required to report unexpected signs of environmental concern to the Site Manager if observed during the course of their works: e.g., presence of potential unexploded ordinance, unnatural staining, potential contamination sources (such as buried drums or tanks) or chemical spills.

Resolution: The Environmental Health Unit reviewed the revised Detailed Site Investigation for Contamination Report and concluded that the report was prepared and signed by a suitably qualified and experienced contaminated land consultant and that the report was prepared in general accordance with the NSW EPA guidelines. The report concludes the site is suitable for the proposed development, provided the recommended actions are implemented.

This issue is considered satisfied, and the proposed development is considered suitable from a contaminated land perspective.

### 5.3 Bushfire – asset protection zones

Concerns were raised by the Sustainability and Environment Unit in respect to conflicts between habitat restoration, mapped coastal wetlands and the extent of the asset protection zones. The submitted Bushfire Hazard Assessment dated 07 July 2023 prepared by BlackAsh Bushfire Consultants recommended:

*‘(t)he entire site will be managed as an APZ to Inner protection Area (IPA) standards in accordance with the NSW RFS Standards for Asset Protection Zones and PBP 2019’*

However, the Biodiversity Development Assessment Report dated 13 April 2023 prepared by Cumberland Ecology (BDAR 2023) identifies proposed ‘Cleared’ and ‘Asset Protection’ management zones within the ‘Subject Land’ (Figure 6 in BDAR 2023). The proposed ‘Asset Protection’ management zone is not shown extending across ‘the entire site’ as recommended in the Bushfire Hazard Assessment, rather restricted in extent to accommodate offset and habitat restoration areas (Figure 7) shown in the Koala Habitat Assessment and Habitat Restoration Plan dated 14 April 2023 prepared by Cumberland Ecology (KHA&HRP 2023).

Those areas onsite and beyond the proposed ‘Subject Land’ and associated ‘Cleared’ and ‘Asset Protection’ management zones are identified as ‘Restoration Areas’ in the KHA&HRP 2023. The proposed ‘Restoration Areas’ are considered necessary to comply with Council’s Biodiversity & Habitat Management DCP A19 and the Tweed Coast Comprehensive Koala Plan of Management 2020. Those proposed ‘Restoration Areas’ shown onsite and adjacent Lot 3 are intended to be established to protect existing vegetation and improve habitat through a habitat restoration program with the objective of re-establishing the full structure and floristics of the pre-clear vegetation community.

Council sought to rectify this conflict as the proposed ‘Restoration Areas’ and intended management intent should not be compromised for bushfire management purposes.

It is also noted that the proposed asset protection zone extends within a mapped Coastal Wetland Area. The application has not been nominated as designated development as required by Section 2.7(2) of the SEPP (Resilience and Hazards) 2021.

The applicant submitted a revised Bushfire Hazard Assessment dated May 2024 prepared by BlackAsh Bushfire Consulting (BHA 2024). The revised report recommends and indicates asset protection zones as being outside those areas identified for habitat restoration on Lot 2 consistent with the updated Koala Habitat Assessment and Habitat Restoration Plan dated 22 April 2024 prepared by Cumberland Ecology (KHA&HRP 2024) and Landscape Concept Plan Issue C dated 12 April 2023 prepared by Citicene.

With respect to the asset protection zones falling within mapped coastal wetland areas, the revised Bushfire Hazard Assessment dated May 2024 prepared by BlackAsh Bushfire Consulting, recommends asset protection zones which are now shown to be established and maintained outside the Coastal Wetland Areas.

Resolution: The Sustainability and Environment Unit have reviewed the revised reports discussed above and are satisfied that recommended bushfire management measures will not compromise habitat restoration outcomes on the subject site as proposed in the KHA&HRP 2024. Conditions are included to ensure successful implementation of the KHA&HRP 2024. The Sustainability and Environment Unit are satisfied that asset protection zones are to remain outside mapped Coastal Wetland Areas avoiding application of the designated development provision under the SEPP (Resilience and Hazards) 2021.

#### **5.4 Existing encumbrances**

Concerns were raised by the Sustainability and Environment Unit in respect to conflicts between habitat restoration areas and existing encumbrances.

It is understood the benched rock embankment along part of the western and southern lot boundaries supporting cut within the south-western part of the lot (X) is afforded protection by way of an easement. An easement for maintenance access (Y) and restriction (Z) to maintain the structural integrity of the support structures also encumbers the site (Refer to DP 1077990).

A portion of the habitat restoration area shown in the KHA&HRP 2023 is proposed within the existing easements and restrictions associated with the support structure. It is considered that within those nominated easement/restriction areas restoration activity would be inconsistent with the terms of the instruments and therefore prevented from occurring.

To enable habitat restoration activity across a minimum acceptable 1.27 ha area as proposed in the KHA&HRP 2023 (to address DCP A19 and the TCCKPoM), the applicant is requested to reconfigure the proposed restoration area. This is to ensure that conflicts with asset protection zones and encumbrances are avoided. In addition, it is requested that these areas be contiguous/connected to those habitat restoration areas already identified in the KHA&HRP 2023 and include areas requiring a combination of assisted habitat restoration and revegetation.

The applicant submitted an updated Koala Habitat Assessment and Habitat Restoration Plan dated 22 April 2024 prepared by Cumberland Ecology (KHA&HRP

2024). The restoration area has been modified to exclude the easements and areas immediately adjacent to the north. An additional contiguous area on Lot 3 DP1077990 that forms the Vegetated Riparian Zone for a drainage line that is a first order stream has been captured in the 'Restoration Area'. The revised restoration area was increased in areal extent by 0.19 ha to 1.46 ha. Planting of 20 PKFT's within the 1.46 ha offset area remains proposed. The Restoration Area is to comprise two zones as depicted in Figure 22:

- Zone 1 – 0.79 ha Intact Vegetation – Assisted Habitat Restoration
- Zone 2 – 0.67 ha Interplanting – Revegetation

**Resolution:** Council's Sustainability and Environment Unit endorse the revised habitat restoration area and are satisfied that the area extends outside those existing land title easements/restrictions allowing for delivery of expected restoration outcomes. The Sustainability and Environment Unit are satisfied that the proposal complies with the TCCKPoM and demonstrates that a better ecological outcome for koalas is assured. It noted that the Habitat Restoration Area as identified in the KHA&HRP 2024 is to be afforded long-term protection under a statutory covenant mechanism (positive covenant and restriction) generally in accordance with Section 6.3 of the KHA&HRP 2024 and actively managed for a period of 5 years post establishment (primary works). Conditions are recommended to realise delivery of habitat restoration works and protection of the nominated habitat restoration area.

## 5.5 Vegetation removal

In selecting the developments final footprint, the following avoidance and minimisation measures were considered:

- The project has selected a two-storey design so as to reduce the overall development footprint. The use of external fire-resistant panelling in order to reduce APZ widths is also proposed to maximise setbacks.
- The south-eastern entry ramp was moved north to avoid a single Koala Food Tree and to setback further from areas of PCT 1230 Intact that are a TEC and are mapped as Coastal Wetlands.
- Alternative locations were not considered as the subject land is the only land in suitable ownership. Alternative sites within the property were not considered as the proposed development encompasses the majority of the subject site. However, the overall size and footprint of the development was reduced to avoid the Intact condition state of PCT 693, individual hollow bearing trees and Koala Food Trees.

The proposal involves the removal of approximately 0.60 ha of native vegetation. This includes 0.16ha loss of PCT693 Blackbutt – Tallowwood (regrowth), 0.34ha loss of PCT1230 Swamp Mahogany (regrowth), 0.09ha loss of planted native vegetation and 2.76ha loss of exotic vegetation/cleared land. This also includes the removal of 2 x Preferred Koala Food Trees (PKFT's) and removal/modification of 0.1 ha Preferred Koala Habitat (PKH). Offset requirements under the Tweed Coast Comprehensive Koala Plan of Management (TCCKPoM) Appendix C are as follows:

- 1 x PKFT – Eucalyptus microcorys (Tallowwood)(40 mm dbh within APZ) <100mm dbh at 1:8 offset ratio = 8 trees
- 1 x PKFT Eucalyptus tereticornis (Forest Red Gum)(200 mm dbh within building footprint)–100-250 mm dbh at 1:12 offset ratio = 12 trees
- 0.1 ha of PKH (comprising regrowth PCT 1230 and regrowth PCT 693) at 1:12 offset ratio onsite = 1.2 ha



The KHA&HRP 2024 identifies an offset and habitat restoration area of approximately 1.46 ha and planting of 20 PKFT's (within the 1.46 ha offset area).

Council's Sustainability and Environment Unit are satisfied that the proposal has been designed to sufficiently avoid and minimise impact on native vegetation and habitat through:

- Incorporating a two-storey design to minimise the development footprint
- Use of fire-resistant panelling to reduce bushfire asset protection zone distances
- Maintaining adequate separation distances to adjacent high value red-flagged values
- Improvement, maintenance and protection of surrounding habitat outside the development envelope

A Biodiversity Development Assessment Report (BDAR) has been prepared to offset residual biodiversity in accordance with the Biodiversity Assessment Method 2020. The direct impact resulting from the proposed development is the loss of vegetation and associated habitat within the subject land. Two management zones have been assumed in the calculation of biodiversity credits being:

- Management Zone 1 Cleared – Regrowth PCT 693 and Regrowth PCT 1230 equating to 0.06 ha and 0.21 ha respectively. All vegetation in this management zone is to be cleared resulting in a future vegetation integrity score of zero (from 36.9 and 25.3)
- Management Zone 2 APZ - Regrowth PCT 693 and Regrowth PCT 1230 equating to 0.1 ha and 0.13 ha respectively. Vegetation in this management zone is to be selectively cleared to meet the NSW RFS Asset Protection Zone Standards resulting in a future vegetation integrity score of 2.6 and 8.2

The BDAR recommends that 2 biodiversity credits are retired in respect to PCT693, and 4 biodiversity credits in respect to PCT1230.

Council's Sustainability and Environment Unit have also considered the following indirect impacts from the proposed development:

- a. Alteration to biophysical, hydrological and ecological integrity of red flagged values.
  - A Sediment and Erosion Control Plan has been prepared to manage erosion and sediment runoff during the construction phase. It is considered that potential adverse impact upon red flagged values including adjacent Coastal Wetland Areas (CWA) may be avoided and sufficiently managed through implementation of measures detailed in the plan.
  - A Stormwater Management Plan has been prepared to demonstrate how the quality of water entering the adjacent CWA is expected to be equal or improved beyond current conditions. It is considered that potential adverse impact upon red flagged values including adjacent CWA may be avoided and sufficiently managed through the installation of improved active management of stormwater run-off and water quality control measures detailed in the plan.
  - Sufficient setbacks to red-flagged values are to be established. Ecological buffers zones onsite are proposed to be managed and protected to reduce edge effects arising from the development, improve the quality of habitat and prevent incursion of environmental weeds as detailed in the KHA&HRP 2024.
  - Landscaping is to predominantly comprise local native species (minimum 80%) as a measure to maintain and improve local biodiversity and reduce the likelihood of environmental weed spread.
- b. Inadvertent impacts on adjacent habitat or vegetation.

- Vegetation and fauna management recommendations are provided in the BDAR 2024 and KHA&HRP 2024 including delineation of clearing limits, installation of tree protection measures, pre-clearance surveys, staging of clearing
- Conditions are recommended to ensure works are to be undertaken in accordance with an approved Vegetation and Fauna management Plan.

The threatened flora species *Archidendron hendersonii* (White Lace Flower) listed as Vulnerable under the Biodiversity Conservation Act 2016 and listed as a Serious and Irreversible Impact Species occurs onsite. A targeted survey of *Archidendron hendersonii* (White Lace Flower) being an SAI entity was carried out on the 18 July 2024 after stems were identified on Lot 3 DP1077990. The BDAR was updated to include the 12 verified records (from survey) and application of a 30 metre species polygon as required under the Biodiversity Assessment Method 2020 (BAM 2020). Refer to Figure 10 of the BDAR for locations. The BDAR 2024 includes an SAI assessment in accordance with BAM 2020. In summary

- The plants were recorded within PCT 693 (intact).
- Of the 12 plants, 6 are of mature age class (over 3 m in height). This local population represents 3.1 % of the broader NSW population. The core distribution based on Bionet records in NSW is along the coastal floodplain from Wardell to the Queensland border.
- The individuals within the study area include young/small trees suggesting recruitment has occurred in the past.
- The area containing these individuals will not be directly impacted
- However, six individuals are located in close proximity to proposed bushfire asset protection zones extending within 100 m<sup>2</sup> of the 30 m species polygon. For these individuals the establishment and maintenance of the proposed APZ has the potential to expose the plants to increased light levels and edge effects.
- To mitigate potential effects of the development and to maintain genetic exchange (assumed to be pollinated by birds and bats) the area occupied by the plants is to be subject to a habitat restoration program as detailed in the KHA&HRP 2024. The development envelope excluding the APZ is to be fenced with security fencing. Given the APZ extends outside the proposed security fence, Council's Sustainability and Environment Unit recommend the installation of fauna friendly fencing to demarcate the interface between the asset protection zone and habitat restoration zone.
- No offsetting is required for *Archidendron hendersonii*, as the species is not present within the development envelope and no individuals are proposed to be removed.

In relation to the proposed fencing of the site and impact on Koala movement, a 2.7m high security fence (with barbed wire on top) is proposed to enclose the sides and rear of the development footprint. This is considered to be fauna exclusion fencing, which limits the ability of Koalas to enter the development footprint. No concerns were raised by Council's Sustainability and Environment Unit in relation to the proposed fencing. It is noted that access gates will be required to allow access to the asset protection area for maintenance. Appropriate condition included.

To mitigate potential effects of the development and to maintain genetic exchange (assumed to be pollinated by birds and bats) the area occupied by the plants is to be subject to a habitat restoration program as detailed in the KHA&HRP 2024. Given the APZ extends outside the proposed security fence, Council's Sustainability and Environment Unit recommend the installation of fauna friendly fencing to demarcate the interface between the asset protection zone and habitat restoration zone.

Resolution: Council's Sustainability and Environment Unit consider that the BDAR has been prepared in accordance with the BAM 2020. The number of credits calculated in the BDAR are recommended to be retired.

## 5.6 Traffic generation

The application was supported by a Traffic and Parking Assessment Report prepared by Transport and Traffic Planning Associates dated February 2023. This report acknowledges that the proposed store will be approximately more than 10,000m<sup>2</sup> larger than the existing store (nearly 2.5 times larger). The existing site is currently constrained in respect to parking, with a common parking area being shared by other bulky goods stores.

The report has considered the existing traffic circumstances on the road system serving the site for weekday PM and Saturday midday periods. The results found that these intersections operate with relatively satisfactory levels of service at the present time.

It has been assumed that the existing bunnings has a similar trading pattern almost exactly replicating the existing Bunnings in Artarmon (Sydney) which has a Weekday PM and Saturday midday traffic generations survey results as follows:

	Weekday PM	Saturday midday
In	164	287
Out	172	322
<b>Total</b>	<b>336</b>	<b>609</b>

The projected traffic generation of a normally trading Bunnings of some 19,000m<sup>2</sup> can be established by a more "focused" assessment of "trend lines" for the data relating to the 6 large Bunnings.

The assessed traffic generation of the proposed Bunnings is therefore as follows:  
Weekday PM 1.76 vtp/100m<sup>2</sup>  
Saturday midday 4.5 vtp/100m<sup>2</sup>

Application of this to the floorspace of some 18,000m<sup>2</sup> indicates the following:  
Weekday PM 317 vtp (i.e. remain as existing)  
Saturday midday 810 vtp (+ 201 vtp)\*  
\*Additional to existing Bunnings

The report assessed the future (2032) traffic movements at the access intersections taking into consideration the new Bunnings and a Bulky Goods tenant in the existing Bunnings building. The results of this assessment indicate that the Enterprise Drive/Traders Way intersection will continue to operate with a satisfactory level of service, however, the other intersections require up-grade works and the following are proposed:

- Greenway Drive/Leisure Drive – provide an additional northern approach lane (30m left turn)
- Greenway Drive/Enterprise Drive – provide traffic signals (2 lane roundabout cannot be accommodated)
- Greenway Drive/Traders Way – provide traffic signals as proposed in the Council study

It is noted that the upgrade works to the Leisure Drive roundabout have been completed by Council.

The report assessed these intersections post upgrade works and they were found to provide satisfactory operation performance.

A Supplementary Traffic Statement by Transport and Traffic Planning Associates dated February 2024 was provided to consider the potential impact of the proposed Bunnings of the Minjungbal Drive and Machinery Drive intersection. SIDRA modelling of the existing traffic arrangements of this intersection reveals the following:

	<b>Weekday PM</b>	<b>Saturday midday</b>
Level of service	C	C
AVD	33.3	38.4

Modelling was also undertaken for a background growth of +15% (2032), plus the new Bunnings building and Bulky Goods use of the existing Bunnings store. This SIDRA modelling reveals the following:

	<b>Weekday PM</b>	<b>Saturday midday</b>
Level of service	C	E
AVD	38.1	65.5

Whilst this modelling assumed a Bulky Goods use of 7,260m<sup>2</sup> replacing the existing Bunnings store, this is by no means, an assured outcome (given the existing Bulky Good uses in the area and the current Bulky Goods market conditions). If it eventuates that this vacated building was used by a Warehouse or Light Industrial use, the weekday peak traffic generation would only be some 36 vtp, while the Saturday Midday traffic generation would be negligible. In relation to the potential for any other use than hardware/buildings supplies of the existing Bunnings site it is noted that this would require a future Development Application to be submitted.

The SIDRA modelling with Bulky Goods use reveals that the level of service of the Minjungbal and Machinery Drive intersection will reduce with the traffic changes resultant to the proposal Bunnings development. However, this intersection currently operates with the following phasing:

- Minjungbal Drive – DO Phasing
- Machinery Drive – Split Approach Phasing

The Council Contributions Plan describes the proposed upgrade as a “Phasing Change” and if this is intended to be provision of DO phasing for the Machinery Drive/access road approaches then it is assessed that this would result in a substantial improvement to the operational performance of the intersection. On the other hand, if the outcome is a warehouse/light industrial use then the operation of the intersection will be little changed from that existing, particularly during the weekend times.

In accordance with s2.122 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Transport for NSW. No objection was raised to the proposed development; however, it was noted that a Works Authorisation Deed (WAD) is required to complete upgrades outlined in traffic report should Council condition them.

Resolution: Council's Traffic Engineer has reviewed the Traffic and Parking Assessment Report. It was found that the applicant reviewed the existing surrounding road network and using acceptable modelling, that intersections impacted by the development will require upgrading to ensure the road network is safe and unencumbered by the proposal. The Traffic Engineer concluded that:

- The proposed intersection upgrades particularly the traffic signals will address potential issues that may arise from the proposal. The signals would enable the existing pedestrian refuge to be removed on Greenway Drive (east of Traders Way) and enable Greenway Dr to be line marked with 2 lanes (both directions.)
- The signals will also create gaps in the traffic flow which would benefit egress from other commercial accesses along Greenway Drive.

Proposed parking and access were found to be acceptable and compliant with AS2890. Concerns were raised by the Traffic Engineer in relation to the Traders Way and Enterprise Avenue intersection. There is limited sight distance of northbound traffic on Enterprise from drivers exiting Traders. It is considered that an appropriate condition should be applied requiring improved line marking at the intersection which will assist drivers to enter further into Enterprise Avenue improving sight distances. Proposed parking and access were found to be acceptable and compliant with AS2890.

Council's Traffic Engineer has considered the Supplementary Traffic Statement in relation to impacts on the Minjungbal/Machinery Drive intersection, and it was concluded that any intersection upgrades are highly unlikely to involve additional lanes or road widening and would involve improved technology associated with the signals' operation which are controlled by Transport for NSW. There may be an argument that the proposed intersection upgrades (additional 2 traffic signals) may reduce the desirability of the Machinery Dr and Greenway Dr as a through carriageway and result in a reduction of traffic using the Machinery Dr/Minjungbal Dr intersection. The current signal configuration is not operating at a desirable level of service and is expected to worsen even without the proposed development. There is reliance on other road upgrades or connections, as identified in the Tweed Road Development Strategy, to reduce the pressure on this intersection. The ability to upgrade the signal phasing at Machinery Dr/Minjungbal Dr is to some extent beyond the control of Council (being an asset owned and managed by Transport for NSW) and it would be difficult to justify that the proposed development would be responsible for those upgrades. Therefore, there is limited justification in requiring the applicant to upgrade the traffic signals at Minjungbal/Machinery Dr as identified within the Tweed Road Development Strategy.

## **6. CONCLUSION**

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported.

The written request for variation to the height of building development standard submitted under Clause 4.6 is considered satisfactory and demonstrates that, despite the numerical non-compliance, the proposed development meets the objectives of the development standard and the objectives for development in the E4 General Industrial zone.

As discussed throughout this report, the proposal is appropriate for the site given its location within the Tweed Heads South industrial area. The development is consistent with the strategic vision for the area. Such a development is also considered appropriate in respect to proximity to the Banora Point Wastewater Treatment Plant. The proposed development will provide for an expanded Bunnings store for Tweed Shire residents and visitors with increased offerings and product lines. The proposal also provides for additional employment opportunities.

As such, Council is satisfied that the proposed development is acceptable on merit and can be conditioned to adequately mitigate any impacts associated with the development.

It is considered that the key issues as outlined in Section 5 have been resolved satisfactorily through amendments to the proposal and/or in the recommended draft conditions at **Attachment A**.

## **7. RECOMMENDATION**

The written request for variation to the height of building development standard submitted under Clause 4.6 is considered to be satisfactory. The consent authority can be satisfied that the matters required to be demonstrated pursuant to Clause 4.6(4) have been adequately addressed. It demonstrates that, despite the numerical non-compliance, the proposed development will be in the public interest as it is consistent with the objectives of the height of building development standard and the objectives for development within the E4 General Industrial zone.

That the Development Application DA23/0398 for hardware & building supplies warehouse, associated works & signage (NRPP) at Lot 2 DP 1077990; No. 44 Enterprise Avenue; Lot 3 DP 1077990; No. 42 Enterprise Avenue and Lot 2145 DP 879149; No. 13-17 Corporation Circuit TWEED HEADS SOUTH be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at Attachment A.

The following attachments are provided:

- Attachment A: Draft Conditions of consent
- Attachment B: Draft Voluntary Planning Agreement
- Attachment C: Architectural Plans
- Attachment D: Clause 4.6 Request
- Attachment E: Transport for NSW comments
- Attachment F: NSW Rural Fire Service comments
- Attachment G: Gold Coast Airport comments
- Attachment H: Tweed Byron Local Aboriginal Land Council comments
- Attachment I: Applicants signage justification