



## COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	PPSSNH-214
<b>DA Number</b>	MOD0070/21
<b>LGA</b>	Ku-ring-gai
<b>Proposed Development</b>	Modification to DA0307/17 proposing mesh security fencing and racking
<b>Street Address</b>	950 Pacific Highway and 2 Bridge Street, Pymble
<b>Applicant/Owner</b>	Bunnings Properties Pty Ltd
<b>Owner</b>	Potpura Pty Ltd
<b>Date of DA Lodgement</b>	29 April 2021
<b>Number of Submissions</b>	Nil
<b>Recommendation</b>	Approval, subject to conditions
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)</b>	A section 4.55(2) application that relates to a development consent for Regionally Significant Development that was granted by the SNPP and which seeks to make amendments to conditions of consent that were added by the SNPP and were not included in the council assessment report
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• SEPP 55 – Remediation of Land</li> <li>• Draft Remediation of Land SEPP</li> <li>• Ku-ring-gai Local Environmental Plan 2015</li> <li>• Ku-ring-gai Development Control Plan</li> <li>• Ku-ring-gai Development Contributions Plan</li> </ul>
<b>Clause 4.6 requests</b>	N/A
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Attachment 1 – Location sketch</li> <li>• Attachment 2 – Zoning extract</li> <li>• Attachment 3 – Plans</li> <li>• Attachment 4 – Marked up section plan</li> </ul>
<b>Report prepared by</b>	Bonnie Yue, Senior Development Assessment Officer
<b>Report date</b>	15 July 2021

**Summary of s4.15 matters**

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

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**Legislative clauses requiring consent authority satisfaction**

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Not applicable**

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*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

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**Clause 4.6 Exceptions to development standards**

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Not applicable**

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**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **No**

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

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**Conditions**

Have draft conditions been provided to the applicant for comment? **Yes**

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

## INTEGRATED PLANNING AND REPORTING

### Places, Spaces & Infrastructure

Community Strategic Plan Long Term Objective	Delivery Program Term Achievement	Operational Plan Task
P2.1 A robust planning framework is in place to deliver quality design outcomes and maintain the identity and character of Ku-ring-gai	Applications are assessed in accordance with state and local plans	Assessments are of a high quality, accurate and consider all relevant legislative requirements

### Relevant site history

#### **DA0115/15**

On 16 May 2017, the Land and Environment Court approved DA0115/15 for demolition of the existing structures, excavation and tree removal. Construction of a hardware and building supplies development (Bunnings Warehouse) including signage, widening of Ryde Road, landscaping works, consolidation of titles and subdivision (road widening). Threatened Species Development (LEC Proceedings 152878 of 2016).

#### **MOD0193/17**

On 20 April 2018, a proposed modification to Condition 41 'Section 94 contributions centres' was approved by the Land & Environment Court by way of a Section 34 agreement (LEC Proceedings 266642 of 2017).

#### **DA0307/17**

On 22 May 2019, the Sydney North Planning Panel granted development consent to DA0307/17 for the demolition of a heritage item, excavation and tree removal, construction of a hardware and building supplies development including signage, landscaping works and consolidation of titles. Threatened Species Development under the Threatened Species Conservation Act 1995 (NSW). The consent became operative on 12 June 2019.

A Construction Certificate (CCPCA0161/20) for bulk excavation, erection of full structure up to and including level 0 slab and associated civil works approved under DA0307/17 was issued on 30 April 2020 by a private certifier. The works commenced on 4/05/2020.

#### **MOD0101/20**

On 2 September 2020, Council approved MOD0101/20 for the removal of 7 trees, pruning of 6 trees, modifications to Conditions 1, 20, 58, 79 and 83 and new tree planting.

#### **MOD0193/20**

On 15 January 2021, Council approved MOD0193/20 for additional rooftop solar panels and mechanical fusion plant.

### Current Modification Application

Date	Action
29 April 2021	Application lodged.
3 May 2021	The application was notified to neighbouring property owners for a period of 14 days. No submissions were received.
21 June 2021	The applicant provided an image of the finger-proof mesh fencing via email to clarify the type of mesh fencing proposed.
27 July 2021	Draft conditions provided to the applicant.

## THE SITE



**Figure 1-** aerial photograph of subject site

### Site description:

The site comprises two allotments, being 950 Pacific Highway, Pymble (Lot 1 in DP 718718) and 2 Bridge Street, Pymble (Lot B in DP 371406).

No. 950 Pacific Highway has an area of 1.825 hectares. It is an irregularly shaped allotment, situated on the north-western corner of Pacific Highway and Ryde Road. The allotment at 2 Bridge Street has an area of 0.088 hectares. It is a regular shaped allotment, in close proximity to the intersection of the Pacific Highway and Bridge Street. The buildings that previously occupied the site have been demolished and a Bunnings warehouse is currently under construction.

The site is zoned B7 Business Park under the Ku-ring-gai Local Environmental Plan 2015.

### The site:

Constraint:	Application:
Visual character study category	1920-1945
Easements/rights of way	Yes RMS easement for batter Easement for drain water 2m wide Easement for electricity 1.83m wide Right of way 7.62m wide
Heritage Item - Local	Yes – (demolished)
Heritage Item - State	No
Heritage conservation area	No
Within 100m of a heritage item	Yes - 982 Pacific Highway Pymble
Bush fire prone land	No
Natural Resources Biodiversity	Yes – south-western corner of the site
Natural Resources Greenweb	Yes – canopy remnant and landscape remnant
Natural Resources Riparian	No
Within 25m of Urban Bushland	No
Contaminated land	Yes

### Surrounding development:

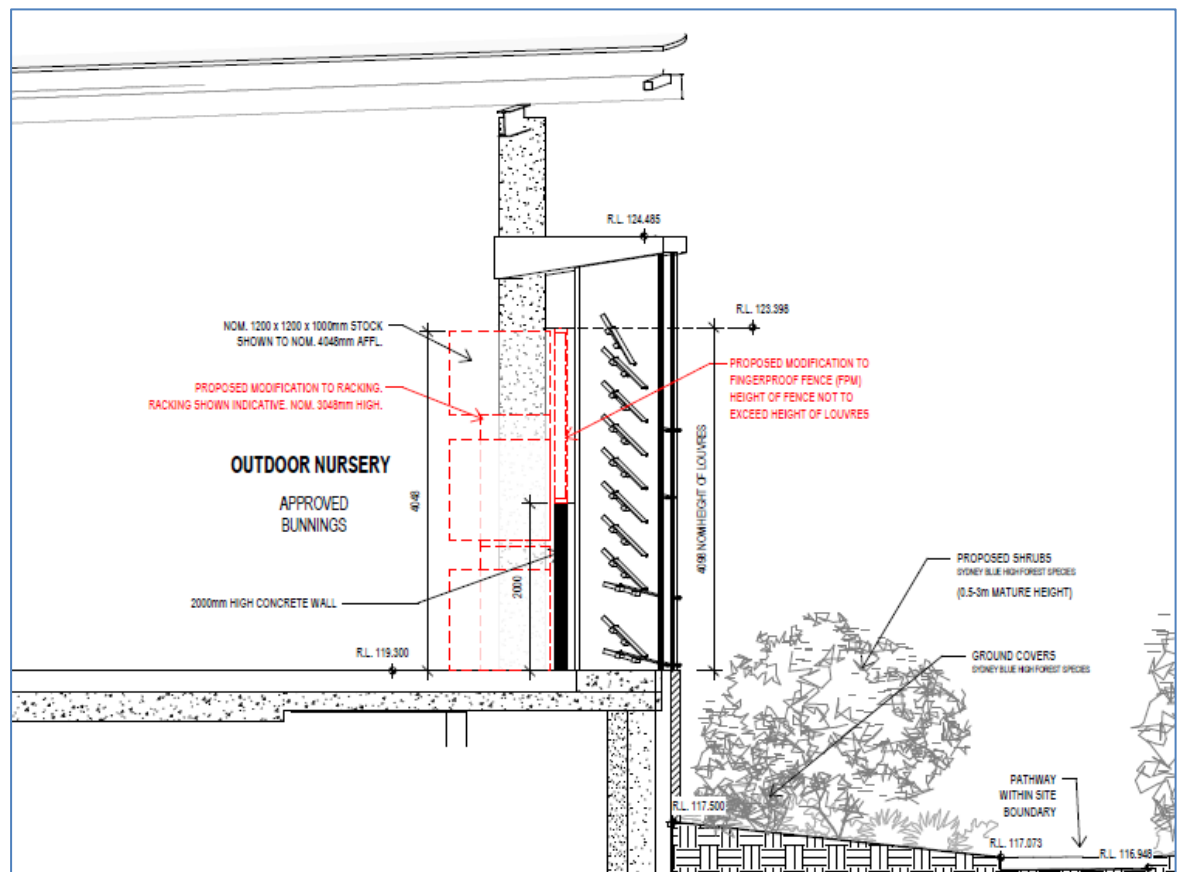
Development in the immediate vicinity of the site consists primarily of commercial uses accommodated in buildings of varying scales and designs.

Commercial developments in the immediate vicinity of the site fronting Pacific Highway and Ryde Road, gain access from Bridge Street.

## THE PROPOSAL

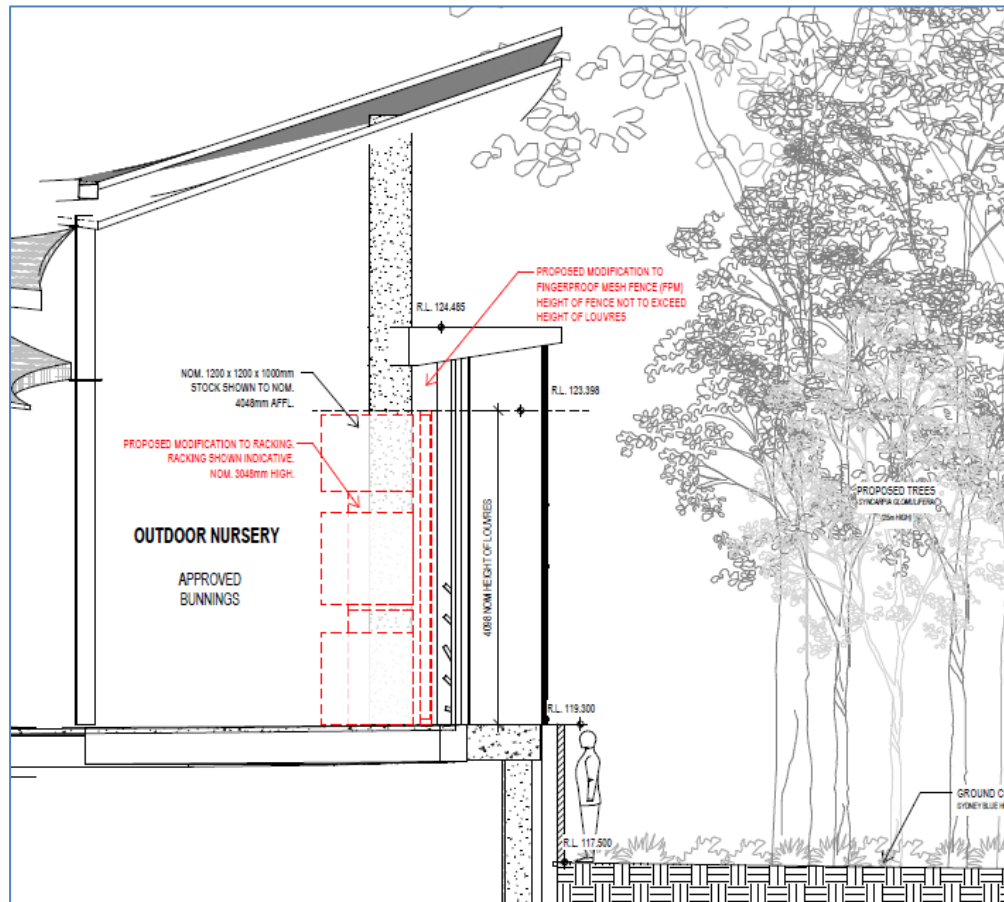
The application seeks to modify the perimeter of the nursery and bagged goods area in Warehouse Level 1 in the following ways:

- i. Installation of finger-proof mesh security fencing behind the external glass louvre walls on the north eastern elevation (Pacific Highway) of the nursery and bagged goods area. The mesh is above the 2m high concrete wall in the bagged goods area and from the floor to the top of the glass louvre wall in the nursery.
- ii. Provision of racking behind the finger-proof mesh fencing to a maximum height of 4048mm above the finished floor level.

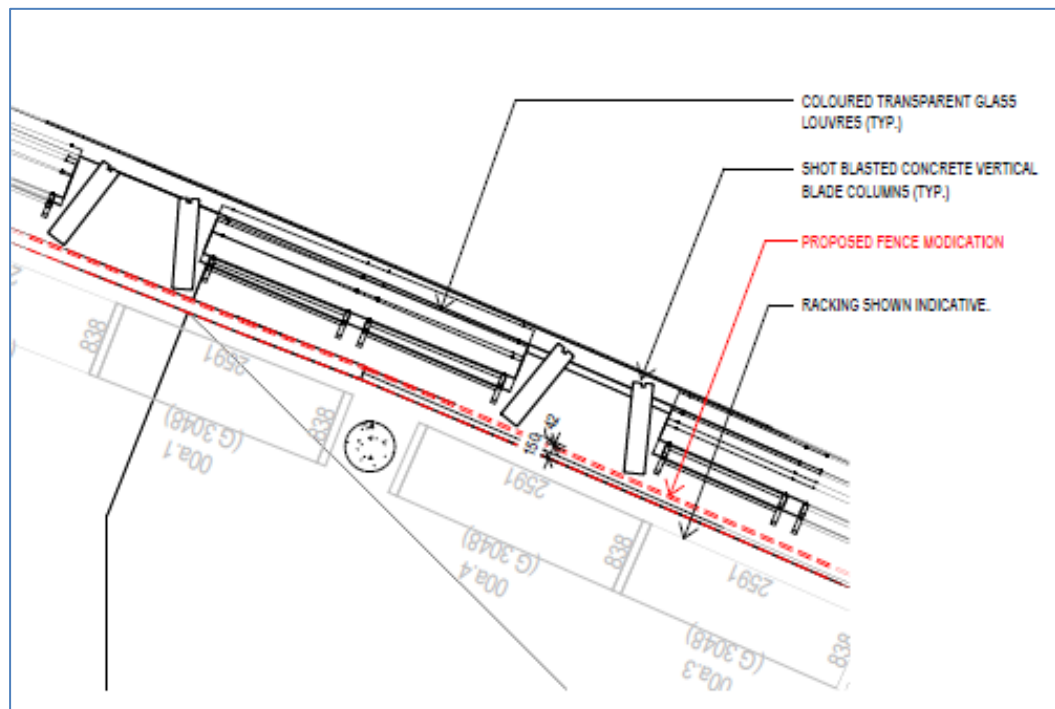


**Figure 2** – extract from proposed section plan showing mesh fencing and racking in the bagged goods area





**Figure 3** – extract from proposed section plan showing mesh fencing and racking in the nursery area



**Figure 4** – plan showing the location of the mesh fencing and racking in relation to the louvres and blade columns

The proposed modifications will require amendments to Conditions 1, 27 and 120 of the development consent, these are shown in red text below:

## **1. Approved architectural plans and documentation (s.4.55)**

To insert the modified architectural plans, DA-A-103, Rev A, DA-A-200, Rev B and SK-17A, Revision C dated 01/03/21 and prepared by Michael Carr Architect, in Condition 1.

## **27. Design, Materials and Colours**

*A project architect shall be appointed to prepare the Construction Certificate plans and ensure no change is made to the approved external design, materials and colours.*

*Prior to the issue of any Construction Certificate the project architect shall certify that the external design, materials and colours shown on the Construction Certificate plans are consistent with the approved plans and conditions of this Development Consent.*

*The Construction Certificate plans shall also include the following amendments and clarifications:*

- The soffit lining on the finishes schedule is to be timber panel soffit cladding, similar or equivalent to Trespa Pacific Board façade system;*
- The coloured louvres shall be varied (to represent the degree of colour gradation and variation per colonnade panel) as shown in the precedent image included on the materials board approved under condition 1 of this consent, to ensure the louvre system presents as an 'artwork' and not as a way of representing the Bunnings colour scheme or signage;*
- The external walls of the main warehouse 'box' shall be clad in a metallic silver panel system as indicated in the drawing DA-A-853 Rev B – External Finishes & Precedent dated 20/3/2017 ( other than the south eastern and western corner where the feature angled cladding is shown in plan and elevation);*
- The walls to the base of the louvre screen colonnade shall be clad in split face Gosford sandstone cladding to match the other low landscape walls elsewhere in the approved development;*
- The nursery area shall have no pallet racking above the level of the ~~louvre screen-low sandstone-clad base-wall~~ to the colonnade. ~~Any racking in this location is to house only plants, which can be visible through the glass bladescreen;~~*
- The wall behind the louvre screen to the bagged goods area shall not exceed 2m in height from the floor of the bagged goods area. Any racking in this location (including the product on the pallets and racks) shall not exceed the height of ~~the louvre screen to the colonnade this wall.~~*
- Any material used for the roofing of the approved development is to be consistent throughout as it is visible from the public domain and any solar panels are to be integrated into the roof system; and*
- ~~No wire fencing or panels shall be provided in addition to the louvre screen to the colonnade~~*

**Reason:** *To ensure that the approved design, materials and colours satisfy the approved building's 'landmark' status as required under the DCP.*

## **120. Storage in outdoor areas**

*The nursery area shall not be provided with any pallet racking above the level of the*

~~low sandstone-clad base wall louvre screen to the colonnade. Any racking in this location shall house only plants, which can be visible through the glass bladescreen.~~

The wall behind the louvre screen to the bagged goods area shall not exceed 2m in height from the floor of the bagged goods area and any racking, including the product on the pallets and racks, in this location shall not to exceed the height of ~~this wall the louvre screen to the colonnade.~~

**Reason:** To ensure the visual amenity of the Pacific Highway frontage is maintained.

## STATUTORY PROVISIONS

### Section 4.55(2) of the Environmental Planning and Assessment Act 1979 – Modification of consents

#### **Subsection (a): Substantially the same development**

The development, as to be modified is substantially the same development as that approved in the Development Consent to DA0307/17. The proposed modifications do not significantly alter the essence or character of the development.

#### **Subsection (b): Consultation with the Minister, public authority or approval body**

The application was not required to be referred to the Minister or any public authority or approval body.

#### **Subsection (c): Notification**

The application was notified in accordance with the Council's Community Participation Plan.

#### **Subsection (d): Submissions**

No submissions were received in response to the notification of the proposal.

#### **Subsection (3): Section 4.15(1) considerations and consideration of reasons for granting of the consent**

The determination and statement of reasons, dated 22 May 2019, from the Sydney North Planning Panel (SNPP) for DA0307/17 (Planning panel reference number: 2017SNH066) provides the following reasons for the decision to grant consent to the application:

##### **REASONS FOR THE DECISION**

The majority of the Panel (Peter Debnam, John Roseth and Cedric Spencer) voted to approve the application despite the fact that the council's supplementary report again recommended refusal of the application.

The council's original assessment report that was before the Panel at the public meeting of 17 October 2018 listed thirteen reasons for refusal. The majority of the Panel considered that only one reason stood in the way of the approval of the application, namely the need to submit, exhibit and assess a revised Species Impact Statement (SIS). This has now been done.

The first reason for the council's recommendation to refuse the application remains the demolition of the existing 3M building, which is an item of the local heritage. The majority of the Panel notes that in the court case *Bunning Properties v Ku-ring-gai Council* (no 4) (2017) NSWLEC 1238, the opposing views of two heritage experts had been considered and the Court concluded that the heritage value of the 3M building is low and that it may be demolished. All five members of the Panel accept the Court's decision.

The second reason is the removal of Tree 135. The majority notes that the Court concluded that the loss of the tree, while regrettable, did not justify the refusal of the application. The majority of the Panel accepts that the retention of the tree is not compatible with the construction of a hardware store which requires large floor plates at the same level.



The council has deleted the third reason for refusal which relates to the revised SIS. The fourth reason is the public interest and relates to the letters of two objectors. However, those letters do not question the fundamentals of the application and the conditions of consent respond to the concerns. There were no further submissions in relation to the amended application.

The fifth reason repeats the second reason.

The sixth reason relates to the tree protection fencing and is dealt with by the conditions of consent.

The seventh reason refers to urban design. The council has deleted large sections of this reason; however, some design issues remain. The Panel notes that the design of the proposed building has been agreed to by both the councils and the applicant's urban design experts in the court case mentioned above.

The eighth reason has been deleted by the council.

The ninth reason refers to insufficient information on traffic impact. The Panel notes that the RMS has given concurrence to the proposed traffic arrangements.

The tenth reason relates to the BCA and has been dealt with by conditions.

The eleventh reason has been deleted by the council.

The twelfth reason has been deleted by the council.

The thirteenth reason refers to green building requirements and can be resolved by conditions.

Julie Savet Ward and Barbara Newman disagreed with the majority decision.

Julie Savet Ward voted to refuse the application on the basis of the proposed tree removal, and in particular the removal of Tree 135 (*Eucalyptus saligna*), which has been identified as being a species of the Blue Gum High Forest Critically Endangered Ecological Community, having high significance, high visual amenity and prominence in the landscape and good overall health. The removal of Tree 135 is inconsistent with the tree canopy target set by the Greater Sydney Commission in the North District Plan and with objectives and controls for Canopy Remnant under the Kur-ring-gai Development Control Plan 2015. The applicant should have initiated the design with a view to retain Tree 135.

Barbara Newman also voted to refuse the application on the basis of tree preservation and traffic concerns. The preservation of trees in the Ku-ring-gai area is ultimately very important because of the effects on people's health and the environment. Therefore she cannot support the removal of 87 trees and in particular that of Tree 135. In regard to traffic, Barbara Newman notes her concern about Bridge Street, which is the proposed entry and exit point to Bunnings. The street has a steep slope. Further, exit from Pacific Highway into Bridge Street needs more consideration to ensure that traffic flow can be sustained and blockages do not occur.

An issue of contention in the Land and Environment Court appeal *Bunning Properties Pty Ltd v Ku-ring-gai Council* (Case number 2016/152878) was whether the building was appropriate to its landmark corner location and achieved the controls and objectives of Parts 9 and 14 of the KDCP. Prior to the Court hearing, this issue was the subject of a Joint Expert Conference between the planning and urban design experts for Council and the Respondent. The outcome of this conference included an agreement between the experts that conditions, requiring design amendments should be imposed. This is mentioned above in the SNPP's response to the seventh reason for refusal. The agreed requirements of the urban design and planning experts were included in the development consent issued by the Land and Environment Court for DA0115/15.

The agreed conditions include a requirement that the north-eastern side of the nursery area is to have no pallet racking above the level of the low sandstone clad base wall to the colonnade and any racking in this location is to house only plants which can be visible through the glass blade screen. In the bagged goods area it was conditioned that racking shall be limited to height of 2 metres in height. A further requirement was that there was to be no wire fencing or panels in addition to the louvre screen to the colonnade. The condition set provided to the SNPP to assist their consideration of DA0317/17 included these requirements under Conditions 27 and 120, as follows:

## **27. Design, Materials and Colours**

*A project architect shall be appointed to prepare the Construction Certificate plans*

and ensure no change is made to the approved external design, materials and colours.

Prior to the issue of any Construction Certificate the project architect shall certify that the external design, materials and colours shown on the Construction Certificate plans are consistent with the approved plans and conditions of this Development Consent.

The Construction Certificate plans shall also include the following amendments and clarifications:

- The soffit lining on the finishes schedule is to be timber panel soffit cladding, similar or equivalent to Trespa Pacific Board façade system;
- The coloured louvres shall be varied (to represent the degree of colour gradation and variation per colonnade panel) as shown in the precedent image included on the materials board approved under condition 1 of this consent, to ensure the louvre system presents as an 'artwork' and not as a way of representing the Bunnings colour scheme or signage;
- The external walls of the main warehouse 'box' shall be clad in a metallic silver panel system as indicated in the drawing DA-A-853 Rev B – External Finishes & Precedent dated 20/3/2017 (other than the south eastern and western corner where the feature angled cladding is shown in plan and elevation);
- The walls to the base of the louvre screen colonnade shall be clad in split face Gosford sandstone cladding to match the other low landscape walls elsewhere in the approved development;
- **The nursery area shall have no pallet racking above the level of the low sandstone clad base wall to the colonnade. Any racking in this location is to house only plants, which can be visible through the glass blade screen;**
- **The wall behind the louvre screen to the bagged goods area shall not exceed 2m in height from the floor of the bagged goods area. Any racking in this location (including the product on the pallets and racks) shall not exceed the height of this wall.**
- Any material used for the roofing of the approved development is to be consistent throughout as it is visible from the public domain and any solar panels are to be integrated into the roof system; and
- **No wire fencing or panels shall be provided in addition to the louvre screen to the colonnade**

**Reason:** To ensure that the approved design, materials and colours satisfy the approved building's 'landmark' status as required under the DCP.

#### **120. Storage in outdoor areas**

The nursery area shall not be provided with any pallet racking above the level of the low sandstone clad base wall to the colonnade. Any racking in this location shall house only plants, which can be visible through the glass blade screen.

The wall behind the louvre screen to the bagged goods area shall not exceed 2m in height from the floor of the bagged goods area and any racking, including the product on the pallets and racks, in this location shall not to exceed the height of this wall.

**Reason:** To ensure the visual amenity of the Pacific Highway frontage is maintained.

Urban Design consultant, Gabrielle Morrish, acted for Council in the Land and Environment Court proceedings, Ms Morrish has confirmed that the purpose of the above conditions is to ensure that products located inside the building do not stop the understanding of the light play through the glass louvre screen. The rationale for restricting racking and wire fencing/panels in

addition to the louvre screen and colonnade is to give a feeling of glowing effect when light penetrates through the glass so that the façade of the building does not present as a solid wall.

Having regard to the above reasons given by the SNPP to grant development consent to DA0307/17, it is considered that the proposed modifications including the installation of 4.48 metres high racking for products behind the louvre screen along the Pacific Highway elevation of the nursery and bagged goods area results in an inferior design outcome to that achieved by the original decision.

This assessment report also includes consideration of the matters specified in section 4.15 of the Act, as follows:

#### **Section 4.15 considerations**

##### **State Environmental Planning Policy No. 55 – Remediation of Land and Draft Remediation of Land State Environmental Planning Policy**

The provisions of SEPP 55 require Council to consider the potential for a site to be contaminated. The Draft SEPP is a relevant matter for consideration as it is an Environmental Planning Instrument that has been placed on exhibition. The explanation of Intended Effects accompanying the draft SEPP advises:

*As part of the review of SEPP 55, preliminary stakeholder consultation was undertaken with Councils and industry. A key finding of this preliminary consultation was that although the provisions of SEPP 55 are generally effective, greater clarity is required on the circumstances when development consent is required for remediation work.*

The draft SEPP does not seek to change the requirement for consent authorities to consider land contamination in the assessment of development applications.

The proposed modification does not propose any amendments to the remediation works required for the site.

##### **Ku-ring-gai Local Environmental Plan 2015**

The aims of the KLEP are as follow:

- (aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) to guide the future development of land and the management of environmental, social, economic, heritage and cultural resources within Ku-ring-gai,*
- (b) to protect, enhance and sustainably manage the biodiversity, natural ecosystems, scenic values, water resources and ecological processes within the catchments of Ku-ring-gai for the benefit of current and future generations,*
- (c) to maintain and improve water quality within the catchments of Ku-ring-gai,*
- (d) to facilitate adaptation to climate change,*
- (e) to manage risks to the community and the environment in areas subject to natural hazards and risks,*
- (f) to recognize, protect and conserve Ku-ring-gai's indigenous and non-indigenous cultural heritage,*
- (g) to ensure that development does not conflict with the hierarchy of commercial centres in Ku-ring-gai,*
- (h) to encourage a diversity of employment within Ku-ring-gai,*
- (i) to encourage a variety of housing types within Ku-ring-gai,*
- (j) to achieve land use relationships that promote the efficient use of infrastructure,*
- (k) to facilitate good management of public assets and promote opportunities for social, cultural and community activities,*
- (l) to facilitate development that complements and enhances amenity for residential uses and public spaces,*
- (m) to establish a hierarchy of commercial centres for Ku-ring-gai,*
- (n) to facilitate development of the commercial centres to enhance Ku-ring-gai's economic role and cater to the retail and commercial needs of the local community,*

*(o) to protect the character of low density residential areas and the special aesthetic values of land in the Ku-ring-gai area.*

The proposed modification to the additional racking behind the louvre screen detracts from the design of the building façade with a landmark status and does not facilitate causal surveillance of the public domain. This part of the proposed modification does not satisfy Clause 1.2(2)(l) of KLEP, which aims to facilitate development that complements and enhances amenity for public spaces.

### **Zoning and permissibility:**

The site is zoned B7 Business Park. The objectives of the B7 Business Park zone are:

- *To provide a range of office and light industrial uses.*
- *To encourage employment opportunities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*

The proposed modification does not seek to change the approved hardware and building supplies use which is a permissible use in the B7 Business Park zone. The proposed modifications do not result in a development that is inconsistent with the zone objectives.

### **Development Standards**

The proposed modifications do not alter the maximum building height or floor space ratio of the approved development.

### **Clause 5.10 – Heritage conservation**

The heritage item (3M building) that previously occupied the site was approved for demolition by the SNPP and has been demolished.

The subject site is located within 100m of an item at 982 Pacific Highway Pymble but is not within a heritage conservation area. The proposed modification will not impact on the nearby heritage item and does not affect any known archaeological or Aboriginal objects or Aboriginal places of heritage significance.

### **Policy Provisions**

#### **Ku-ring-gai Development Control Plan**

#### **Part 9 – Non residential and office Buildings**

The introduction to this part of the DCP states:

*This section applies to all non-residential and office building developments within the B1, B2, B4 and B7 zones.*

As the approved land use is a non-residential building on land zoned B7, the provisions in Part 9 of the DCP are required to be considered in the assessment of the modification. Of particular relevance to the assessment are the proposed changes to Conditions 27 and 102 which were imposed by the SNPP. The conditions particularly specified:

- i. no wire fencing or panels be provided in addition to the louvre screen to the colonnade
- ii. no pallet racking above the level of the low sandstone clad base wall at to the colonnade of the nursey area; and
- iii. wall behind the louvre screen to the bagged goods area shall not exceed 2m in height from the floor of the bagged goods area. Any racking in this location (including the product on the pallets and racks) shall not exceed the height of this wall.

The reasons for these conditions are to ensure that natural sunlight and artificial light can

penetrate through the louvre screen and concrete blade wall so that the building facade does not read as a solid wall. This is to ensure that the approved design and materials satisfy the approved building's "landmark" status as required under the Part 9C.9 Corner Building Articulation of KDCP.

The proposed modification involves the installation of finger-proof mesh and racking above the level of the low sandstone clad base wall to the colonnade at the north-eastern side of the nursery area and above the 2m high concrete wall at the north eastern side of the bagged goods area. The proposed 4.09m high mesh fencing and racking runs for the full length of the north eastern side of the bagged goods and nursery area and has an overall length of 84.4 metres.

Part 9C.8, Control 4 of the KDCP requires *all building facades at ground level are to engage with and contribute to the activities of the street principally through the use of glazed frontages*. The objectives of Part 9C.8 Building Forms and Facades of KDCP are:

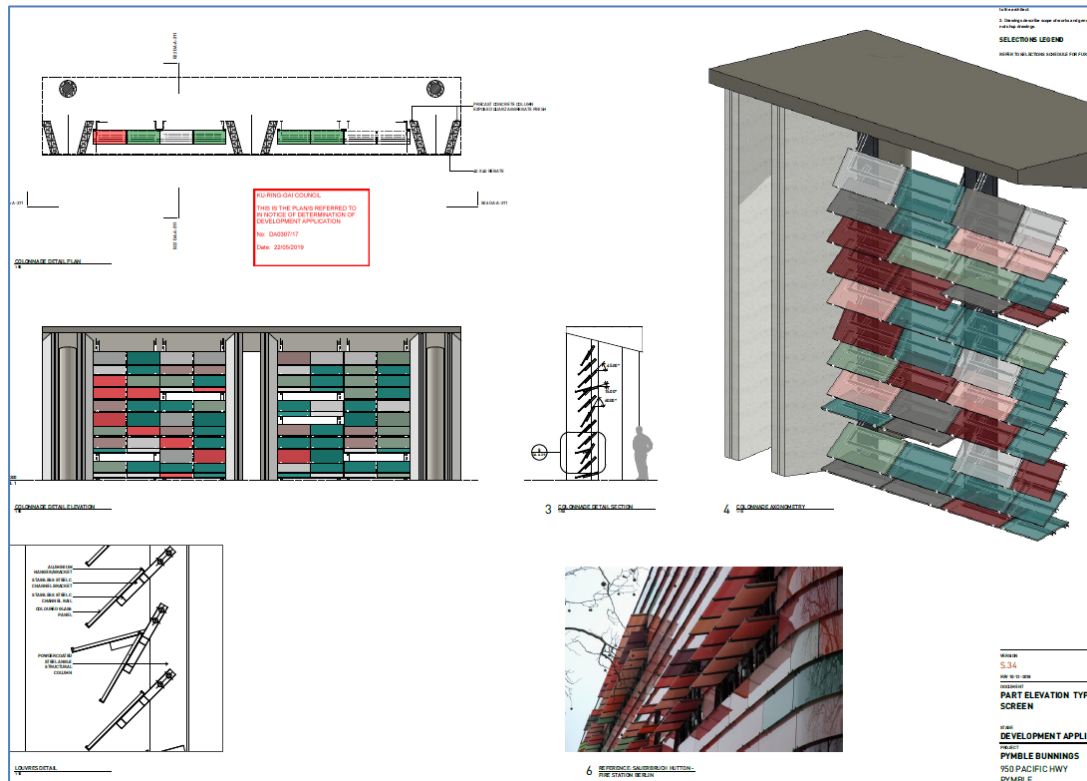
1. *To promote buildings of high architectural quality that contribute to the desired local character.*
2. *To create building facades that reduce the bulk and scale of the building.*
3. *To create building facades that are environmentally responsive.*
4. *To integrate building elements into the overall building form and façade design.*
5. *To ensure that building facade design contributes to the safety of the public domain.*

The proposed finger-proof mesh behind the louvre screen and concrete blade columns is considered acceptable as passive surveillance is maintained through the mesh fencing when viewed from the openings between the blade columns. There are 17 openings along the Pacific Highway frontage which is equivalent to 14.5% of the surface area of the building facade. The proposed mesh fencing will retain views into and out of the building and will facilitate causal surveillance, as such, it will satisfy the objective that the building facade design should contribute to the safety of the public domain. The mesh fencing will continue to allow the play of light through the glass louvre screen, whether it is daylight or artificial light, during night trading hours (approved hours of operation include Monday to Friday till 10pm; and Saturday, Sunday and Public Holiday till 7pm), and will achieve the KDCP objective, which is to integrate building elements into the overall building form and façade design.



**Figure 5** - extract from the approved Pacific Highway elevation





**Figure 6** – extract from approved DA plan showing details of the colonnade and louvres

The proposed installation of racking along the Pacific Highway frontage, in addition to the mesh fencing and coloured glass louvre screen, will result in a semi solid wall and detract from the quality of the built form. While the racking itself may not be highly visible from the Pacific Highway, the storage of goods on the racking will have silhouette effect and preclude the play of light and architectural expression of the building. The applicant has cited the provision of landscaping within the within the north eastern (Pacific Highway frontage) setback as justification for the proposed modification. It is not agreed that the proposed landscaping is intended to or is likely to have the effect of a solid screen or hedge and block views of the building from Pacific Highway. The approved design outcome is one of a coloured glass louvres and concrete blade walls visible through landscaping within the street setback zone. The modification fails to contribute to the safety of the public domain and is contrary to the controls and objectives of the KDCP.

Part 9C.10 of the KDCP states that *security roller shutters are not permitted on the external face of the building. Where they are deemed necessary, grilles or transparent security shutters are to be located internally.* The objectives of this part of the KDCP are:

1. To provide ground floor facades that enhance public domain amenity and safety.
2. To create active street frontages that facilitate direct physical and visual connection between the private and public domain.
3. To support pedestrian activity and enhance the amenity, safety and surveillance of the public domain.

The applicant's Statement of Environmental Effect states that the finger-proof mesh fencing is proposed, "as the original design does not provide for a secure retail area, with these parts of the building easily accessible in an unsecured manner. This is because the adjoining landscaped setback is accessible to the public at all times and the base wall to the colonnade is close to the ground level."

The finished ground level of the nursery and bagged good areas is 1.8 metres above the finished external ground level. A 2 metres high concrete wall is situated at the north eastern side of the bagged good area, however the gaps between the concrete blade columns are 720mm wide and are potential entry points into the building. The proposed semi-transparent mesh fencing complies with the DCP requirement that security devices be located internally. The mesh will enhance security whilst maintaining for casual surveillance of the public domain

and is therefore considered acceptable.

### **Part 14G – Urban Precinct and Sites (Pymble Business Park)**

The subject site is identified as a landmark site under Figure 14G.5-1 Built form plan of the KDCP. The definition of a landmark building means a building of high quality and unique architectural style designed to be highly responsive to a specific site and its features and which utilises architectural elements to be easily seen and recognised as a point of reference and navigating tool for pedestrians, cyclists and vehicles.

Part 14G.5 Pymble Business Park- Built Form, Control 6 of KDCP requires the site to have a landmark building that is unique and site responsive. The building design is to be visually prominent and distinctive in architectural form and identify the location of Pymble Business Park within the region; and Control 5 states that the proposed development should provide buildings on corners and visually prominent sites that have distinct articulation addressing their location in line with Part 9C.9 of this DCP. The objective of the controls are:

1. *To ensure building facades are well designed, articulated and address public streets, public spaces, footpaths, parks and reserves.*
2. *To provide active frontage to the main streets and lanes.*
3. *To support pedestrian activity and enhance the amenity, safety and surveillance of the public domain.*
4. *To enhance the quality and character of the public domain in the commercial precincts.*
5. *To contribute to the locality by creating distinctive buildings.*

Part 9C.9 Corner Building Articulation, Control 3 of KDCP states, *buildings in landmark positions are to be of a high architectural quality and contribute significantly to the local built environment.* Pacific Highway and Ryde Road are busy roads with tens of thousands of vehicle movements per day. Located at the corner of Pacific Highway and Ryde Road as a landmark building, the subject development is highly visible from the many angles. It is important for this landmark building to be of a high quality visual architectural element and to provide an appropriate street presentation to the Pacific Highway and Ryde Road intersection. As discussed above, the introduction of product racking behind the glass louvre screen and colonnade will discourage the play of light and creates a solid wall to the building façade at the Pacific Highway frontage. Further, it does not enhance the safety and surveillance of the public domain. The racking detracts from the design of the building façade and does not achieve a building of 'landmark' quality, which is contrary to the objectives of the KDCP.

### **LIKELY IMPACTS**

The likely impacts of the proposed modification have been considered. It is concluded that the proposed installation of mesh fencing is acceptable, however the installation of the racking is unacceptable given the result and reduction in casual surveillance and quality of the built form outcome.

### **SUITABILITY OF THE SITE**

Subject to approval only being granted for the finger-proof mesh fencing, the site remains suitable for the modified development.

### **PUBLIC INTEREST**

Subject to approval only being granted for the finger-proof mesh fencing, the modified development is considered to be in the public interest.

## CONCLUSION

Having regard to Section 4.55(2) of the Environmental Planning and Assessment Act 1979, the installation of finger-proof mesh fencing is considered satisfactory, the other modifications are not considered satisfactory for the reasons provided within this report.

## RECOMMENDATION

### PURSUANT TO SECTION 4.55(2) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

THAT the Sydney North Planning Panel, as the consent authority, modify the development consent to DA0307/17 in the following manner:

**The following conditions are modified to read:**

#### 1. Approved architectural plans and documentation

The development must be carried out in accordance with the plans and documentation listed below and endorsed with Council's stamp:

Document Title / Reference	Prepared By	Date
<b>Architectural Plans</b>		
DA-A-010 Rev S.34 – Site Plan	Smith & Tzannes	10/12/18
DA-A-011 Rev S.34 - Site Plan Demolition Works	Smith & Tzannes	10/12/18
DA-A-100 Rev S.34 - Carpark Level 2	Smith & Tzannes	10/12/18
DA-A-101 Rev S.34 - Carpark Level 1	Smith & Tzannes	10/12/18
DA-A-102 Rev S.34 - Warehouse Level 0	Smith & Tzannes	10/12/18
DA-A-103 Rev S.34 - Warehouse Level 1	Smith & Tzannes	10/12/18
DA-A-104 Rev S.34 - Roof Plan	Smith & Tzannes	10/12/18
DA-A-200 Rev S.34 - Pacific Highway and Ryde Rd Elevations	Smith & Tzannes	10/12/18
DA-A-201 Rev S.34 - Sth-West & Bridge St Elevations	Smith & Tzannes	10/12/18
DA-A-202 Rev S.34 - Sections	Smith & Tzannes	10/12/18
DA-A-310 Rev S.34 - Screen Elevations Detail + Colour Scheme	Smith & Tzannes	10/12/18
DA-A-203 Rev B - Elevational Section	Smith & Tzannes	20/03/17
DA-A-311 Rev S.34 - Part Elevation Typical Entrance Screen	Smith & Tzannes	10/12/18
DA-A-801 - Waste Management Plan	Smith & Tzannes	5/12/14
DA-A-810 Rev AF – Tree Management Plan	Smith & Tzannes	16/05/18
DA-A-811 Rev L – Deep Soil Landscape Plan	Smith & Tzannes	10/04/18
DA-A-812 Rev C - Signage Plan	Smith & Tzannes	17/05/18
DA-A-853 Rev B - External Finishes & Precedent	Smith & Tzannes	20/03/17
DA-A-SK002 - Bunnings Sign	Smith & Tzannes	15/10/18

DA-A-SK003 - Section through PV	Smith & Tzannes	15/10/18
<b>Landscape Plans</b>		
2103 LP-00 Rev P - Landscape Site Plan	John Lock & Associates	17/04/18
2103 LP-01 Rev P - Landscape Plan Sheet 1	John Lock & Associates	17/04/18
2103 LP-02.1 Rev E - Hardscape Plans Streetscape Entry	John Lock & Associates	17/04/18
2103 LP-02 Rev P - Landscape Plan Sheet 2	John Lock & Associates	17/04/18
2103 LP-03.1 Rev E - Hardscape Plan Sheet 3	John Lock & Associates	17/04/18
2103 LP-03 Rev P - Landscape Plan Sheet 3	John Lock & Associates	17/04/18
2103 LP-04 Rev L - Landscape Elevations	John Lock & Associates	16/09/16
2103 LP-05 Rev M - Landscape Details	John Lock & Associates	20/03/17
2103 LP-06 Rev D - Hardscape Details	John Lock & Associates	20/03/17
2103 LP-07 Rev D - Hardscape Details	John Lock & Associates	20/03/17

<b>Civil Engineering Plans</b>		
DA100 Rev 05 - Cover Sheet, Drawing Index and General Notes	C & M Consulting	14/09/16
DA200 Rev 11 - General Arrangement Plan - Carpark Level 2 - Sheet 1	C & M Consulting	23/11/18
DA201 Rev 08 - General Arrangement Plan - Carpark Level 2 - Sheet 2	C & M Consulting	23/11/18
DA202 Rev 07 - General Arrangement Plan - Carpark Level 1 - Sheet 1	C & M Consulting	23/11/18
DA203 Rev 08 - General Arrangement Plan - Carpark Level 1 - Sheet 2	C & M Consulting	23/11/18
DA204 Rev 08 - General Arrangement Plan - Warehouse Level 0 - Sheet 1	C & M Consulting	23/11/18
DA205 Rev 07 - General Arrangement Plan - Warehouse Level 0 - Sheet 2	C & M Consulting	23/11/18
DA206 Rev 04 - General Arrangement Plan - Warehouse Level 1 - Sheet 1	C & M Consulting	23/11/18
DA207 Rev 04 - General Arrangement Plan - Warehouse Level 1 - Sheet 2	C & M Consulting	23/11/18
DA231 Rev 07 - Bulk Earthworks Cut / Fill Plan & Quantities	C & M Consulting	23/11/18
DA351 Rev 06 - Site Sections	C & M Consulting	12/04/18
DA501 Rev 07 - General Details - OSD Tank	C & M Consulting	14/09/16
DA631 Rev 06 - Sediment & Erosion Control Plan & Details	C & M Consulting	14/09/16

DA701 Rev 04 - Environmental Site Management Plan Demolition Works - Sediment & Erosion Control Plan & Details	C & M Consulting	14/09/16
DA801 Rev 04 - Environmental Site Management Plan, Demolition Works - Site Vehicle Management Plan	C & M Consulting	14/09/16
<b>Supporting Reports &amp; Studies</b>		
Review of Contaminated Land Issues except:  as amended and updated by Additional Environmental Site Assessment and Remedial Action Plan	Easterly Point  Environmental Investigation Services	22 December 2014  26 November 2018
Preliminary Construction Management Plan for Proposed Demolition Works	n/a	Undated
Waste Management Plan Demolition Proposal Rev A	Moits	17.12.14
Waste Management Plan	Bunnings	Undated
Stormwater Management Plan Ref R01112-SMP Rev E	C&M Consulting	September 2016
Arboricultural Assessment & Development Impact Report - RTC-8117	RainTree Consulting	24 July 2017
Arboricultural Addendum Report	RainTree Consulting	17 May 2018
Vegetation Management Plan Ref 13005RP6 Rev 6	Cumberland Ecology	20/09/16
Sustainability Report Rev D	Smith & Tzannes	23/03/17
Heritage Interpretation Plan	Freeman Ryan Design	9 November 2017
Archival Photographic Recording  Measured drawings	Nathanael Hughes, DFP Planning and Paul Davies Pty Ltd  Drawings A1 - A10 (inclusive) Issue A	May - July 2017  June 2017
Building Code of Australia – cover letter	Norman Disney & Young	23 November 2018

Except where amended by that work shown in colour on the S.4.55 plans endorsed with Council's stamp as listed below and except where amended by other conditions of this Development Consent:

<b>Section 4.55 Plan no.</b>	<b>Drawn by</b>	<b>Dated</b>
<i>Architectural Plans</i>		
DA-A-103, Rev A (Warehouse Level 1)	Michael Carr Architect	01.03.21
DA-A-200, Rev B (Pacific Hwy and Ryde Rd Elevations)	Michael Carr Architect	01.03.21
SK-17A, Revision C (Sketch Sections) as amended in red by Council	Michael Carr Architect	01.03.21

## 27. Design, Materials and Colours

A project architect shall be appointed to prepare the Construction Certificate plans and ensure no change is made to the approved external design, materials and colours.



Prior to the issue of any Construction Certificate the project architect shall certify that the external design, materials and colours shown on the Construction Certificate plans are consistent with the approved plans and conditions of this Development Consent.

The Construction Certificate plans shall also include the following amendments and clarifications:

- The soffit lining on the finishes schedule is to be timber panel soffit cladding, similar or equivalent to Trespa Pacific Board façade system;
- The coloured louvres shall be varied (to represent the degree of colour gradation and variation per colonnade panel) as shown in the precedent image included on the materials board approved under condition 1 of this consent, to ensure the louvre system presents as an 'artwork' and not as a way of representing the Bunnings colour scheme or signage;
- The external walls of the main warehouse 'box' shall be clad in a metallic silver panel system as indicated in the drawing DA-A-853 Rev B – External Finishes & Precedent dated 20/3/2017 ( other than the south eastern and western corner where the feature angled cladding is shown in plan and elevation);
- The walls to the base of the louvre screen colonnade shall be clad in split face Gosford sandstone cladding to match the other low landscape walls elsewhere in the approved development;
- The nursery area shall have no pallet racking above the level of the low sandstone clad base wall to the colonnade. Any racking in this location is to house only plants, which can be visible through the glass bladescreen;
- The wall behind the louvre screen to the bagged goods area shall not exceed 2m in height from the floor of the bagged goods area. Any racking in this location (including the product on the pallets and racks) shall not exceed the height of this wall.
- Any material used for the roofing of the approved development is to be consistent throughout as it is visible from the public domain and any solar panels are to be integrated into the roof system; and
- ~~No wire fencing or panels shall be provided in addition to the louvre screen to the colonnade~~
- The finger-proof mesh fencing shall not exceed the height of the louvre screen at the north eastern side of the bagged good area and nursery.

**Reason:** To ensure that the approved design, materials and colours satisfy the approved building's 'landmark' status as required under the DCP.

**The following additional condition is imposed:**

**27a. Deletion of racking**

The proposed racking is to be deleted as marked on Drawing SK-17A, Revision C, dated 01.03.21 and prepared by Michael Carr Architect.

Prior to the issue of any Construction Certificate, the Certifier shall be satisfied that the plan has been amended as required by this condition.

**Reason:** To maintain casual surveillance and the quality of the overall built form of the development.

**Signed**

**Bonnie Yue**  
**Senior Assessment Officer**

**Jonathan Goodwill**  
**Team Leader Development Assessment**

**Shaun Garland**  
**Manager Development Assessment**  
**Services**

**Michael Miocic**  
**Director Development & Regulation**