

DATE OF DETERMINATION	7 September 2022
DATE OF PANEL DECISION	7 September 2022
DATE OF PANEL MEETING	1 September 2022
PANEL MEMBERS	Carl Scully (Chair), Jan Murrell, Sue Francis, Philippa Scott
APOLOGIES	Deb Laidlaw
DECLARATIONS OF INTEREST	Darcy Byrne and Brian McDonald declared a conflict of interest and did not participate.

Public meeting held via Public Teleconference on 1 September 2022, opened at 10.10am and closed at 12.15pm. Papers circulated electronically on 25 August 2022.

This was the second public hearing, the first public meeting was held 31 March 2022, however, at that time the Panel became aware that the amended modification application had not been re-advertised and deferred the determination of the application to allow this to take place and a second public meeting was held to allow submitters to address the Panel. The list of those who elected to speak is below.

MATTER DETERMINED

PPSSEC-171- Inner West - MOD/2021/0376 – 750 Princes Highway, Tempe – Bunnings Tempe (as described in Schedule 1).

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters listed at item 8 in Schedule 1.
A written submission from 14 of the Inner West Councillors was received by the Panel on 29 August 2022.

The Panel is also in receipt of a copy of a letter sent to the General Manager of Inner West Council from Transport for NSW (TfNSW) dated 31 August 2022 wherein it states *“TfNSW do not support the signalised concept identified in the report...to address community concerns regarding the development’s traffic generation, the agency is supportive of banning through movement from Smith Street into Union Street...”*

Modification application

The Panel is satisfied: the development is substantially the same as the development for which consent was originally granted; and the modification application, as amended, has been advertised and notified. The Panel has also taken into consideration: the reasons given by the consent authority for the grant of consent that is sought to be modified; and the matters in section 4.15(1) as are of relevance to the development the subject of the application.

The Panel determined to approve the modification application pursuant to section 4.55 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

With the benefit of all the expert reports and submissions, including the recent advice from TfNSW, the Panel has determined to approve the modification application subject to the recommended conditions, as outlined in the Council Officer's Assessment Report and referenced in the Supplementary Report.

The Panel has carefully considered community views seeking to delay determination of this modification application until after the exhibition and consideration of the LATM. However, the Panel is now satisfied that all relevant pre-conditions to consent have been satisfied and there is no reason that would warrant refusal of this modification application.

The Panel did not require re-exhibition of the LATM. The Panel notes that TfNSW supports the soft closure for Smith Street. The LATM has already been exhibited on more than one occasion, to provide the opportunity for consultation with the community on its provisions. There have been no changes to the LATM in the preceding 12 months from the re-exhibition. It is also noted the draft LATM was prepared at the direction of the Council, by an independent consultant and funded by the applicant. However, the Local Traffic Committee has deferred or failed to decide on the Council's Officer's recommendation to approve the independent study and its recommendations. Both the applicant and the community should be able to expect certainty and timeliness in the planning system.

The Applicant's town planner responded to issues raised and stated this modification will facilitate the implementation of the independent traffic report without further delay.

The Panel has considered all submissions and is satisfied that approval of the modification is consistent with expert advice from both the independent traffic consultants and Council's Engineer. The Panel also notes that approval of this modification, through conditions of consent (Condition 112b), does not prevent future changes to the local road system after 12 months.

In conclusion, the Panel determines there are no outstanding matters, and the modification application warrants approval.

CONDITIONS

The Modification Application is approved subject to the recommended conditions in the Council Officer's assessment reports.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions, made during the public exhibition, and heard from the following registered and wishing to address the Panel:

- Graham Griffith
- Jude Cobb
- Jack Breen
- Dr Cairo Forrest
- Carly Green
- Mayor Darcy Byrne (apology)
- Councillor Mat Howard
- Ben Stewart
- Penelope Bell
- Abigail Hatherley
- Stephen Laws
- Gemma Scott
- Councillor Justine Langford
- Asma Tbessi (unable to be contacted)
- Peter Pappas (unable to be contacted)
- Stephanie Ward
- Alyse Harvison
- Rebecca Curran
- Scott Liddicoat
- Kate Murphy

The Panel notes that issues of concern included:

- Delay determination until after re-exhibition of LATM
- Impacts on the community of Tempe
- Traffic in local streets and pedestrian safety
- Safety of school children

- The need for Bunnings to consult with the community
- Impacts of current demolition on residents
- Soft closure of Smith Street
- Need for a Signalised intersection on Princes Highway

The Panel considers concerns raised by the community have been adequately addressed in: the Supplementary Report; the Assessment Report; and the conditions of consent.

Granting approval to this modification does not prevent the local traffic management measures being reviewed after 12 months pursuant to Condition 112(b). This will appropriately allow the Local Traffic Committee, in consultation with the applicant and community, to further consider local traffic management measures.

The Panel has considered all submissions and is satisfied that approval of the modification is consistent with expert advice from both the consultant's and Council's Engineers.

All relevant planning matters, and requirements of section 4.55 of the Environmental Planning and Assessment Act, have been comprehensively addressed and the Panel is satisfied the modification application warrants approval.

PANEL MEMBERS	
	
Carl Scully (Chair)	Jan Murrell
	
Sue Francis	Philippa Scott

SCHEDULE 1

1	PANEL REF – LGA – DA NO.	PPSSEC-171 – Inner West – MOD/2021/0376
2	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.
3	STREET ADDRESS	750 Princes Highway, Tempe
4	APPLICANT/OWNER	Bunnings Properties Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Section 4.55(2) Modification Application
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <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 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Marrickville Development Control Plan 2011 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i> • Coastal zone management plan: Nil • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council Supplementary Report – 25 August 2022 • Council Assessment Report: 17 March 2022 • Written submissions during public exhibition: (Initial – 44), (Renotification – 75) • Verbal submissions at the public meeting: • Graham Griffith, Judd Cobb, Jack Breen, Dr Cairo Forrest, Carly Green, Darcy Byrne (Mayor), Clr Mat Howard, Ben Stewart, Penelope Bell, Abigail Hatherley, Stephen Laws, Gemma Scott, Justine Langford, Asma Tbessi/Peter Peppas, Stephanie Ward, Alyse Harvison, Rebecca Curran,

		<p>Scott Liddicoat, Kate Murphy</p> <ul style="list-style-type: none"> ○ Council assessment officer – Andrew Newman, Ruba Osman, Martin Amy ○ On behalf of the applicant – Phil Drew, Gary Turner, Aaron Sutherland, Rebecca Pleming ○ Total number of unique submissions received by way of objection: 44
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> ● Applicant Briefing: 9 December 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Jan Murrell, Chris Wilson ○ <u>Council assessment staff</u>: Luke Murtas, Ruba Osman, Asher Richardson, Joe Bertacco, Andrew Newman ○ <u>Applicant representatives</u>: Philip Drew, Aaron Sutherland, Gary Turner <p><u>Note</u>: Applicant briefing was requested to provide the Panel with clarification and respond to issues.</p> ● Site inspection: Panel members visited the site independently, prior to 31 March 2022. ● Final briefing to discuss Council’s recommendation: 13 March 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Jan Murrell, Sue Francis, Philippa Scott ○ <u>Council assessment staff</u>: Andrew Newman, Ruba Osman, Martin Amy <p>Further Council briefing: 19 August 2022</p>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report