

MEMORANDUM OF UNDERSTANDING LOCAL AREA TRAFFIC MANAGEMENT STUDY

BETWEEN

Bunnings Properties Pty Ltd (ABN 46 008 557 622) of Level 8, 5 Rider Boulevard, Rhodes NSW ("**Bunnings**"); AND

Inner West Council (ABN 19 488 017 987) of 2-14 Fisher Street, Petersham, New South Wales ("**Council**").

RECITALS

- A. On 27 June 2019, Bunnings received development consent (Development Application No. 201700185) from the Sydney Eastern City Planning Panel for the partial demolition of the rear of the existing building, construction of a new building and adaptive reuse of the site at 728-750 Princes Highway, Tempe (the "**Approval**").
- B. The Approval authorises use for the purpose of a 2 level hardware and building supplies store with undercroft car parking, erection of signage, boundary adjustments and road widening.
- C. Condition 68A of the Approval requires that:
- "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."*
- D. Condition 112 of the Approval requires that:
- "a) *The LATM works described in Condition 68A of this Determination being implemented to the satisfaction of Inner West Local Traffic Committee 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 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 conditions are to be carried out by the applicant at the applicant's expense with an appropriate Deed of bond being entered into with Council prior to the issue of an Occupation Certificate.*
- E. Council and Bunnings are desirous of undertaking the Local Area Traffic Management Study ("**LATM Study**") and subsequent Local Area Traffic Management Works ("**LATM Works**") as required by Condition 68A and Condition 112 of the Approval to mitigate traffic impacts on the adjacent street networks and enable Bunnings to commence construction pursuant to the Approval as soon as possible.
- F. This Memorandum of Understanding sets out the parties' agreed approach to progressing the LATM Study, LATM Works and subsequent review as required by the Approval.

Proposal

1. On execution of this Memorandum of Understanding ("**MoU**"), Council will commence the preparation of a study brief for the purposes of engaging a professional traffic consultant to undertake the LATM Study and subsequent review ("**Study Brief**").
2. Council will ensure that the scope of the Study Brief is sufficient to satisfy Condition 68A and Condition 112 of the Approval.
3. Within 14 days of the execution of this MoU, Council will provide Bunnings with a draft of the Study Brief for review and opportunity to comment.
4. Within 7 days from receipt of any comments from Bunnings under clause 3 on the draft Study Brief, Council will finalise the Study Brief and issue a Request for Quotation ("**RFQ**") for the selection of a traffic consultant.
5. The parties agree that Council shall undertake the evaluation of the quotations received in response to the RFQ and select a preferred traffic consultant but shall (subject to any confidentiality restrictions):
 - (a) provide Bunnings with a copy of quotations received within 3 days after the RFQ closing date;
 - (b) share with Bunnings the evaluation report and details of the preferred traffic consultant within 3 days after completion by Council; and
 - (c) take into account any comments provided by Bunnings on the quotations when undertaking the evaluation.
6. Following selection of the preferred traffic consultant (hereafter the "**Approved Traffic Consultant**") Council will be responsible for the engagement, management and payment of the Approved Traffic Consultant. Council shall use its best endeavours to manage the selection and engagement process set out above to enable the Approved Traffic Consultant to commence the LATM Study within 60 days of the date of this MoU.
7. Council will provide Bunnings with the cost agreed between Council and the Approved Traffic Consultant to undertake the LATM Study and subsequent LATM study review plus 10% contingency (the "**Study Sum**"). Prior to the commencement of the LATM Study, Bunnings shall pay Council the Study Sum.
8. Any variations to the engagement relating to the Study Brief as agreed by the Approved Traffic Consultant and Council shall initially be paid out of the Study Sum. If the Study Sum is exhausted, any additional variations must also be agreed by Bunnings who shall reimburse Council the cost of the variations.

9. Within 14 days of execution of this MoU, Bunnings will provide to Council, for consideration by the Approved Traffic Consultant:
 - (a) any existing Bunnings traffic information and studies concerning the proposed development which Bunnings considers in its discretion may be relevant to the LATM Study; and
 - (b) any proposed access, traffic and road layouts for the development including any proposed adjustments to Princes Highway.
10. A copy of the draft LATM Study Report and recommendations will be provided to Bunnings for review and opportunity to comment prior to finalisation by the Approved Traffic Consultant, and prior to the draft LATM Study Report being placed on public exhibition.
11. The draft LATM Study Report and recommendations will be placed on public exhibition by Council prior to final review and adoption by the Council.
12. Council will use its best endeavours to ensure that the LATM Study Report is reported to a meeting of the Inner West Local Traffic Committee promptly after the period of public exhibition has concluded.
13. Detailed designs of any traffic calming facilities arising from the LATM Study shall be undertaken by Bunnings to the satisfaction of Council. Council Officers will undertake community engagement and promptly provide feedback to Bunnings for incorporation into the detailed design.
14. Council will:
 - (a) provide any information reasonably required by Bunnings and which Council is able to provide to enable Bunnings to finalise its detailed designs of any LATM Works promptly upon receiving a written request from Bunnings; and
 - (b) use its reasonable endeavours to promptly assess and determine any applications lodged by Bunnings seeking approval to undertake the LATM Works.
15. Bunnings is to undertake the agreed LATM Works at its expense as required by condition 112(a) of the Approval.
16. Following the implementation of the LATM Works, a review of the LATM Works is to be undertaken by the Approved Traffic Consultant pursuant to condition 112(b) of the Approval, which will include but not limited analysis of traffic data and review of community feedback received by Council ("**LATM Review**"). If the Approved Traffic Consultant is not available to undertake the LATM Review within a reasonable period, the parties will agree on another appropriately qualified and experienced traffic consultant to undertake the LATM Review.
17. Should further devices be required or need to be removed as a result of the LATM Review, then a similar consultation and Local Traffic Committee process to the LATM Study shall be followed as set out in clauses 10 - 14 above.
18. Each party will do all things reasonably required of it to carry out and give full effect to this MoU and will cooperate and act in good faith with each other in relation to the prompt implementation of this MoU.
19. The parties agree to be bound by this MoU and further agree that the laws of NSW shall apply to this MoU.

EXECUTED by the parties

SIGNED for and on behalf of
Bunnings Properties Pty Ltd

Witness

Carrie Curran

(Print name of witness)

P. Deegan
.....
Chief Executive Officer

Development Approvals Manager
Bunnings Group Ltd.
Bunnings Properties Pty Ltd

DATE:

18 November 2019

SIGNED for and on behalf of
INNER WEST COUNCIL

Witness

Danielle Missos
.....
DANIELLE MISSOS
(Print name of witness)

Michael Deegan
.....
Michael Deegan
Chief Executive Officer
Inner West Council

DATE:

20 November 2019