

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSEC-171
DA Number	MOD/2021/0376
LGA	Inner West
Proposed Development	To modify modified Determination No. MOD/2020/0096 dated 18 September 2020 to reduce on-site car parking, reconfigure the internal layout, carry out alterations to achieve NCC compliance, provision of roof services, façade changes and addition of internal ceiling fans and modify conditions of consent
Street Address	750 Princes Highway TEMPE NSW 2044
Applicant/Owner	Bunnings Properties Pty Ltd
Date of DA lodgement	10 September 2021
Total number of Submissions	44 submissions
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Number of submissions >10 Application under S4.55(2) of the EP and A Act 1979 Modification to conditions imposed by the Panel
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • State Environmental Planning Policy No. 64 – Advertising and Signage • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy (State and Regional Development) 2011 • Marrickville Local Environmental Plan 2011 • Draft Inner West Local Environmental Plan 2020 • Marrickville Development Control Plan 2011
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Architectural Plans • Tempe South LATM Study – Final Report • Section 4.55 Statement • Modified Determination No. MOD/2020/0096 dated 18 September 2020
Summary of key submissions	<ul style="list-style-type: none"> • Traffic concerns • Adoption of a Local Area Traffic Management Study
Report prepared by	Andrew Newman
Report date	17 March 2022

Summary of s4.15 matters

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

Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Yes

Clause 4.6 Exceptions to development standards

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

Not applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

No

Conditions

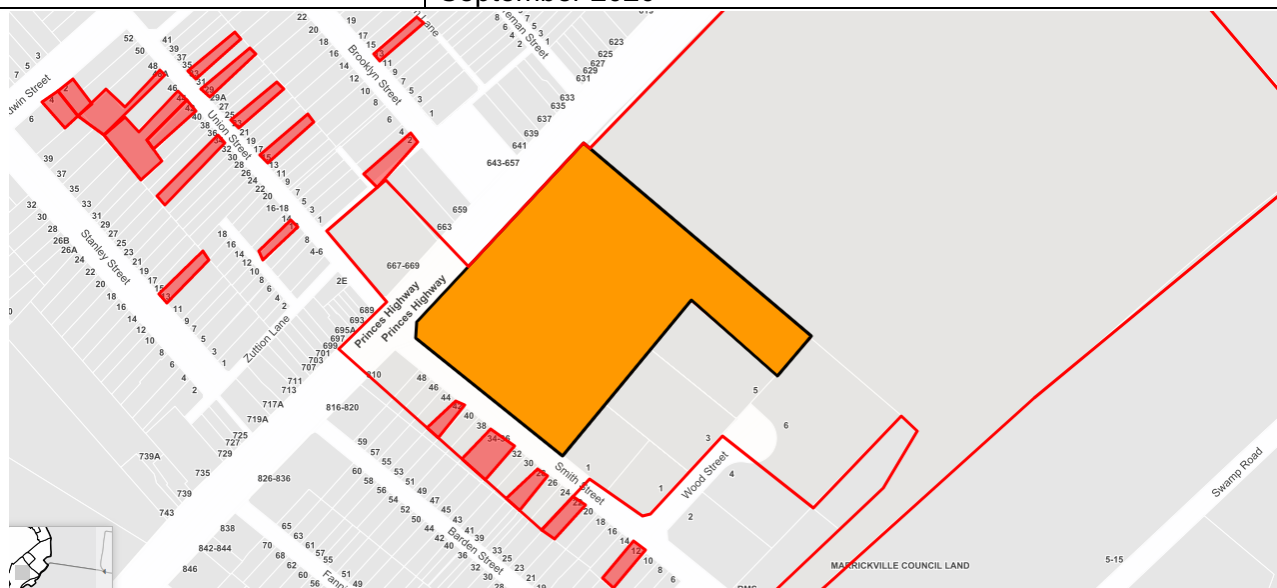
Have draft conditions been provided to the applicant for comment?

Yes





INNER WEST

DEVELOPMENT ASSESSMENT REPORT

Application No.	MOD/2021/0376
Address	750 Princes Highway TEMPE NSW 2044
Proposal	To modify modified Determination No. MOD/2020/0096 dated 18 September 2020 to reduce the car parking required, reconfigure layout, carry out alterations to achieve NCC compliance, provision of roof services, façade changes and addition of internal ceiling fans and modify conditions of consent
Date of Lodgement	10 September 2021
Applicant	Bunnings Properties Pty Ltd
Owner	Bunnings Properties Pty Ltd
Number of Submissions	44
Value of works	\$44,825,000.00
Reason for determination at Planning Panel	Application under S4.55(2) of the EP and A Act 1979 Number of submissions >10 Modification to conditions imposed by the Panel
Main Issues	Adoption of a Local Area Traffic Management study and amendments to Condition 68A of the consent
Recommendation	Approved with Conditions
Attachment A	Architectural Plans
Attachment B	Tempe South LATM Study – Final Report
Attachment C	Section 4.55 Statement
Attachment D	Modified Determination No. MOD/2020/0096 dated 18 September 2020



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

Note: Due to scale of map, not all objectors could be shown.

1. Executive Summary

This report is an assessment of the application submitted to Council under s4.55(2) of the Environmental Planning and Assessment Act 1979 to modify Modified Determination No. MOD/2020/0096 dated 18 September 2020 to reduce on-site car parking, reconfigure the internal layout, carry out alterations to achieve NCC compliance, provision of roof services, façade changes and addition of internal ceiling fans and to modify conditions of consent at 750 Princes Highway Tempe.

The application was notified to surrounding properties and 44 submissions were received in response to the notification.

The main issues that have arisen from the application include:

- The adoption of a Local Area Traffic Management study as required by Condition 68A of the current consent.
- The traffic impacts associated with the proposal and the ability of the Local Area Traffic Management study to address traffic impacts to local roads attributed to the development.

It is considered that the modified proposed is consistent with the aims and objectives of the relevant State Environmental Planning Policies, the Marrickville Local Environmental Plan 2011 and the Marrickville Development Control Plan 2011.

The Local Area Traffic Management study and associated traffic measures contained with the Tempe South LATM Study – Final Report by Bitzios Consulting dated 6 July 2021 are considered acceptable, subject to conditions requiring minor amendments surrounding the traffic mitigation measures for Union Street.

Given the above, the application is recommended for approval.

2. Proposal

The application seeks to modify Modified Determination No. 201700185 dated 18 September 2020. The proposal includes both design modifications and modifications to conditions of consent. The proposed modifications are as follows:

Design Modifications

- Reconfiguration of the internal space on warehouse level 1 to accommodate the relocation of the Building Materials and Landscape Yard from the detached building at the south-easter corner at the rear of the site into the main warehouse.
- Use of the detached building as storage space.
- Amend the wall material of the north-eastern side of the detached building from mesh to a solid concrete wall to achieve BCA fire separation requirements. This modification adds 2085sqm of Gross Floor Area to the development.
- Reconfiguration of the undercroft car parking area layout resulting in a reduction of 27 car parking spaces. The revised layout provides 397 car parking spaces.

- Amendment to the roof plan to provide more accurate services information, including the replacement of the generic 'AC plant platform' notation with specific reference to fusion air conditioning units, and the introduction of PV cells which will cover an approximate total roof area of 3,000 square metres generating a minimum of 400KW.
- Inclusion of internal ceiling fans.
- The painting of the RC panel wall on the western elevation (fronting the Princes Highway above the retained brick portion of the building) and the RC panel wall on the southern elevation that sits vertically above the retained brick portion of the building is amended to a vivid white, which reflects the white colour of the Ashfield Bunnings warehouse.
- Replacement of several notations to "Painted RC panel" with "Painted Panel Wall" to facilitate the use of a light weight panel instead of RC in some locations.
- Rationalisation of the approved signs with the removal of the text "our policy: lowest prices are just the beginning", and reversal of the colour scheme for the Smith Street sign above the retained building.

Condition Modifications

The table below outlines the proposed modification to conditions of consent:

Condition Number	Proposed Modifications
Condition 1	<ul style="list-style-type: none"> • Update to reflect amended architectural plans incorporating design modifications • Add the Tempe South LATM Study – Final Report by Bitzios Consulting dated 6 July 2021 as a stamped document
Condition 5	<ul style="list-style-type: none"> • Delete reference to 424 carparking spaces and amend to 397 spaces to reflect amended plans.
Condition 27	<ul style="list-style-type: none"> • Delete reference to approval by Traffic Committee and amend wording as follows: The applicant must meet the cost of implementing any future resident parking scheme in Smith Street, Tempe required by the Tempe South LATM Study – Final Report prepared by Bitzios Consulting dated 6 July 2021 and any LATM review required by Condition 112(b). Subject to Traffic Committee approval.
Condition 48	<ul style="list-style-type: none"> • Delete part a) of condition requiring a change in colour to a portion of the façade as this has been included in the amended plans.
Condition 49	<ul style="list-style-type: none"> • Amend to allow the payment of Section 7.11 contributions prior to the issue of the Occupation Certificate, rather than before the issue of the Construction Certificate.
Condition 54	<ul style="list-style-type: none"> • Amend to address inconsistencies in the condition and clarify that the bus stop will be located within a suitable easement with amended working as follows:

	<p>The person acting on this consent shall seek approval from the State Transit Authority (STA) for the proposed relocation of the bus stop and shelter. The applicant must liaise with Council's bus shelter service provider to organise the relocation at no cost to Council. The shelter shall be located adjacent to the site and within the property boundaries (with provision of a suitable easement) so as to maintain a 2.5m clear footpath along the Princes Highway with provision of a suitable easement (on the property) to achieve the required clearance. A plan of the proposed bus shelter relocation with signposting alterations shall be submitted to the RMS and Council for approval before the issue of a Construction Certificate.</p>
Condition 68A	<ul style="list-style-type: none"> Delete condition requiring the adoption of an LATM Study by Council's Local Traffic Committee by virtue of the proposal to include the Tempe South LATM Study – Final Report by Bitzios Consulting dated 6 July 2021 in Condition 1 as a stamped document.
Condition 112	<ul style="list-style-type: none"> Amend the delivery of the approved LATM works to be signed off by Council's Director of Infrastructure, rather than the Local Traffic Committee. Clarify the Review is to be undertaken by Council, not the applicant <p><i>LATM study delivery</i></p> <p>a) The LATM works described in Condition No. 1 Condition 68A of this Determination being implemented to the satisfaction of Inner West Local Traffic Committee the Director Infrastructure Services prior to the issue of an Occupation Certificate and are to be carried out by the applicant at the applicant's expense.</p> <p>b) After a period of 12 months from the issue of an Occupation Certificate, the applicant is to fund a review (undertaken by Council) of the LATM measures implemented as part of Part a) of this condition. Any implemented LATM devices that are deemed not to be required are to be removed by the applicant at the applicant's expense and to the satisfaction of Inner West Local Traffic Committee. In addition any new LATM measures deemed necessary shall also be constructed by the applicant and at the applicant's expense.</p> <p>c) All works required to be carried out on public land as part of Parts a) and b) of this condition are to be carried out by the applicant at the applicant's expense with an appropriate Deed and bond being entered into with Council prior to the issue of an Occupation Certificate.</p>

3. Site Description

The subject site is located on north-eastern corner of the Princes Highway and Smith Street, Tempe. The site is known as 728-750 Princes Highway and is legally described as Lot 2 in Deposited Plan 803493. The site is irregular in shape and has a site area of approximately

20,400sqm. The site has a 150 metre frontage to Princes Highway and an 116 metre frontage to Smith Street.

The subject site is currently occupied by a one (1) part two (2) storey industrial building. The Princes Highway façade is listed as a heritage item under Marrickville Local Environmental Plan 2011 and is known as part of Westpac Stores Department and Penfolds Wine Cellars (former). To the rear of the Princes Highway façade is an open plan rendered brick warehouse, divided into bays with external piers and steel trusses supporting the saw-toothed roof structure above.

The northern portion of the ground floor level and the entire first floor level of the industrial complex is used for the warehousing of clothing with associated offices and the southern portion of the ground floor level of the industrial complex is used for the storage and distribution of printed material.

The Smith Street elevation of the building includes the same brick façade as the Princes Highway along part of the elevation with windows at ground and first floors, with the remaining section consisting of pre-cast concrete panels. The Smith Street side setback currently contains a number of mature trees, which provide a form of green screening of the side elevation.

Vehicle access is currently provided to site via the Princes Highway and Smith Street, which leads to a rear loading dock and parking area.

The site is surrounded by various existing industrial development with low scale residential development located on the southern side of Smith Street. IKEA directly adjoins the site to the northeast. The site is zoned B6 Enterprise Corridor under MLEP 2011.

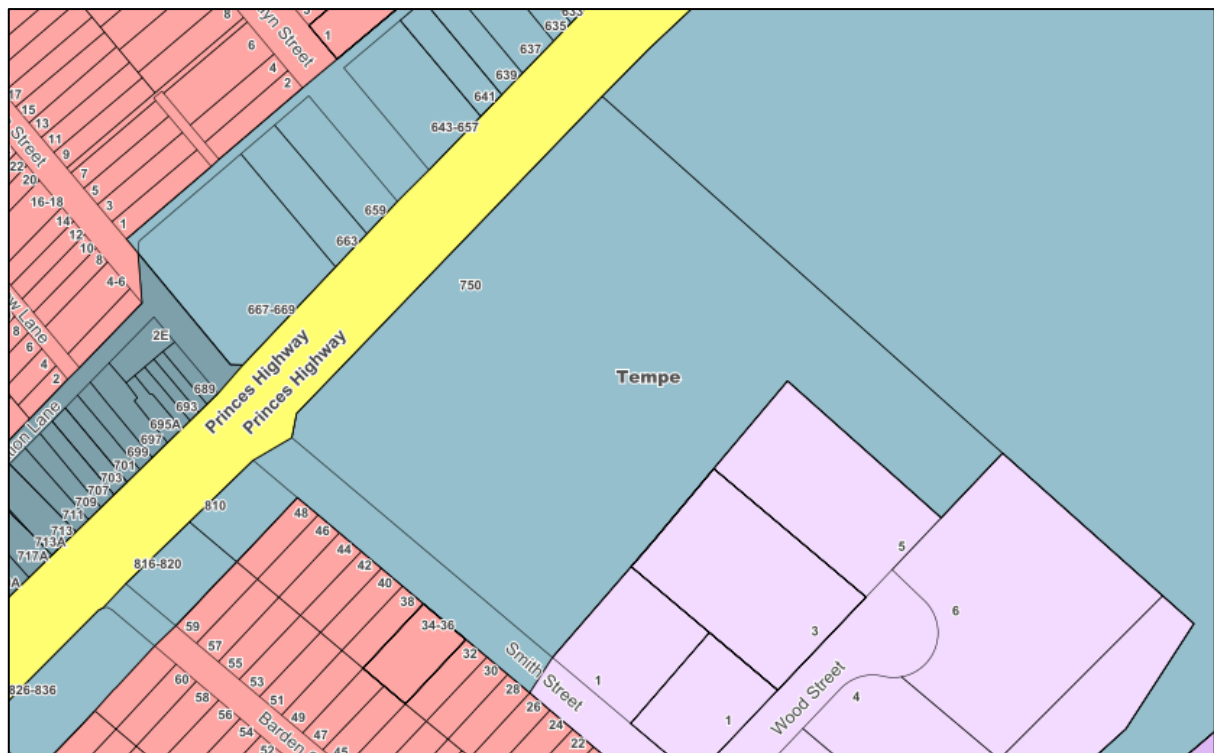




Image 2: The Site (as viewed from Princes Highway)



Image 3: Northern corner of The Site (as viewed from Princes Highway)



Image 4: Western corner of The Site (as viewed from Smith Street)

4. Background

4(a) Site history

The following application outlines the relevant development history of the subject site and any relevant applications on surrounding properties.

Application	Proposal	Decision & Date
DA201700185	To partially demolish the rear of the existing building, construction of a new building form and adaptively reuse the site for use as a 2 level hardware and building supplies store with undercroft car parking, erection of signage, boundary adjustments to provide a slip lane from the Princes Highway into Smith Street and the widening of Smith Street on the north-eastern side	Approval by Sydney Eastern City Planning Panel 27 June 2019
MOD/2020/0096	Modification to DA201700185 to modify the internal arrangement of the foyer and other minor internal changes	Approval by Council under delegated authority 18 September 2020

4(b) Application history

The following table outlines the relevant history of the subject application.

Date	Action
10 September 2021	Application Lodged.
28 September 2021 to 12 October 2021	Application notified in accordance with Council's Community Engagement Framework.
12 November 2021	Amended Planning Statement including changes to proposed modifications to conditions uploaded to NSW Planning Portal by Applicant.
9 December 2021	Sydney Eastern City Panel Briefing held.
21 February 2022	Amended Planning Statement including changes to proposed modifications submitted following Panel briefing and internal discussions with Council's Planning and Traffic staff. New changes proposed to revise conditions
9 March 2022	Community information evening held by Council to outline the proposal as amended and receive community feedback.

5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

5(a) Environmental Planning Instruments

The application has been assessed against the relevant Environmental Planning Instruments (applicable to the application at lodgement) listed below:

- *State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP 64)*
- *State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)*
- *State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)*
- *Marrickville Local Environmental Plan 2011 (MLEP 2011)*

The following provides further discussion of the relevant issues:

5(a)(i) *State Environmental Planning Policies*

(i) State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP 64)

The proposal includes the rationalisation of the approved signage with the removal of the text “our policy: lowest prices are just the beginning”, and reversal of the colour scheme for the Smith Street sign above the retained building.

It is considered that the rationalisation of the approved signage is a positive outcome, and the development would remain consistent with the aims and objectives of SEPP 64. The removal of the “Lowest prices are just the beginning” motif to the 4 “hammer” signs simplifies the design. The removal of the wording, reversal of colour scheme and no increase to the size of the approved signs overall is considered acceptable.

(ii) State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)

The development remains consistent with the provisions of the Infrastructure SEPP as the proposed modifications do not alter any previously approved vehicle access arrangements for the site.

5(a)(ii) Marrickville Local Environmental Plan 2011 (MLEP 2011)

The application was assessed against the following relevant clauses of the *Marrickville Local Environmental Plan 2011*:

- Clause 2.3 - Zone objectives and Land Use Table
- Clause 4.4 - Floor space ratio
- Clause 4.5 - Calculation of floor space ratio and site area
- Clause 5.10 - Heritage conservation
- Clause 6.6 - Airspace operations

The following table provides an assessment of the application against the development standards:

Standard	Approved	Proposal	Non compliance	Complies
Floor Space Ratio Maximum permissible: 0.95:1 or 19,380sqm	0.875:1 or 17,865sqm	0.975:1 or 19,908sqm	528sqm or 2.63%	No

(i) Clause 2.3 - Land Use Table and Zone Objectives

The property is zoned B6 – Enterprise Corridor under the provisions of MLEP 2011. The development for the purpose of *Hardware and Building Supplies* is permissible with Council's consent under the zoning provisions applying to the land. The development is acceptable having regard to the objectives of the B6 - Enterprise Corridor zone.

(ii) Clause 4.4 – Floor Space Ratio (FSR)

The proposal results in a technical increase in the FSR attributed to the development. As approved, the development represents an FSR of 0.875:1. The proposal to alter the wall material at the north-eastern side of the detached building from mesh to a solid concrete wall has the effect of now including this area as part of the Gross Floor Area (GFA) of the development. As such, the modification adds 2085sqm of GFA, resulting in a proposed FSR of 0.975:1.

The maximum FSR applicable to the site under MLEP 2011 is 0.95:1 and therefore the development represents a breach to the FSR development standard of 528sqm or 2.63%. The applicant has provided the following justification for the proposed breach:

... in this instance the proposed FSR variation is not the result of any intensification to the use on the site and is merely the consequence of a change to the material used for the side wall of this previously approved building. Furthermore, it is noted that this proposal actually reduces the intensification of the use on the site because this building is no longer to be used for a retail purpose being the Building Materials and Landscape Yard (which is to be relocated into the main warehouse building) and instead this building is only to be used for storage purposes. The conversion of this building from an approved

retail space to a storage purpose does not add team members, nor enable additional customers, and therefore does not change the intensity of use on the site.

Accordingly, the proposed variation is considered to be capable of support as strict compliance would be unreasonable and unnecessary in the circumstance of the case, and there is an environmental planning ground to support the variation, being the achievement of the necessary fire rating for this building.

Given the above, the proposed FSR is considered acceptable for the following reasons:

- The modified proposal does not alter the approved building envelopes and would not result in any addition bulk and scale attributed to the proposal.
- The additional FSR is as a result of a change in wall materials and the extent of approved buildings on the site is not being altered.
- The proposed use of the detached building as a storage area is a reduction in intensification of use at this part of the site.

Given the above, whilst the modified proposal results in a technical increase to the FSR of the development, it does not result in any change to the bulk and scale, building envelopes or intensity of use on the site beyond what has already been approved. As such, the proposed FSR is considered acceptable and would be consistent with the objectives of Clause 4.4 of MLEP 2011 and the B6 Enterprise Corridor zone.

Notwithstanding, while the application states the detached building will be used for storage purposes, no further information is provided regarding the nature of the storage, nor is this annotated/marked up on the amended plans. As such, a new condition of consent is included in the recommendation of this report requiring the building to be used for storage associated with the Bunnings store only and the plans be updated to clearly indicate the detached building being used for this purpose.

(iii) Clause 5.10 – Heritage Conservation

The site is listed as a heritage item under MLEP 2011, listed as *Westpac Stores Department and Penfolds Wine Cellars (former), including interiors* (1299).

The proposal includes the following amendments to the building façade:

- The painting of the RC panel wall on the western elevation (fronting the Princes Highway above the retained brick portion of the building) and the RC panel wall on the southern elevation that sits vertically above the retained brick portion of the building is amended to a vivid white, which matches the white colour of the Ashfield Bunnings warehouse.
- Replacement of several notations to “Painted RC panel” with “Painted Panel Wall” to facilitate the use of a lightweight panel instead of RC in some locations.

The application was reviewed by Council's Heritage Advisor and no concern is raised to the amended materials from “Painted RC panel” to “Painted Panel Wall”. The painting of the wall on the western elevation to vivid white is considered to be a positive outcome and sensitive to the heritage façade. The inclusion of this design amendment is consistent with the requirements of Condition 48 a) and therefore the amended plans have satisfied this condition and no objection is made to the deletion of this part of the condition on the basis this has been reflected on the plans and revised materials and finishes schedule.

The development remains consistent with the aims of Clause 5.10 and adequately maintains the heritage item.

(iv) Clause 6.6 – Airspace Operations

The site lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 15.24 metres above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.

The original development was considered by Sydney Airport Corporation and was accepted subject to the imposition of conditions which are included in the development consent. Specifically, Condition 3 requires the development not to exceed 40.4 metres Australian Height Datum (AHD).

The modified proposal includes amended air conditioning and services which protrude above the parapet height of the building. However, the parapet height is 35.85 metres AHD and the services that extend above are capable of being limited to a maximum height of 40.4 metres AHD or are below this height. As such, the modified proposal remains consistent with Clause 6.6 of MLEP 2011.

5(b) Draft Environmental Planning Instruments

The application has been assessed against the relevant Draft Environmental Planning Instruments listed below:

- Draft Inner West Local Environmental Plan 2020

The Draft IWLEP 2020 was placed on public exhibition commencing on 16 March 2020 and accordingly is a matter for consideration in the assessment of the application under *Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979*.

The amended provisions contained in the Draft IWLEP 2020 are not relevant to the assessment of the application. Accordingly, the development is considered acceptable having regard to the provisions of the Draft IWLEP 2020.

5(c) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Marrickville Development Control Plan 2011.

Part of MDCP 2011	Compliance
Part 2.10 – Parking	Yes – see discussion below
Part 2.12 – Signs and Advertising	Yes – see SEPP 64 discussion
Part 2.16 – Energy Efficiency	Yes – see discussion below
Part 6 – Industrial Development	Yes – see discussion below
Part 8 – Heritage	Yes – see MLEP discussion

The following provides discussion of the relevant issues:

(i) Part 2.10 – Parking

The modified proposal includes a reduction in the number of approved car parking spaces as a result of changes to the parking area layout. 397 car parking spaces are proposed in total, a reduction of 27 spaces from that approved.

The applicant provided the following justification in the Section 4.55 Statement submitted with the application:

A Traffic and Parking Report prepared by TTPA accompanied the original application which concluded that provision within a range of 360-412 spaces will be appropriate to cater for expected demand, including seasonal demand, to avoid any overflow on-street parking. Whilst the proposal results in a reduction of 27 car parking space to 397 spaces, this remains within the range previously identified as being required for the development and therefore the amended car parking provision remains sufficient for the approved development.

It is noted that the subject proposal results in a technical increase in the Gross Floor Area of the development as a result of the change in material for the side wall of the detached building at the southern eastern corner of the site from a mesh screen to a solid concrete wall. However, despite the increase in Gross Floor Area, when considered holistically with the other changes proposed in this modification application, and in particular the conversion of this building from a retail space to a storage space, this proposal actually results in a decrease in the intensification of use of the site when compared with the approved development. Therefore, the previous car parking assessment remains valid. Notwithstanding, even when applying the peak parking demand of 1 space per 55 to 48m² to the new Gross Floor Area of 19,908 square metres, this benchmark suggests parking numbers of between 361 and 414, and so the amended parking provision of 397 spaces still remains sufficient when considered on this basis.

Council acknowledges that the proposal remains within the range of spaces recommended by the Traffic and Parking Report submitted as part of the original determination and the modified proposal is considered acceptable in this regard.

The application was reviewed by Council's Development Engineer and no concerns were raised with regard to the proposed number of car parking spaces or the modified car parking design from an engineering perspective.

The proposal to amend Condition 5 of the Determination to reflect the revised number of parking space is acceptable in this regard.

(v) Part 2.16 – Energy Efficiency

The modified proposal includes the installation of 3000sqm of photovoltaic panels on the roof of the building and internal ceiling fans. The installation of these energy efficiency systems are encouraged and no concerns are raised in this regard. The modified proposal remains consistent with the provisions of Part 2.16 of MDCP 2011.

(vi) Part 6 – Industrial Development

Part 6 of MDCP 2011 contains specific controls in relation to industrial development pertaining to such considerations as FSR, site frontage, height, built form and character, site layout and

amenities, building height, building design and appearance, setbacks, site facilities, noise and vibration, environmental protection, and hours of operation. The development remains consistent with the provisions of Part 6 for the following reasons:

- While the modified proposal results in a breach to the applicable FSR for the site this is acceptable for the reasons discussed earlier in this report under MLEP 2011.
- While the modified proposal includes increased detail regarding air conditioning and other services to the roof of the building, the setback of these elements from the street and surrounding properties will mitigate any potential amenity impacts and the development is still required to adhere to the provisions of the approved Acoustic Report.

5(d) Traffic Matters

(i) Adoption of a Local Area Traffic Management Study

Condition 68A specifies the following:

68A. **LATM study requirements**

- Prior to the issue of any Construction Certificate, the applicant shall submit to the satisfaction of Inner West Local Traffic Committee a full comprehensive Local Area Traffic Management study. The study is to be funded by the applicant and undertaken by Council.*
- The LATM assessment shall identify appropriate measures to be implemented to mitigate the impacts associated with the proposed development on the local (and arterial) road network. A key objective is to limit the effects on local area residents by influencing development traffic approach and departure routes. Local street traffic volume environmental capacities should be retained in peak periods and across a typical day. The following streets shall be considered: Smith, Barden, Fanning, Wentworth, Hart, Station, South, Holbeach, Union and Foreman Streets.*
- The LATM study must be finalized and approved by the Traffic Committee before the issue of any Construction Certificate.*

Reason: To confirm the terms of approval.

The application to modify the consent seeks to delete Condition 68A requiring the approval of a Local Area Traffic Management study (LATM) by the Inner West Local Traffic Committee (LTC) and is seeking that the Sydney Eastern City Planning Panel adopt the LATM study by including the Tempe South LATM Study – Final Report by Bitzios Consulting dated 6 July 2021 in Condition 1.

This condition requires the applicant to undertake a LATM study to assess the impact of the development on local streets and identify appropriate measures to mitigate any impacts on the local road network as a result of the development. The LATM study is required to be approved by the LTC. This condition was imposed by the Sydney Eastern City Planning Panel at the determination of the original application to address outstanding traffic matters.

An independent traffic consultant, Bitzios Consulting, was engaged by Council and paid for by the Applicant to undertake a LATM study. The LATM study and subsequent revisions have been considered by the LTC on three occasions, the most recent being on 16 August 2021. Community consultation occurred prior to the consideration of the original LATM study by the LTC and concerns raised from that initial consultation have been considered in subsequent revisions of the LATM study which have gone before LTC.

At the 16 August 2021 meeting of the LTC, a final version of the LATM study was considered and was subsequently deferred by the Committee. To date, the Applicant has been unable to obtain approval of the LATM study from the LTC.

Each time the LATM study has been reviewed by the Traffic Committee, a decision on its adoption has been deferred.

There have been two key issues which have prevented the adoption of the LATM study by the LTC which are as follows:

- The request from LTC and community members for a signalised intersection on the Princes Highway to allow ingress and egress of all traffic to the site from the Princes Highway.
- The request from community members for traffic treatments/measures at the intersection of Princes Highway and Union Street to prevent traffic from being able to travel from Smith Street to Union Street.

Section 4.2 of the Applicant's Section 4.55 Statement outlines a chronology of events relating to the consideration of a signalised intersection and their attempts to satisfy the LTC. In relation to this, the Applicant contends the following:

Bunnings have clearly satisfied their obligations in relation to the requirements of Condition No. 68A (subject to the requirement to obtain the Council Traffic Committee's approval), however, the Council's Traffic Committee have continually deferred approval of the LATM, contrary to the officer recommendation, on the basis that it does not include signalisation of the intersection of Smith Street and the Princes Highway.

Under the Roads Act 1993 (NSW), signalisation of an intersection cannot be carried out without consent from TfNSW.

TfNSW has unequivocally confirmed on numerous occasions that it does not support the installation of traffic signals on the Princes Highway. Accordingly, the actions of the Inner West Council Traffic Committee are preventing Bunnings from being able to proceed with the development consent.

Council's Traffic Engineer's have reviewed the LATM study and are satisfied that the final report is acceptable, and the traffic measures proposed will adequately mitigate any adverse traffic impacts as a result of the development. In this regard, the Tempe South LATM Study – Final Report by Bitzios Consulting dated 6 July 2021 submitted to Council is considered to satisfy the intent of Condition 68A.

In considering the provision of a signalised intersection on the Princes Highway and a 'no entry' treatment on Union Street at the Princes Highway, both treatments would require the approval by Transport for NSW. Council staff have had communications on several occasions during the consideration of the LATM study by the LTC and Transport for NSW has not been supportive of these treatments. This is discussed in detail below.

Signalised Intersection

In relation to the signalised intersection on the Princes Highway, Transport for NSW has continually held a position that is unsupportive of a signalised intersection on Princes Highway for access to the subject site. Transport for NSW has maintained this position, despite reviewing a Feasibility Study addressing the 'warrants' of signalisation dated 6 May 2021 completed by Bitzios Consulting. On 23 September 2021, Transport for NSW representatives

met with Council staff and the Chair of the LTC at that time and outlined the following reasons for not supporting a signalised intersection in this circumstance:

- *Based on the assessment of the Council's submission, the signals do not meet TfNSW's required warrants in relation to vehicle volumes*
- *Traffic signals at this location will cause a detrimental impact to the network performance and operational efficiency of traffic on the Princes Highway, increase travel times and delays along an already congested corridor.*
- *The close proximity of the proposed signals to the existing signals location does not meet traffic signal design guides and would result in road safety issues with the "see through effect" whereby motorists approaching the signal focus on second set of signal lights. This will occur in both the north and south bound directions along Princes Highway*
- *Note: TfNSW have agreed to priority-controlled (unsignalised) right turns into the Bunnings site from the Princes Highway, to support site access.*
- *The proposed upgrade of the Smith Street intersection will allow two right turn lanes from Smith Street on Princes Highway. As Union Street is a one-way road, when Smith Street is displayed a green signal, vehicles will be able to exit Smith Street with no conflicting movements.*

Without the concurrence of Transport for NSW, the provision of a signalised intersection at the Princes Highway is not an option for the development and Transport for NSW has advised Council on multiple occasions that the agency will not support this option.

Additionally, despite the position of Transport for NSW, the development was granted approval on the basis that a signalised intersection was not supported by Transport for NSW and the development was designed accordingly. The provision of a signalised intersection for access to the site would require a complete redesign of the development which is beyond the scope of the application.

Given the above, it is considered that the intent of Condition 68A was to undertake an LATM to assess the impact of the development on local roads in the context of the development approved and not to allow or explore the provision of traffic mitigation measures that would undermine the design of the development as approved.

It is noted that Transport for NSW provided a response to a community action group on 3 March 2022 which acknowledged community concerns and indicated that Transport for NSW would consider further risk assessment on the feasibility of a signalised intersection should Council or Bunnings undertake such a study. It is notable that the correspondence does not contain any indication that Transport for NSW would change their position on the issue, only that the agency would consider further information if it became available. There are no current requirements for the Applicant to undertake such a study, nor has Council expressed an intention to undertake a further feasibility study, noting Council has already undertaken a level of feasibility study as discussed earlier. As such, the advice for Transport for NSW has not changed in relation to their position for a signalised intersection.

Road Closure and Traffic Treatment to Union Street

In relation to the provision of a 'no entry' treatment on Union Street at the Princes Highway and other traffic treatment in Union Street including a shared zone, these treatments are recommended in the LATM study as a result of community consultation feedback received during the LTC consideration of the LATM.

However, the proposed road closure of Union Street at Princes Highway to prevent through traffic from Smith Street and the shared zone would require approval from Transport for NSW. This approval has not yet been provided, however Transport for NSW have indicated in discussion with Council staff that they would be amenable to these treatments.

Notwithstanding, in the event Transport for NSW does not approve the proposed road 'soft' closure and shared zone treatments specified in the LATM study, an alternative treatment option would be required to ensure sufficient traffic calming measures are implemented in Union Street to mitigate impacts to residents and local schools. Additionally, it is noted that Part 13.5 of the LATM which details the proposed treatments does not clearly specify that the treatment for Union Street is a 'soft' road closure entailing no entry from Smith Street to Union Street and a left and right turn only to the Princes Highway from Smith Street.

As such, it is recommended that an additional condition be imposed to require amendments to the LATM firstly to clarify the terms of the soft road closure (which are currently not specified), and secondly provide an alternative should the soft road closure not be approved by Transport for NSW as follows:

- Part 13.5 of the report being amended to state the following adopted treatment for Union Street – *Shared zone, with contrasting pavement threshold and 'soft' road closure comprising of a no entry to Union Street from Smith Street and a left and right turn only onto Princes Highway from Smith Street.*
- The report being amended to include an option for the following traffic mitigation measures in Union Street as a secondary option if approval from Transport for NSW cannot be obtained:
 - At grade contrasting pavement entrance treatment
 - installation of mountable kerbs
 - marked parking bays on both sides of the road be installed in Union Street between Princes Highway and Edwin Street.
 - A 40km/h speed limit zone be established in Union Street subject to approval from Transport for NSW

Given the above, it is considered that suitable traffic management can be achieved on Union Street and this is not an impediment to adoption of the LATM, subject to a condition requiring minor amendments.

It is noted that the provision of a road closure at Union Street as proposed would have the potential to result in additional traffic impacts to Brooklyn Street and would require a partial road closure to Brooklyn Street to mitigate this. However, Brooklyn Street does not form part of the LATM study undertaken and as such this element of traffic mitigation has not been included. Council's Traffic Engineer has advised that this low-cost mitigation could be undertaken at a later date should the Union Street road closure be approved by Transport for NSW. It is noted that Condition 112 of the consent requires a review of the implemented traffic measures and therefore this measure could also be addressed at that stage if traffic impacts to Brooklyn Street are such that a road closure or other traffic mitigations are required.

It is also noted that as part of Council's community consultation of the LATM through the LTC process, the proposed traffic mitigation of the road closure at Union Street or any treatments to Brooklyn Street have not been subject to community consultation via the LTC process. However, these measures were considered by the LTC on 16 August 2021.

LATM study Approval

It is noted that during the briefing to the Panel on 9 December 2021, it was requested Council investigate the option of Council's Director Infrastructure approving the LATM study. Council's

Director Infrastructure does not have the delegation to approve the LATM study due to a Council resolution made at an ordinary Council meeting on 12 October 2021 which prohibits staff from exercising delegation surrounding the LATM study.

Final Comments

Overall, Council traffic and assessment staff have reviewed the LATM study and are satisfied that the measures proposed would adequately mitigate traffic impacts to local roads that may arise from the proposed development. This recommendation is consistent with the recommendations provided to the LTC on 16 August 2021. Consideration has been given to the key issues that have prevented adoption of the LATM study by the LTC.

It is considered that the adoption of the LATM study, subject to a condition requiring minor amendments surrounding Union Street treatments is acceptable for the following reasons:

- The provision of a signalised intersection providing access to the site from the Princes Highway is not supported by Transport for NSW and would require a substantial redesign of the development which has already been approved on the basis a signalised intersection is not feasible, nor required.
- Transport for NSW has indicated that the provision of traffic signals would adversely impact the ongoing efficiency of the Princes Highway, which is a classified road which would also be inconsistent with the requirements of State Environmental Planning Policy (Infrastructure) 2007.
- An LATM study has been undertaken as required by Condition 68A and has been recommended for approval by Council's Traffic Engineers as it is considered suitable to address traffic impacts that may arise from the development.
- The road closure proposal to Union Street is acceptable from a traffic mitigation point of view and alternative mitigations can be provided in the event Transport for NSW does not approve the proposed mitigation measures.

In relation to the adoption of the LATM study, Council staff (including the Director Infrastructure) do not have delegation to approve the LATM study outside of the LTC process.

Therefore, if the Panel is of a mind to adopt the Tempe South LATM Study – Final Report by Bitzios Consulting dated 6 July 2021 in the manner proposed by the Applicant, the Panel will need to be satisfied the LATM is acceptable and include the LATM as an approved document within Condition 1 of any determination.

It is noted that the adoption of the LATM in this manner does not approve any final design or technical design drawings of the traffic mitigation measures. It would approve the measures in principle as means that will be suitable to address traffic impacts to local streets that may arise from the development. The LTC will still be required to be consulted and approve the final design of any changes to local roads, as per the LTC's and Council's delegation under Section 50 of the Transport Administration Act 1988.

(ii) Delivery of LATM works to Director Infrastructure

The applicant seeks to modify condition 112 in the following manner:

112. LATM scheme delivery

- a) The LATM works described in **Condition 1** ~~Condition 68A~~ of this Determination being implemented to the satisfaction of ~~Inner West Local Traffic Committee~~ **the Director Infrastructure** prior to the issue of an

- Occupation Certificate and are to be carried out by the applicant at the applicant's expense.
- b) After a period of 12 months from the issue of an Occupation Certificate, the applicant is to fund a review (*undertaken by Council*) of the LATM measures implemented as part of Part a) of this condition. Any implemented LATM devices that are deemed not to be required are to be removed by the applicant at the applicant's expense and to the satisfaction of Inner West Local Traffic Committee. In addition any new LATM measures deemed necessary shall also be constructed by the applicant and at the applicant's expense.
 - c) All works required to be carried out on public land as part of Parts a) and b) of this condition are to be carried out by the applicant at the applicant's expense with an appropriate Deed and bond being entered into with Council prior to the issue of an Occupation Certificate.
- Reason: To confirm the terms of approval.

The modified proposal includes an amendment to Condition 112a) to require the works described in the LATM study to be implemented to the satisfaction of Council's Director Infrastructure rather than the LTC. This condition relates to the delivery of the physical works endorsed by the LATM study and approved road work design that has been endorsed by the LTC during the construction phase of the project. Given this is an administrative function and only a sign off to determine the works as approved have been constructed/installed in a satisfactory manner, there is no concern raised with this proposed modification.

It is noted that the proposed amendment to Condition 112b) seeks to further clarify through the introduction of the wording "*the applicant is to fund a review (undertaken by Council)*" that the review study will be undertaken by Council. This is to provide a level of certainty and transparency to the community that the study whilst still funded by the Applicant, will be carried out by Council.

Council raises no objection to this change and reaffirms its position for the need of this condition to ensure there is an opportunity for the LTC to address any unforeseen issues that may arise from traffic impacts to local roads as a result of the operation of the development 12 months after opening.

(iii) Provision of a future Resident Parking Scheme

The modified proposal includes an amendment to Condition 27 requiring the applicant to meet the cost of any resident parking scheme in Smith Street Tempe. It is noted that the modification originally sought to delete this condition and this was not supported by Council staff. The wording of the condition is now proposed to be amended as follows:

- 27. The applicant must meet the cost of implementing any future resident parking scheme in Smith Street, Tempe *required by the Tempe South LATM Study – Final Report prepared by Bitzios Consulting dated 6 July 2021 and any LATM review required by Condition 112(b). Subject to Traffic Committee approval.*

The proposed change in wording is considered acceptable as the condition continues to require the applicant to meet the cost of any resident parking scheme that is deemed necessary by the LATM study or the 12 month review of traffic measures required by Condition 112b). This meets the intent of the condition to allow the provision of a residential parking scheme for Smith Street should the traffic and parking impacts of the development warrant one. It is noted that by virtue of Condition 112b), the LTC would be required to be satisfied with any review and therefore should a resident parking scheme be required, the LTC would have an opportunity to consider this as part of the 12 month review.

5(e) Other Changes

(i) Changes in Timing of Section 7.11 Contribution Payment

Condition 49 of the development consent requires the payment of Section 7.11 contributions before the issue of a Construction Certificate. The modified proposal seeks to amend the timing of payment to before the issue of an Occupation Certificate.

Having regard to the provisions specified in the Environmental Planning and Assessment (Local Infrastructure Contributions – Timing of Payments) Direction 2020, no objection is raised to the change in timing of payment.

(ii) Bus Shelter Location

The applicant seeks to amend Condition 54 relating to the relocation of a bus top in the following manner;

54. The person acting on this consent shall seek approval from the State Transit Authority (STA) for the proposed relocation of the bus stop and shelter. The applicant must liaise with Council's bus shelter service provider to organise the relocation at no cost to Council. The shelter shall be located ~~adjacent to the site and within the property boundaries (with provision of a suitable easement)~~ so as to maintain a 2.5m clear footpath along the Princes Highway **with provision of a suitable easement (on the property) to achieve the required clearance.** A plan of the proposed bus shelter relocation with signposting alterations shall be submitted to the RMS and Council for approval before the issue of a Construction Certificate.
Reason: To confirm the terms of approval.

The proposed change seeks to address inconsistencies in the condition and clarify that the bus stop will be located within a suitable easement. No objection is raised to the change in wording as it provides a greater level of clarity in its intent.

5(f) Section 4.55 Modification of Consent

The following is a summary of the assessment of the application in accordance with Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Section 4.55(2) of the *EPA Act 1979* allows a consent authority to modify a development consent granted by it, if:

- “(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) it has notified the application in accordance with—*

- (i) the regulations, if the regulations so require, or*
- (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be."*

In considering the above:

- The essence of the development as modified is substantially the same as the original consent.
- The submissions have been considered.

5(g) The Likely Impacts

The assessment of the Development Application demonstrates that, subject to the recommended conditions, the proposal will have minimal impact in the locality.

5(h) The suitability of the site for the development

Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

5(i) Any submissions

The application was notified in accordance with the Community Engagement Framework from 28 September 2021 to 12 October 2021 to surrounding properties.

44 submissions were received in response to notification.

On 9 March 2022, a Community Information Evening was held in which community members were briefed on the modification application as amended during the assessment process and the process for determination. Concerns and issues raised by community members during this meeting were recorded by Council staff and have also been considered in the assessment of the application.

It is also noted that community consultation has been undertaken specifically in relation to the Tempe South LATM Study and proposed traffic treatments to local streets as part of the Local Traffic Committee process and the community concerns raised regarding the report have been reviewed.

The following issues raised in submissions and during the Community Meeting have been already discussed in the body of this report:

- The adoption of the LATM must happen prior to construction in order to accommodate changes to the design of the development should they be required – See Section 5(d)
- Approval from Transport for NSW should be sought to direct traffic onto the Princes Highway and away from Union Street – See Section 5(d)

- Transport for NSW is open to considering traffic signals again as per a response to Safe Traffic Plan for Bunnings Tempe resident action group – See Section 5(d)
- Bunnings agreed to pay for resident parking scheme and should be held to that commitment – See Section 5(d)
- Reduction in proposed onsite parking – See Section 5(c)
- The proposed increase in FSR is not justified – See Section 5(a)(ii)
- The applicant should be required to pay Section 7.11 contributions prior to the issue of a Construction Certificate – See Section 5(e)

In addition to the above issues, the submissions and feedback from the Community Meeting raised the following concerns which are discussed under the respective headings below:

Issue: *The Bitzios report data is flawed as the parking and traffic survey was undertaken in March 2020 during the first wave of COVID lockdowns and therefore is not a true representation of parking availability in surrounding streets or traffic generation.*

Comment: Although traffic data was captured during the early stages of the pandemic and the data did not reflect typical traffic conditions, the study made use of the relative traffic volume during this time, and vehicle speeds captured were mainly unaffected by the pandemic. This data was also compared to the pre-pandemic data collected during 2018 to obtain an indication of likely traffic movements and this data was used in the development of recommendations.

Issue: *The imposition of Condition 68A and the need for a LATM to be approved/endorsed by the LTC was the only reason the SECPP approved the application as it allowed the community and opportunity to address the traffic issues and the proposal to remove community/LTC involvement is therefore unacceptable.*

Comment: The final LATM was developed taking into consideration feedback from community consultation held as part of the LTC process. This feedback resulted in changes to the traffic mitigation measure around Union Street which now form part of the LATM recommended measures for that street. The application was originally approved on the basis that a signalised intersection to the site was not possible and the continued pursual of this by the LTC has prevented a LATM study which addressed the intent of Condition 68A of being adopted.

The adoption of the LATM study in the manner proposed by the applicant would still ensure that suitable traffic measures are put in place, including increased measures and a possible road closure for Union Street.

Issue: *The traffic generation resulting from Bunnings will result in increased traffic flow in Union Street and the lack of suitable traffic mitigation measures will result in safety concerns for pedestrians, children and school in that street and will put lives at risk.*

Generally supportive of the proposal but not without a comprehensive LATM that addressed community concerns in order to address safety issues of increased traffic on Union Street.

Comment: The LATM now includes proposed traffic mitigation measures in line with community feedback, being a proposed road closure at Union Street to prevent

through traffic from Smith Street and a shared zone in proximity to the local school. However, should these measures not be supported by Transport for NSW, a condition is proposed to ensure a secondary traffic mitigation option is provided to enable as much traffic mitigation measures as possible to ensure the safety of residents in Union Street and students at the local school.

Issue: *A signalised traffic intersection allowing entry and exit to Bunnings from the Princes Highway is the best option for minimising traffic impacts to local streets, including noise and delivery impacts to Smith Street.*

Comment: As discussed in the report, a signalised intersection is not supported by Transport for NSW and the extent of modification required to the development to adapt to a signalised intersection is beyond the scope of this application. The application was approved on the basis a signalised intersection was not possible/required and therefore an LATM that requires a signalised intersection is beyond the scope of the approval.

Issue: *The location of the proposed bus stop relocation is unclear and should be as close as possible to IKEA.*

Condition 54 to relocate the bus stop should not be removed.

Comment: Condition 54 requiring the provision of a bus stop in front of the site remains in the proposal with only minor wording changes to clarify that the bus stop will be located within an easement and not on the subject site itself. The final location of the bus stop will be determined during the construction stage of the project, however due to the proposed slip lane at the corner of Princes Highway and Smith Street will likely need to be relocated further north of its current location.

Issue: *The most up-to-date Planning Statement submitted by the applicant to Council was not available on the tracking website and has not been adequately notified to the community.*

The lack of notification of this document has impeded the community's ability to understand the proposed modifications fully, particularly in relation to the LATM adoption and removal of the LTC from the process.

The lack of notification has limited the community's ability to provide a suitable response to the amended application.

Application information and documentation should be notified more widely and more readily available to community.

Comment: The application was notified in accordance with Council's Community Engagement Framework and while the application was amended during the application process, there were no design changes proposed and as such did not warrant renotification under the policy. Council staff also briefed the community on the 9 March 2022 on the final version of the application to be considered by the Planning Panel and ensured all relevant documentation submitted with the application was available on Council's DA Tracker.

A draft version of the LATM study was exhibited to the community as part of the LTC process (as a separate process from the Modification application being considered). It is noted that the notification process for traffic matters is different than for DA matters. The comments collected during the initial community

consultation for the LATM study have been incorporated into the final version of the study which the applicant is seeking adoption of via Condition 1.

Issue: *Bunnings has not been responsive to community concerns*

Bunnings should be supportive of a good traffic outcome.

Bunnings has a demonstrated history of not fulfilling traffic mitigation requirements when developing other sites, such as Bunnings at Gladesville.

Comment: There is no evidence to suggest Bunnings does not intend to undertake the traffic management measures and conditions of consent would require them to be implemented if this modification application was to be approved.

Issue: *The increased GFA of the proposal will increase the number of vehicle trips per hour and therefore further exacerbate traffic impacts*

Comment: The increase GFA is a technical increase related to a change in wall material of the detached building and there is no change in approved building envelope. Additionally, the relocation of the commercial area from the detached building to the main warehouse and the use of the detached building as storage actually decreases the extent of the buildings used for commercial purposes. As such, the traffic data remains accurate and the technical change in GFA will not impact the traffic assessment undertaken.

Issue: *The proposed colour of Bunnings will adversely impact residents and therefore Condition 48a) should not be amended.*

Comment: The proposed green colour finish is already approved and is not proposed to be altered. The proposal to delete Condition 48a) is acceptable as the area required to be finished as white referenced in the condition has been included in the amended plans.

Issue: *It is unclear if the changes to the car parking layout will impact the ability of Smith Street public access to the car park.*

Comment: The changes to the car parking layout do not include any changes to the provision of publicly accessible parking accessed from Smith Street and Condition 6 of the current consent requiring this remains unchanged.

Issue: *The SECPP is focused on approving developments and gives an unfair advantage to developers over the community and the Panel is not equitable in this regard.*

The SECPP and the Chair have not had proper consideration to community issues both in the past and during the current process.

The SECPP has formed a view on the merits of the proposal and that is acceptable, as evidenced in the record of briefing, without considering the concerns of the community. This is inappropriate and indicates that process is not equitable or fair.

Council should right to the Minister requesting the SECPP panel members, particularly the Chair, be replaced with alternatives as they have not considered the application fairly and are favouring the developer.

Comment: The operations and conduct of the Panel and panel members are governed by the Planning Panels Code of Conduct and this is not a matter of consideration for Council's planning assessment of this application.

5(j) The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

The proposal is not contrary to the public interest.

6 Referrals

6(a) Internal

The application was referred to the following internal sections/officers and issues raised in those referrals have been discussed in section 5 above.

- Heritage Specialist
- Development Engineer
- Traffic Services
- Local Traffic Committee Members

It is noted that comments were sought from the members of the LTC on the modification application. Replies were received from both the Alternative Chair of the LTC and the Member of Heffron who do not support the proposed modification to remove the LATM from approval by the LTC in order to ensure a suitable traffic management outcome for the community.

7. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in the relevant State Environmental Planning Policies, *Marrickville Local Environmental Plan 2011* and Marrickville Development Control Plan 2011.

In light of the provision of a signalised intersection on the Princes Highway allowing access to the subject being not supported by Transport for NSW and not considered in the approval of the original development, the Local Area Traffic Management study and associated traffic measures contained with the Tempe South LATM Study – Final Report by Bitzios Consulting dated 6 July 2021 are considered acceptable, subject to conditions requiring minor amendments surrounding the traffic mitigation measures for Union Street.

As such, the Tempe South LATM Study – Final Report by Bitzios Consulting dated 6 July 2021 could be adopted by the Sydney Eastern City Planning Panel in the manner proposed by the Applicant, should the Panel be of a mind to do so.

The development will not result in any significant impacts on the amenity of the adjoining premises/properties and the streetscape and is considered to be in the public interest.

The application is considered suitable for approval subject to the imposition of appropriate conditions.

8. Recommendation

That the Sydney Eastern City Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Application No. MOD/2021/0376 under Section 4.55 (2) of the *Environmental Planning and Assessment Act 1979* to modify modified Determination No.MOD/2020/0096 dated 18 September 2020 to reduce on-site car parking, reconfigure the internal layout, carry out alterations to achieve NCC compliance, provision of roof services, façade changes and addition of internal ceiling fans and modify conditions of consent at 750 Princes Highway Tempe.

It is recommended that the application under Section 4.55 of the *Environmental Planning and Assessment Act 1979* be APPROVED subject to the consent being modified in the following manner:

A. Modify the following Condition/s to read as follows:

1. The development must be carried out in accordance with plans and details listed below:

Plan and Issue No.	Plan Name	Date Issued	Prepared by	Date Submitted
030-H	Site Plan	29 May 2018	John R Brogan & Associates	26 September 2018
031-F	Site Plan— Undercroft Parking Level	29 May 2018	John R Brogan & Associates	26 September 2018
032-F	Site Plan— Warehouse Level 1	29 May 2018	John R Brogan & Associates	26 September 2018
033-F	Site Plan— Warehouse Level 3	29 May 2018	John R Brogan & Associates	26 September 2018
100-G	Floor Plan— Undercroft Parking Level	29 May 2018	John R Brogan & Associates	26 September 2018
101-H	Floor Plan— Warehouse Level 1	29 May 2018	John R Brogan & Associates	26 September 2018
102-H	Floor Plan— Warehouse Level 2	31 August 2018	John R Brogan & Associates	26 September 2018
110-G	Roof Plan	29 May 2018	John R Brogan & Associates	26 September 2018
120-D	Sections	21 March 2017	John R Brogan & Associates	26 September 2018
130-E	Elevations	11 December 2017	John R Brogan & Associates	26 September 2018
115-D	Existing Building Detail	11 December 2017	John R Brogan & Associates	26 September 2018
116-D	Existing Building Detail	11 December 2017	John R Brogan & Associates	26 September 2018

117 C	Existing Building Detail	11 December 2017	John R Brogan & Associates	26 September 2018
118 C	Existing Building Detail	11 December 2017	John R Brogan & Associates	26 September 2018
140 B	Concept Sections	11 December 2017	John R Brogan & Associates	26 September 2018
141 B	Detail Sections	11 December 2017	John R Brogan & Associates	26 September 2018
143 A	Footpath Detail Section 1	11 December 2017	John R Brogan & Associates	26 September 2018
144 A	Footpath Detail Section 2	11 December 2017	John R Brogan & Associates	26 September 2018
145 A	Footpath Detail	11 December 2017	John R Brogan & Associates	26 September 2018
2212LP - 01 K	Landscape Plan	29 May 2018	John Lock & Associates	26 September 2018
2212LP - 02 I	Landscape Elevations	7 December 2017	John Lock & Associates	26 September 2018
2212LP - 03 H	Landscape Details	27 March 2017	John Lock & Associates	26 September 2018
27926KGrpt	Preliminary Environmental Site Assessment	26 November 2014	Environmental Investigation Services	21 April 2017
27926Vrpt	Preliminary Geotechnical Investigation	2 December 2014	JK Geotechnics	21 April 2017
C108568 : J129853	Hazardous Materials Risk Assessment	November 2014	Greencap	21 April 2017
312288 Rev. 01	Energy Efficiency Report	7 April 2017	KPMG	21 April 2017
14377 Rev. B	Development Application Noise Assessment	April 2017	Wilkinson Murray	21 April 2017

and details submitted to Council on 21 April 2017, 13 October 2017, 11 December 2017, 14 May 2018, 31 August 2018, 26 September 2018 and 24 May 2019 with the application for development consent and as amended by the details submitted to Council as part of Part A of this determination and as amended by the plans and details listed below:

031-G	Site Plan-- Undercroft Parking Level	28-February 2020	John R Brogan & Associates	8-September 2020
032-G	Site Plan-- Warehouse Level 4	28-February 2020	John R Brogan & Associates	8-September 2020
033-G	Site Plan-- Warehouse Level 3	28-February 2020	John R Brogan & Associates	8-September 2020

100 H	Floor Plan – Undercroft Parking Level	28 February 2020	John R Brogan & Associates	8 September 2020
101 J	Floor Plan – Warehouse Level 4	28 February 2020	John R Brogan & Associates	8 September 2020
102 J	Floor Plan – Warehouse Level 2	28 February 2020	John R Brogan & Associates	8 September 2020
110 H	Roof Plan	28 February 2020	John R Brogan & Associates	8 September 2020
115 E	Existing Building Detail	28 February 2020	John R Brogan & Associates	8 September 2020
116 E	Existing Building Detail	28 February 2020	John R Brogan & Associates	8 September 2020
117 D	Existing Building Detail	28 February 2020	John R Brogan & Associates	8 September 2020
118 D	Existing Building Detail	28 February 2020	John R Brogan & Associates	8 September 2020
120 E	Sections	28 February 2020	John R Brogan & Associates	8 September 2020
140 C	Concept Sections	28 February 2020	John R Brogan & Associates	8 September 2020
141 C	Detail Sections	28 February 2020	John R Brogan & Associates	8 September 2020

and details submitted to Council on 8 April 2020 and 8 September 2020 with the application under Section 4.55 (1A) of the Environmental Planning and Assessment Act, 1979 ~~and as amended by the following conditions~~ *plans and details listed below:*

030 J	Site Plan	09.07.2021	John R Brogan & Associates	10.09.2021
031 H	Site Plan - Undercroft Parking Level	09.07.2021	John R Brogan & Associates	10.09.2021
032 H	Site Plan – Warehouse Level 1	09.07.2021	John R Brogan & Associates	10.09.2021
033 H	Site Plan – Warehouse Level 2	09.07.2021	John R Brogan & Associates	10.09.2021
100 J	Floor Plan - Undercroft Parking Level	09.07.2021	John R Brogan & Associates	10.09.2021

101 K	Floor Plan – Warehouse Level 1	09.07.2021	John R Brogan & Associates	10.09.2021
102 K	Floor Plan – Warehouse Level 2	09.07.2021	John R Brogan & Associates	10.09.2021
110 J	Roof Plan	09.07.2021	John R Brogan & Associates	10.09.2021
120 F	Sections	09.07.2021	John R Brogan & Associates	10.09.2021
130 F	Elevations	09.07.2021	John R Brogan & Associates	10.09.2021
140 D	Concept Sections	09.07.2021	John R Brogan & Associates	10.09.2021
141 D	Detail Sections	09.07.2021	John R Brogan & Associates	10.09.2021
P4533 Version 005	Tempe South LATM Study (excluding appendices)	06.07.2021	Bitzios Consulting	-

and details submitted to Council on 10 September 2021 and 22 February 2022 with the application under Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979 and as amended by the following conditions.

(Amended – 31 March 2022 – MOD/2021/0376)

5. A total of **424 397** car parking spaces being provided, paved and maintained at all times in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 – Parking. The parking spaces must include the following allocations:

- a) 4 double-length car and trailer spaces;
- b) 10 accessible car parking space; and
- c) 4 car share spaces.

Reason: To ensure practical off-street car parking is available for the use of the premises.

(Amended – 31 March 2022 – MOD/2021/0376)

27. The applicant must meet the cost of implementing any future resident parking scheme in Smith Street, Tempe **required by the Tempe South LATM Study – Final Report prepared by Bitzios Consulting dated 6 July 2021 and any LATM review required by Condition 112(b). subject to Traffic Committee approval.**

Reason: To confirm the terms of approval.

(Amended – 31 March 2022 – MOD/2021/0376)

48. Before the lodgement of any Construction Certificate, amended plans and details must be submitted to and approved by Council's Heritage Advisor indicating the following:

- a) ~~The painting of the RC panel wall on the western elevation (fronting the Princes Highway above the retained brick portion of the building) and the RC panel wall on the southern elevation that sits vertically above the retained brick portion of the building being amended to an off-white colour, and the colour scheme of the flush wall signage being amended accordingly. A specific colour swatch must be provided to Council's satisfaction;~~
- b) All cabling and conduit supplying power to the sign installed on the heritage listed warehouse façade being completely concealed and must not involve intervention in or damage to the façade; and
- c) Methodology for the installation of the signage on the heritage listed warehouse façade can be carried out in a reversible manner without damage to the façade.

Reason: To ensure the integrity of the heritage item.

(Amended – 31 March 2022 – MOD/2021/0376)

49. A contribution of \$682,553.18 has been assessed as the contribution for the development under Section 7.11 of the Environmental Planning and Assessment Act 1979 and Marrickville Section 94/94A Contributions Plan 2014 (a copy of which may be inspected at the offices of the Council).

The Section 7.11 contribution referred to above is indexed quarterly in accordance with Marrickville Section 94/94A Contributions Plan 2014.

The Section 7.11 contribution (as adjusted) must be paid to the Council **in cash or by unendorsed bank cheque (from an Australian Bank only) or EFTPOS (Debit only) or credit card*** before the issue of a ~~Construction Certificate~~ Occupation Certificate. Under Marrickville Section 94/94A Contributions Plan 2014 payment of Section 7.11 contributions **CANNOT** be made by Personal Cheque or Company Cheque.

*NB A 1% credit card transaction fee applies to all credit card transactions.

NOTE: Under Marrickville Section 94/94A Contributions Plan 2014, the proposed cost of carrying out development is adjusted quarterly at time of payment of the levy in line with the *Consumer Price Index: All Groups Index Number for Sydney* provided by the Australian Bureau of Statistics.

Reason: To ensure that the approved development makes a contribution towards the provision, extension or augmentation of public amenities and public services in the area.

(Amended – 31 March 2022 – MOD/2021/0376)

54. The person acting on this consent shall seek approval from the State Transit Authority (STA) for the proposed relocation of the bus stop and shelter. The applicant must liaise with Council's bus shelter service provider to organise the relocation at no cost to Council. The shelter shall be located ~~adjacent to the site and within the property boundaries (with provision of a suitable easement)~~ so as to maintain a 2.5m clear footpath along the Princes Highway **with provision of a suitable easement (on the property) to achieve the required clearance**. A plan of the proposed bus shelter

relocation with signposting alterations shall be submitted to the RMS and Council for approval before the issue of a Construction Certificate.

Reason: To confirm the terms of approval.

(Amended – 31 March 2022 – MOD/2021/0376)

112. **LATM scheme delivery**

- a) The LATM works described in **Condition 1 and as amended by Condition 1A** ~~Condition 68A~~ of this Determination being implemented to the satisfaction of ~~Inner West Local Traffic Committee~~ **the Director Infrastructure** prior to the issue of an Occupation Certificate and are to be carried out by the applicant at the applicant's expense.
- b) After a period of 12 months from the issue of an Occupation Certificate, the applicant is to fund a review (**undertaken by Council**) of the LATM measures implemented as part of Part a) of this condition. Any implemented LATM devices that are deemed not to be required are to be removed by the applicant at the applicant's expense and to the satisfaction of Inner West Local Traffic Committee. In addition any new LATM measures deemed necessary shall also be constructed by the applicant and at the applicant's expense.
- c) All works required to be carried out on public land as part of Parts a) and b) of this condition are to be carried out by the applicant at the applicant's expense with an appropriate Deed and bond being entered into with Council prior to the issue of an Occupation Certificate.

Reason: To confirm the terms of approval.

(Amended – 31 March 2022 – MOD/2021/0376)

B. Add the following Condition/s to read as follows:

1A. ***The Tempe South LATM Study – Final Report by Bitzios Consulting dated 6 July 2021 referenced in Condition 1 being amended in the following manner:***

- a) ***Part 13.5 of the report being amended to state the following adopted treatment for Union Street – Shared zone, with contrasting pavement threshold and 'soft' road closure comprising of a no entry to Union Street from Smith Street and a left and right turn only onto Princes Highway from Smith Street.***
- b) ***To include an option for the following traffic mitigation measures in Union Street as a secondary option if approval from Transport for NSW cannot be obtained for the adopted treatment for Union Street referenced in Part a) above:***
 - ***At grade contrasting pavement entrance treatment***
 - ***installation of mountable kerbs***
 - ***marked parking bays on both sides of the road be installed in Union Street between Princes Highway and Edwin Street.***
 - ***A 40km/h speed limit zone be established in Union Street subject to approval from Transport for NSW***

Reason: ***To ensure that the LATM provides a suitable option for traffic measures in Union Street should the preferred option not be supported by Transport for NSW.***

(Added – 31 March 2022 – MOD/2021/0376)

- 1B. Prior to the issue of a Construction Certificate the architectural plans must be updated to clearly annotate the use of the detached building on the north eastern corner of site as storage used in association with the approved use**

Reason: To clarify the proposal to use the detached building as storage.

(Added – 31 March 2022 – MOD/2021/0376)

- 1C. The detached building at the rear of the site (north eastern corner) must be used for storage in association with the approved use on the site only and must not be adapted for any other use or any purpose not associated with the approved use on the site.**

Reason: To ensure the detached building is used for storage only and will not result in any intensification of the approved use.

(Added – 31 March 2022 – MOD/2021/0376)

C. Delete the following Condition/s:

~~68A. LATM study requirements~~

- ~~a) Prior to the issue of any Construction Certificate, the applicant shall submit to the satisfaction of Inner West Local Traffic Committee a full comprehensive Local Area Traffic Management study. The study is to be funded by the applicant and undertaken by Council.~~
- ~~b) The LATM assessment shall identify appropriate measures to be implemented to mitigate the impacts associated with the proposed development on the local (and arterial) road network. A key objective is to limit the effects on local area residents by influencing development traffic approach and departure routes. Local street traffic volume environmental capacities should be retained in peak periods and across a typical day. The following streets shall be considered: Smith, Barden, Fanning, Wentworth, Hart, Station, South, Holbeach, Union and Foreman Streets.~~
- ~~c) The LATM study must be finalized and approved by the Traffic Committee before the issue of any Construction Certificate.~~

~~**Reason:** To confirm the terms of approval.~~

(Deleted – 31 March 2022 – MOD/2021/0376)