



AGENDA FOR THE CANTERBURY BANKSTOWN LOCAL PLANNING PANEL MEETING

3 December 2018 - 6.00pm

Location:

**Council Chambers
Cnr Chapel Road and the Mall,
Bankstown**

ORDER OF BUSINESS

APOLOGIES AND DECLARATIONS

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

BANKSTOWN WARD

- 1 324 Hume Highway, Bankstown**
Demolition of existing structures and construction of a three storey mixed use development comprising of 14 residential units, ground floor commercial premises and associated basement car parking 3

REVESBY WARD

- 2 88-98 Fairford Road, Padstow**
Section 4.55(2) Proposal: Modify approved Masters Home Improvement and Bulky Goods Tenancies to accommodate a Bunnings Warehouse.
Modifications include a change in the development description to construction and use of a hardware and building supplies development including car parking, traffic lights, earthworks, road works, landscaping and business identification signage, reconfiguration of buildings on site, increase in gross floor area, reduction in car parking, modified vehicle access arrangements and modifications to landscaping. 35

Canterbury Bankstown Local Planning Panel - 3 December 2018

ITEM 1	324 Hume Highway, Bankstown Demolition of existing structures and construction of a three storey mixed use development comprising of 14 residential units, ground floor commercial premises and associated basement car parking
FILE	DA-24/2017 – Bankstown
ZONING	B6 – Enterprise Corridor
DATE OF LODGEMENT	19 January 2017
APPLICANT	Mosca Pserras Architects
OWNERS	Alan John Partington
ESTIMATED VALUE	\$7,359,000
AUTHOR	Planning

REPORT

This matter is reported to the Canterbury Bankstown Local Planning Panel, in accordance with the delegations to Council officers requiring applications that relate to residential flat buildings, and for applications that propose a variation to a development standard in Council's Local Environmental Plan by more than 10%, to be reported to the Panel for determination.

Development Application No. DA-24/2017 proposes the demolition of existing structures and construction of a three storey mixed use development comprising of 14 residential units, ground floor commercial premises and associated basement car parking. The development is proposed to be built to a zero setback to the western boundary, to match in with the approved development to the west, with four units across two levels facing directly north, and ten units across two levels facing predominantly east. These residential floors sit above a ground floor containing a 511m² commercial tenancy along with garbage storage areas accessed via Davis Lane, and with an entrance from Davis Lane to two levels of basement car parking comprising 32 spaces.

DA-24/2017 has been assessed under Section 4.15 of the Environmental Planning and Assessment Act, 1979, with specific regard given to State Environmental Planning Policy No.

55 – Remediation of Land, State Environmental Planning Policy (Building and Sustainability Index: BASIX) 2004, State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development and the Apartment Design Guide, the Bankstown Local Environmental Plan 2015 (BLEP 2015) and the Bankstown Development Control Plan 2015 (BDCP 2015).

The application fails to comply with the BLEP 2015 in regards to minimum allotment size and with the BDCP 2015 in regards to building setbacks. The variation to minimum allotment size is considered to be acceptable in this instance, while the building setbacks encroachments are minimal and are also considered to be acceptable in this instance. The application has satisfactorily addressed the specific provisions of Clause 7 of SEPP 55 and Clause 4.6(4) of the BLEP 2015.

The application was advertised and notified for a period of 21 days, from 1 to 21 February 2017. One submission was received during this period, which raised concerns relating to the failures to comply with the minimum lot size and maximum height restrictions permitted in the BLEP 2015. Following the submission of amended plans, the application was again advertised and notified for a further period of 21 days, from 29 August to 18 September 2018. One submission was received during this period, from the same organization as the original submission, which raised concerns relating to the failure to comply with the minimum lot size restriction permitted in the BLEP 2015. This matter is dealt with in detail in the attached Assessment Report.

POLICY IMPACT

FINANCIAL IMPACT

The matter being reported has no direct financial implications.

RECOMMENDATION

It is recommended that the application be approved subject to the attached conditions.

ATTACHMENTS

- A. Assessment Report
- B. Conditions of Consent

DA-24/2017 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is known as 324 Hume Highway, Bankstown. The site is a regular allotment, with a frontage of 21.222m to the Hume Highway, a frontage of 19.507m to Davis Lane, and an overall site area of 1614.7m². The site is currently zoned B6 Enterprise Corridor. The site contains a commercial building that was previously occupied by a veterinary clinic.

The development surrounding the site comprises a range of land uses. Immediately to the east of the site is a school (Bankstown North Public). Immediately to the west of the site is a large commercial building, currently occupied by a ground floor tile warehouse and first floor retail outlet, with rooftop car parking. Further to the west of the site, commercial and retail uses occupy the buildings located on the western side of Rookwood Road. Multi-unit residential development is located to the north, across Davis Lane. Residential dwellings are located on the southern side of Hume Highway, as well as a number of car-related uses (showroom and a car wash café) and another school (St Felix Primary). The context of the site is illustrated in the aerial photo below.



PROPOSED DEVELOPMENT

The Development Application proposes the following works:

- demolition of existing structures
- construction of a three storey mixed use development comprising of 14 residential units across the two upper levels, and 511m² of commercial floor space at the ground floor level fronting the Hume Highway.
- two levels of basement car parking for 32 vehicles.

The development is proposed to be built to a zero setback to the western boundary, so as to be consistent with the approved development to the west, with four units across two levels facing directly north, and ten units across two levels facing predominantly east. These residential floors sit above a ground floor that contains a 511m² commercial tenancy along with residential foyers and garbage storage areas, and with an entrance from Davis Lane to 2 levels of basement car parking. Communal open space is provided above the ground floor facing east and also at the first floor level, fronting the Hume Highway.



AERIAL VIEW FROM HUME HIGHWAY



VIEW FROM HUME HIGHWAY



VIEW FROM HUME HIGHWAY

SECTION 4.15 ASSESSMENT

The proposed development has been assessed pursuant to section 4.15 of the *Environmental Planning and Assessment Act, 1979*.

Environmental planning instruments [section 4.15(1)(a)(i)]

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

SEPP 55 requires the consent authority to consider whether the development site is contaminated and, if it is, whether it is suitable for the proposed development either in its contaminated state or following remediation works.

The applicant has submitted a Stage 1 Contamination Assessment Report (i.e. Preliminary Site Investigation) prepared by Ground Technologies Pty Ltd. The report includes the following conclusion:

“Laboratory test results were compared to the relevant assessment criteria, Hils B, and were well below the assessment criteria and as such, indicate a low risk of contamination. The site is suitable for development for the use setting — Residential with minimum opportunities for soil access such as high rise buildings and apartments. No remediation action plan is required.”

The report has determined that the site can be considered suitable for the proposed residential development. As such, the consent authority can be satisfied that the provisions of Clause 7 of SEPP 55 have been satisfactorily addressed.

State Environmental Planning Policy (Building and Sustainability Index: BASIX) 2004

A valid BASIX Certificate accompanied the Development Application. The Certificate details the required thermal comfort, energy and water commitments which are also illustrated on the submitted architectural plans. The proposal satisfies the requirements of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 in this instance.

State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65), and the Apartment Design Guide (ADG)

SEPP No. 65 applies to residential flat buildings having 4 or more units and 3 or more storeys. The subject application proposes a mixed use development on the subject site, comprising of commercial premises on the ground floor along with residential access points and garbage storage, and two levels of residential units above. Accordingly the SEPP applies in this instance, and an assessment against the Design Quality Principles has been carried out.

The proposed development is consistent with the Design Quality Principles and responds appropriately to the site’s context. Moreover, the application generally conforms with the Design Criteria in the Apartment Design Guide, as illustrated in the table below.

ADG Requirement	PROPOSED	COMPLIES?
Building depth 10m/12m – 18m is appropriate. If greater than 18m then good solar access and ventilation must be achieved.	Building depth ranges from 10m-15m. Single aspect apartment depths generally do not exceed 10m, with habitable rooms no greater than 8m from a window.	Yes
Visual Privacy 6m (up to 12m/4 storeys); 9m (up to 25m/5-8 storeys); and 12m (over 25m/9 storeys) to habitable rooms and balconies Half these distances to non-habitable rooms. 0m to blank walls	6m min for habitable rooms and balconies on 1 st and 2nd floors, to E boundary 0m to blank walls (E & W bndy)	Yes
Solar Access 70% of units should receive 2hrs solar access between 9am – 3pm midwinter. A max of 15% of apartments receive no direct sunlight between 9am – 3pm midwinter	12 of 14 units (85.7%) receive 2hrs direct solar access between 9am – 3pm midwinter. None of the 14 units (0%) will receive no direct solar access between 9am-3pm midwinter	Yes
Natural ventilation 60% of units are naturally cross ventilated	64.3% of units are naturally cross-ventilated (9 of 14)	Yes
Communal Open Space 25% of the site area (403.5m ²) is to be communal open space.	34% of the site area (553m ²) is provided as communal open space.	Yes
Deep Soil Zones 7% of the site area is to be set aside as deep soil zones with a minimum 6m dimension	7% of the site area is provided as deep soil zones, within the front and rear setbacks provided within a min. 5m dimension	Yes - despite the failure to comply with the minimum dimension, the spaces available for deep soil planting are considered sufficiently capable of accommodating tree growth and stormwater runoff.
Ceiling heights 2.7m for habitable floors 3.3m min for commercial	Floor-to-ceiling heights are 2.7m to all residential floors, and at least 3.3m to the ground floor commercial tenancy.	Yes

Apartment Layout In open plan layouts, the maximum habitable room depth is 8m from a window	The depth of all habitable rooms in an open plan layout (kitchen/dining/living) is within 8m of a window	Yes
Apartment Size 1 bed – min. 50m ² 2 bed – min. 70m ² 3 bed – min. 90m ² add 5m ² for 2 nd bath/WC Room sizes: Main beds 10m ² , other beds 9m ² (min), with min 3m dimension (excl. robe) Living Room min width: Studio/1 bed – 3.6m 2-bed/3-beds – 4m	1 bed – min. 51m ² 2 bed – min. 82.7m ² 3 bed – min. 98m ² All minimum rooms sizes and dimensions have been met	Yes
Private Open Space 1 bed – 8m ² /2m depth 2 bed – 10m ² /2m depth 3+ bed – 12m ² /2.4m depth GF – 15m ² /3m dimension	All balconies meet the minimum depth and area. No ground floor units are proposed	Yes
Circulation Max. 8 units accessed from a single corridor.	Maximum 7 apartments accessed at each level from a single corridor.	Yes
Car Parking Council's DCP requires: 1 space per 1-bed unit 1.2 spaces per 2-bed unit 1.5 spaces per 3-bed unit 1 visitor space per 5 units 1 space per 40m ² commercial	Total required = 32: 8 x 1-bed = 8 spaces 5 x 2-bed = 6 spaces 1 x 3-bed = 1.5 spaces (16) 1 visitor space per 5 units = 3 511m ² @ 1 per 40m ² = 13	Yes Total provided: 16 residential 3 visitor 13 commercial (32)
Storage 1-bed – 6m ³ 2-bed – 8m ³ 3-bed – 10m ³ At least half to be provided in the units	All units are provided with at least the minimum storage, with sufficient space available within the units	Yes

Based on the above, it is considered that the proposed development is consistent with the Design Quality Principles contained in State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development, responds appropriately to the site's context, and generally conforms with the Design Criteria in the Apartment Design Guide.

Bankstown Local Environmental Plan 2015 (BLEP 2015)

The following clauses of the Bankstown Local Environmental Plan 2015 were taken into consideration:

- 1.2 Aims of Plan
- 1.3 Land to which Plan applies
- 1.4 Definitions
- 1.7 Maps
- 2.1 Land use zones
- 2.2 Zoning of land to which Plan applies
- 2.3 Zone objectives and Land Use Table
- 2.7 Demolition requires development consent
- 4.1B Minimum lot sizes and special provisions for certain dwellings
- 4.3 Height of buildings
- 4.4 Floor space ratio
- 4.5 Calculation of floor space ratio and site area
- 4.6 Exceptions to development standards

The following table demonstrates how compliance has been achieved with the relevant numerical standards contained in the BLEP 2015.

STANDARD	PROPOSED	BLEP 2015	
		REQUIRED	COMPLIANCE
Minimum Lot Size	1614.7m ²	5000m ²	No – see below
FSR	1.2:1	2:1	Yes
Building height	11m	11m	Yes

An assessment of the Development Application revealed that the proposal fails to comply with the provisions of Bankstown Local Environmental Plan 2015 relating to minimum lot size.

Minimum Lot Size

Clause 4.1B(2)(b) of the BLEP 2015 stipulates that for a site that is zoned B6 – Enterprise Corridor to be developed for the purpose of a residential flat building, the site must have a minimum area of 5000m². The subject application proposes a mixed use development on the subject site, comprising of commercial premises on the ground floor and two levels of residential flat building above. The site has an area of 1614.7m², which fails to meet the requirement of Clause 4.1B(2)(b).

Part A2 of the BDCP 2015 requires that the subject site be consolidated with the neighbouring property to the west. If consolidation does not occur, the maximum building height is limited to only two storeys (see BDCP 2015 assessment, below). The site forms part of the Rookwood Enterprise Zone, which terminates at the eastern boundary of the subject property No. 324 Hume Highway. Beyond the subject property, to the east, are the grounds of Bankstown North Public School. It therefore stands that the subject site (No. 324 Hume Highway) and the western neighbour (No. 326 Hume Highway) offer each other the only opportunity to

consolidate and meet the BLEP minimum lot size/BDCP lot consolidation requirements.

In May 2016, the Sydney West Regional Planning Panel approved DA-988/2015 at 326 Hume Highway, the adjoining site to the west of the subject site. The approved development comprised the construction of a mixed commercial/residential flat building comprising of a total of 123 residential units up to seven storeys, a two storey commercial building fronting Hume Highway, and basement car parking.

The Panel considered a report which included a detailed discussion around the issue of lot consolidation, amalgamation and the minimum lot size. The report concluded that the applicant for 326 Hume Highway had satisfactorily addressed the key considerations of the NSW Land and Environment Court planning principle in relation to isolated sites – the first being whether site amalgamation is feasible, the second being whether a ‘reasonable offer’ to consolidate has been made, and the third relating to the orderly and economic use and development of the sites – as follows:

“It can be concluded that although site amalgamation is indeed feasible, a ‘reasonable offer’ was made to consolidate the sites and this reasonable offer was rejected. The applicant has demonstrated that both of the sites can be developed to achieve an appropriate urban form with an acceptable level of amenity, and it would be onerous to insist on further attempts to achieve lot consolidation.”

For the subject application, the issue of isolation is again relevant. The following comments are offered with respect to each of the key considerations of the NSW Land and Environment Court planning principle in relation to isolated sites:

- At the time the development at 326 Hume Highway was approved it was considered feasible that the two sites could be consolidated. Despite the substantial structure that was under consideration at No. 326 Hume Highway, both sites were considered to offer reasonable redevelopment opportunities. Moreover, Council’s DCP required consolidation as a means of activating increased building heights.
- The applicant has provided documentation demonstrating attempts have been made to consolidate the sites. This documentation includes valuations of the subject property, as well as offers to purchase the site. Separate valuations were undertaken in 2013, and came up with differing amounts. Further valuations were undertaken in 2015 but were not considered to be commensurate with the “highest and best use” of the site. Following the approval of the DA at 326 Hume Highway, a further offer was made to purchase the subject site, by the owner of the neighbouring property, in December 2017. This most recent offer was not considered to be “reasonable” and was rejected by the owner of the subject property.
- The previous approval at 326 Hume Highway included the provision of plans demonstrating a possible stand-alone development outcome on the subject site, in order to demonstrate that the orderly and economic use and development of the subject site could still be achieved, whether amalgamation could be agreed upon later, or if the sites were developed independently. The subject application is

considered to represent an appropriate, independent built form on the site, and one that is also compatible with the development approved (but not yet constructed) at 326 Hume Highway. Despite being developed separately, these two developments would represent an appropriate built form outcome in the immediate precinct, and present an acceptable outcome in terms of streetscape when viewed from the Hume Hwy and still be read as a consistent, singular development.

It can be concluded that although site amalgamation was indeed feasible prior to the approval of the development at 326 Hume Highway, and that attempts were made to achieve a 'reasonable offer' in order to consolidate the sites, no reasonable agreement was able to be reached. The applicant has demonstrated that the subject site can be developed to achieve an appropriate urban form with an acceptable level of amenity, one that is appropriately consistent with the approved development on the site to the west. Based on this it is considered onerous to refuse the subject application based on further attempts to achieve lot consolidation, given the demonstrated isolation of the allotment and the appropriateness of the subject development in the context of the surrounding development.

The applicant has submitted a written request to vary the minimum lot size standard at Clause 4.1B(2)(b) of the BLEP 2015, pursuant to Clause 4.6 of the BLEP 2015. In accordance with the specific requirements of Clause 4.6(4) of the BLEP 2015, it is considered that the applicant's written request has adequately addressed the requirements of Clause 4.6(3) of the BLEP 2015, and the proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone. As such, it is considered that the consent authority may grant consent to the proposed development in this instance, despite the contravention of the development standard.

Draft environmental planning instruments [section 4.15(1)(a)(ii)]

There are no draft environmental planning instruments that are relevant to the proposed development.

Development control plans [section 4.15(1)(a)(iii)]

The following table provides a summary of the development application against the controls contained in Parts A2 and B5 of the Bankstown Development Control Plan 2015.

STANDARD	PROPOSED	BDCP 2015 Parts A2 and B5	
		REQUIRED	COMPLIANCE
Lot Consolidation	The proposed development does not include consolidation with any neighbouring property	The DCP provisions only apply if the subject site is consolidated with the neighbouring property to the east (No. 324 Hume Highway) and there would be no adverse effect on other land in the vicinity.	No – see below
Building height	3 storeys	2 storeys	No – see below
Hume Hwy buffer	5.5m	5m	Yes

STANDARD	PROPOSED	BDCP 2015 Parts A2 and B5	
		REQUIRED	COMPLIANCE
Hume Hwy setbacks	13.5m to dwellings 5.5m to commercial	20m to dwellings 5m to commercial	No – see below Yes
Davis Lane setbacks	4.2m to balcony 5m to building wall	10m	No – see below
Vehicle Access	From Davis Lane	From Davis Lane	Yes
Car Parking	16 residential spaces 13 commercial spaces 3 visitor spaces TOTAL – 32 spaces	1 space per 1-bed (1 x 8 = 8) 1.2 spaces per 2-bed (1.2 x 5 = 6) 1.5 spaces per 3-bed (1.5 x 1 = 2) 1 commercial per 40m ² (511/40 = 13) 1 visitor per 5 dwellings (14/5 = 3) Total required - 32 spaces	Yes

Lot consolidation

The issue of lot consolidation is linked to the issue of minimum lot size, which has been dealt with earlier in this report, under the assessment against the provisions of the BLEP 2015.

Given that lot consolidation is not proposed, a DCP height limit of two storeys applies. However, it has been demonstrated that the characteristics of the subject site facilitate an appropriate built form outcome, without the need to consolidate with the neighbouring property. The proposed development seeks variations to Council's setback controls, however these variations are driven by urban design and building envelope considerations, rather than deficient lot width or site area. Accordingly, and as demonstrated earlier in this report, it would be unreasonable to refuse development at the site, and a variation to the lot consolidation requirement of the DCP is warranted in this case.

Building Height

The DCP includes a plan that illustrates maximum heights and minimum setbacks for buildings within the development site. The building heights shown on this plan are expressed in storey limits, while the building heights stipulated in the BLEP 2015 are expressed in metres.

As noted above in the assessment against the BLEP 2015, the building proposed complies with the 11m height limit under Clause 4.3. Based on this, it is considered that the variation to the DCP limit of two storeys is worthy of support in this instance as, despite being three storeys in height, the development remains consistent with the bulk and scale envisaged by the height limit under the BLEP 2015.

Building setbacks

The DCP requires a minimum setback of 20m from the Hume Highway for any dwellings. The plans propose a setback of 13.5m when measured to the closest point of the dwelling for the two units that front the Hume Highway. The unit at first floor level is screened from the

Hume Highway by a large void space that sits above the commercial floor space below. As such, the non-compliance is numerical only for this unit, as it is not exposed to the Hume Hwy boundary. Regardless, the applicant has shown that there would be no amenity loss for residents of the development by way of acoustic or air quality considerations. Importantly, it has been demonstrated that the proposed setback to Hume Highway is comparable with a compliant 20m setback with regard to both air quality and acoustics.

The DCP plan also requires a minimum 10m setback to all buildings from Davis Lane (located at the rear of the site) to align with future development on the western side of Rookwood Road. The proposal provides a 5m setback to this boundary, with balconies encroaching to a setback of 4.2m. Despite the non-compliant setback, there are not expected to be any adverse or unreasonable impacts on the residential development located on the northern side of Davis Lane. The carriageway width for this laneway is generous, being approximately 13m kerb-to-kerb. There would be no overshadowing impacts given the orientation of the site, and overlooking would be no greater than that of a compliant development, albeit from a source that is closer than what the DCP allows.

Planning agreements [section 4.15(1)(a)(iia)]

There are no planning agreements applicable to the proposed development.

The regulations [section 4.15(1)(a)(iv)]

The proposed development is not inconsistent with the relevant provisions of the Environmental Planning and Assessment Regulation, 2000.

The likely impacts of the development [section 4.15(1)(b)]

As discussed in this report, the proposed development is acceptable with regard to its likely environmental, social and economic impacts on the locality.

Suitability of the site [section 4.15(1)(c)]

The proposed development is permitted with consent at the subject site. The proposed variations to the minimum allotment size and setbacks are acceptable in the context of the development and, despite the failure to consolidate with the neighbouring property, the proposal represents an appropriate built form outcome.

Submissions [section 4.15(1)(d)]

The application was advertised and notified for a period of 21 days, from 1 to 21 February 2017. One submission was received during this period, which raised concerns relating to the failures to comply with the minimum lot size and maximum height restrictions permitted in the BLEP 2015.

Following the submission of amended plans, the application was again advertised and notified for a further period of 21 days, from 29 August to 18 September 2018. One submission was received during this period, from the same objector as the original submission, which raised concerns relating to the failure to comply with the minimum lot size restriction permitted in the BLEP 2015.

1. Lot Consolidation/Lot size standard

Objection: *The developer has not sought to amalgamate the lots to provide sufficient lot size for residential development, and does not deliver sufficient business and employment uses or help maintain the economic strength of the Rookwood Road Corridor.*

Comment: This matter has been discussed at length elsewhere in this report. Attempts have been made to amalgamate the sites, however a reasonable agreement has not been reached that satisfies both parties. The approval of a development on the adjoining site further reduces the incentive to consolidate, and arguably also reduces the need. The subject development includes 511m² of commercial floor space, which exceeds the 480m² of commercial floor space approved on the adjoining site, a site that is some three times larger than the subject site.

2. Height

Objection: *The height of the development must comply with both the 11m and two-storey height limit controls.*

Comment: This matter has been dealt with earlier in the report. The proposed building complies with the 11m height limit under Clause 4.3 of the BLEP 2015. Based on this, it is considered that the variation to the DCP limit of two storeys is worthy of support in this instance, as despite being three storeys in height, the development remains consistent with the bulk and scale envisaged by the height limit under the BLEP 2015.

3. SEPP 65 Objectives

Objection: *Context, neighbourhood character and built form and scale have not been satisfactorily addressed. A two storey height limit would be more appropriate for the site, given the adjoining development to the east is an open, undeveloped area of Bankstown North Public School.*

Comment: Had lot consolidation been achieved between 324 and 326 Hume Highway, the DCP envisaged a six storey building could have been proposed to the eastern boundary on the consolidated sites. In the context of such, the three storey building proposed represents an appropriate transition to the seven storey building approved (but not yet constructed) at 326 Hume Highway. The proposed development is considered to meet the objectives of SEPP 65.

The public interest [section 4.15(1)(e)]

Based on the assessment of the development application detailed in this report, it is considered that the approval of the proposed development does not contravene the public interest.

CONCLUSION

The Development Application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act, 1979, with specific regard given to State Environmental Planning Policy No. 55 – Remediation of Land, State Environmental Planning Policy (Building and Sustainability Index: BASIX) 2004, State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development and the Apartment Design Guide, the Bankstown Local Environmental Plan 2015 and the Bankstown Development Control Plan 2015.

The proposed development represents an appropriate built form for the site, particularly in the context of the development already approved on the adjoining site to the west. Relevant planning controls have been appropriately responded to and no significant or unresolved matters have been raised in public submissions. While the application fails to comply in regards to minimum allotment size and building setbacks, the variation to minimum allotment size is considered to be acceptable in this instance, and the building setback encroachments are minimal and are also considered to be acceptable in this instance, as detailed in this report.

Approval of this application would facilitate the development of a key site in the Rookwood Enterprise Zone, without having any unacceptable or unreasonable impacts on the surrounding locality.

RECOMMENDATION

It is recommended that the application be approved subject to the attached conditions.

CONDITIONS OF CONSENT

CONDITIONS OF CONSENT

- 1) The proposal shall comply with the conditions of Development Consent. A Construction Certificate shall not be issued until the plans and specifications meet the required technical standards and the conditions of this Development Consent are satisfied.
- 2) Development shall take place in accordance with Development Application No. DA-640/2016, submitted by design cubicle Pty Ltd, accompanied by plans listed in the table below, and affixed with Council's approval stamp, except where amended by the conditions contained in this approval.

Drawing No.	Title	Prepared by:	Issue:	Dated:
AP02	Location Plan	mosca pserras	D	08/06/2018
AP03	Plans	mosca pserras	E	16/11/2018
AP04	Elevations and Sections	mosca pserras	E	16/11/2018
AP05	Adaptable Units	mosca pserras	D	08/06/2018
SP03	Window & Door Schedule	mosca pserras	D	08/06/2018
SP05	Demolition Plan	mosca pserras	D	08/06/2018

The plans shall be amended to incorporate the following:

- a) Appropriate provision shall be made in the basement car parking areas to ensure that the residential and commercial sections of the basement are appropriately separated. Patrons in the commercial section of the basement must not be able to access any residential sections of the basement or the building.
 - b) Access to the lobby area from Davis Lane being provided via a lift, or a ramp with a gradient not exceeding 1:14 complying with AS 1428.1:2009.
- 3) The proposed development is on land adjacent to an arterial road. The approved buildings shall be erected to comply with the acoustic requirements of Clause 102(3) of State Environmental Planning Policy (Infrastructure) 2007, and the recommendations of the acoustic report submitted in support of this application, titled Acoustic DA Assessment, Report SYD2016-1086-R001C dated 13/12/2016, prepared by acouras consultancy. Evidence of compliance with such shall be submitted with the Construction Certificate Application. The Construction Certificate plans shall include all of the attenuation measures recommended in the Acoustics Report. The development shall be constructed to include all of the recommended attenuation measures and the acoustic consultant shall certify that all recommendations have been incorporated into the development prior to the issue of the Occupation Certificate.
- 4) The air quality report submitted in support of this application, prepared by SLR Consulting Pty Ltd, titled Air Quality Assessment 324 Hume Highway, Bankstown, Report 610.16966-L01-v1.0.docx dated 12 December 2016, and the conclusions/recommendations stated in the report form part of the development consent.

- 5) The contamination report submitted in support of this application, prepared by Ground Technologies Pty Ltd, Report GTE1012-Contamination Report dated 24 November 2016, and the recommendations stated in the report form part of the development consent.
- 6) No approval is granted or implied for the fitout or use of the commercial tenancy. Separate Development Consent for the fitout and use of the commercial floor space is required prior to occupation of that space.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

Prior to the release of a Construction Certificate the following conditions MUST be satisfied and nominated fees/contributions/bonds paid:

- 7) The Certifying Authority must ensure that any certified plans forming part of the Construction Certificate are not inconsistent with this Development Consent and accompanying plans.
- 8) Approval in accordance with Council's Tree Preservation Order (TPO) is granted for the removal of the following trees:
 - i. Any tree/s growing within the building footprint of the approved structures;
 - ii. Any tree/s where the base of the trunk of the tree is located within 3 metres of the external wall of an approved dwelling on the same property;
 - iii. Any declared noxious plant. The applicant, builder and all contractors are to ensure that all noxious plants are properly identified, controlled and/or removed on this site without injury or death of any protected plants;
 - iv. Any tree species listed under clause 2.4 of Bankstown Development Control Plan 2015 Part B11 – Tree Preservation Order;
 - v. Any of the following trees:

Tree Species		Location
(7) <i>Eucalyptus spp</i> , (Gum)		Eastern boundary of the premises adjoining the school grounds

All tree removal works must comply with the Amenity Tree Industry – Code of Practice, 1998 (Workcover, NSW). All other vegetation not specifically identified above, and protected by Councils Tree Preservation Order, is to be retained and protected from construction damage and pruning. The Tree Preservation Order protects trees over 5m in height. Separate approval shall be obtained to prune or remove trees on adjoining properties or other trees located on the site. Failure to comply with Council's TPO may result in a fine of up to \$100,000.

- 9) A detailed landscape plan prepared by a qualified landscape architect or designer is to be approved prior to the issue of a Construction Certificate, and shall generally be in accordance with the concept landscape plans L-01/2 and L-02/2 issue no. C dated 11.07.18 prepared by Ray Fuggle and Associates. The landscape plan is to be prepared in accordance with the relevant DCP and is to show all features, built structures including retaining walls, irrigation, mulch and natural features such as significant gardens, landscaping, trees, natural drainage

lines and rock outcrops that occur within 3 metres of the site boundary. The landscape plan shall consider any stormwater, hydraulic or overland flow design issues where relevant. The landscape plan shall make provision for the following:

a) On-site Planting

- i. Tree species used are not to include conifers, Casuarinaceae, palms or any of the exempted species listed under clause 2.4 of Bankstown Development Control Plan 2015 Part B11 – Tree Preservation Order.
- ii. The trees shall have a container size not less than 100 litres, shall comply with NATSPEC Specifying Trees: a guide to assessment of tree quality (2003) or Australian Standard AS 2303 – 2015 Tree stock for landscape use, and be planted and maintained in accordance with Councils standard specification.

b) Nature Strip Planting

- i. To compensate for the loss of advanced trees on the site, the landscape plan shall make provision for off-set street tree planting on the Councils nature strip. The trees are to be planted forward of the premises, as outlined below:

Tree Species	Location 324 Hume Highway
2 x <i>Tristania laurina</i> luscious, (<i>Water gum</i>); or 2x <i>Lagerstroemia indica</i> 'Natchez' (Dwarf Crepe Myrtle) or similar cultivar	The trees are to be planted 4.0 metres from any electricity pole and 1.5 metres from the kerb and gutter.

- ii. The trees shall have a container size not less than 200 litres, shall comply with NATSPEC Specifying Trees: a guide to assessment of tree quality (2003), or Australian Standard AS 2303 – 2015 Tree stock for landscape use, and be planted and maintained in accordance with Councils street tree planting specifications Standard Drawing No. S-201.
- 10) A soil erosion and sediment control plan must be prepared by a suitably qualified professional, in accordance with the Bankstown Demolition and Construction Guidelines and Council's Development Engineering Standards, and submitted to the certifying authority for approval prior to the issue of a construction certificate.
 - 11) The Council Approved building plans, including demolition plans, must be submitted to Sydney Water for assessment. This will determine if the proposed structure(s) would affect any Sydney Water infrastructure or if there are additional requirements. Building plan approvals can be submitted online via Sydney Water Tap in™.

Please refer to www.sydneywater.com.au/tapin

For Sydney Water's Guidelines for building over or next to assets, visit www.sydneywater.com.au 'Plumbing, building & developing' then 'Building Plan Approvals' or call 13000 TAPIN.

Prior to release of a construction certificate Sydney Water must issue either a Building Plan Assessment letter which states that your application is approved, or the appropriate plans must be stamped by a Water Servicing Coordinator.

- 12) A Construction Certificate shall not be issued until written proof that all bonds, fees and/or contributions as required by this consent have been paid to the applicable authority.
- 13) A long service levy payment which is 0.35% of the total cost of the work is to be paid to the Building and Construction Industry Long Service Payments Corporation.
- 14) Pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979, and the Bankstown City Council Section 94A Development Contributions Plan 2009 (Section 94A Plan), a contribution of \$73,590.00 shall be paid to Council.

The amount to be paid is to be adjusted at the time of actual payment, in accordance with the provisions of the Section 94A plan. The contribution is to be paid before the issue of the construction certificate.

Note: The Section 94A Contributions Plans may be inspected at Council's Customer Service Centre, located at Upper Ground Floor, Civic Tower, 66-72 Rickard Road, Bankstown, between the hours of 8.30am-5.00pm Monday to Friday.

- 15) The development is to be carried out in accordance with the commitments shown on the BASIX Certificate. The BASIX commitments approved with this Development Application are to be reflected in the Construction Certificate plans and specifications. Any proposed changes to the BASIX commitments after the Construction Certificate has been issued will require an updated BASIX Certificate and a new Construction Certificate.
- 16) A Construction Certificate shall not be issued until design verification from a qualified designer has been received. The design verification is a statement in which the qualified designer verifies that the plans and specifications achieve or improve the design quality of the development of which Development Consent was granted, having regard to the design quality principles set out in Schedule 1 of SEPP No. 65.
- 17) Finished surface levels of all internal works and at the street boundary, including driveways, landscaping and drainage structures, must be as shown on the approved plans. The levels at the street boundary must be consistent with the Street Boundary Alignment Levels issued by Council.
- 18) A Work Permit shall be applied for and obtained from Council for the following engineering works in front of the site, at the applicant's expense:
 - a) A heavy duty VFC at the property boundary to Davis Lane.
 - b) Drainage connection to Council's system.
 - c) Concrete kerb and gutter along the entire frontage to Davis Lane.
 - d) Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs.
 - e) Repair of any damage to the public road including the footway occurring during development works.

- f) Reinstatement of the footway reserve and adjustment or relocation of existing public utility services to match the footway design levels as proposed on the approved Work Permit. Adjustment or relocation to any public utility services shall be carried out to the requirements of the public utility authority.

Note: As a site survey and design is required to be prepared by Council in order to determine the necessary information, payment for the Work Permit should be made at least 21 days prior to the information being required and must be approved prior to the issue of the Construction Certificate.

- 19) Stormwater drainage from the development shall be designed so as to comply with Council's Development Engineering Standards and the requirements of the BASIX Certificate. A final detailed stormwater drainage and on site detention system plan shall be prepared by a qualified Professional Civil Engineer in accordance with the above requirements and shall generally be in accordance with the concept stormwater plans Job No. 16NL272, DWG Nos. D00, D02 & D04 all Rev B dated 19-20/04/2018, and D01 & D03 both Rev D dated 12/07/2018, prepared by LOKA Consulting Engineers. The final plan shall be certified by the design engineer that it complies with Council's Development Engineering Standards, the BASIX Certificate and the relevant Australian Standards.
- 20) The pump out drainage system for the access ramp and basement car parking area shall be provided in accordance with Council's Development Engineering Standards. Engineering details and specifications shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of any Construction Certificate.
- 21) Engineering details and manufacturers specifications for the pumps, switching system and sump pit shall be submitted to the Principal Certifying Authority (PCA) for approval prior to issue of any Construction Certificate.
- 22) Where Council approved cut or fill exceeds 200mm and stable batter of 1 vertical to 3 horizontal maximum grade cannot be achieved, then a masonry or other proprietary material retaining wall, intended and suitable for that purpose, shall be constructed within the development site. Note, filling of the site needs specific approval from Council.

The retaining wall shall be located so that it will not impede or obstruct the natural flow of stormwater. Retaining walls exceeding 600mm in height shall be designed by a qualified professional Civil/Structural Engineer. Plans and details prepared and signed by the Engineer are to be submitted to the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate.

All works associated with the construction of the wall, including backfilling and drainage, is to be located wholly within the allotment boundaries.

- 23) An all-weather pavement shall be designed to withstand the anticipated wheel loads for all areas subjected to vehicular movements. Internal pavements specification prepared and certified by all qualified professional Civil Engineer to comply with the relevant Australian Standards, shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of a construction certificate.

- 24) For internal driveways with a gradient exceeding 10% (1 in 10), longitudinal profiles of all vehicular driveways and ramps shall be submitted for approval by the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate. The maximum grade of the driveway/ramp shall not exceed 25% and shall comply with AS 2890.1. The profile shall be drawn at a reduction ratio of 1 to 25 vertical and horizontal and shall be related to the datum used for the issue of the footway design levels and shall also show the road centre line levels, Council issued footway design levels and gutter levels. Council's Car Clearance Profile in Council's Development Engineering Standards, (Plan No. S 006) shall be used to design the profile.
- 25) The basement of the development is located adjacent to a Council Public Road Reserve. Separate approval and Work Permit is to be obtained from Council for any temporary or permanent anchoring works under Council's Public Road.
- 26) The Construction Certificate plans shall include details of the residential garbage receptacle area. The residential garbage receptacle area shall not be visible from the street. The garbage receptacle area shall be located within the building and screened from the street by dense landscaping. The area should be signposted "Waste & Recycling" on the entrance doors, and the door and pathway from the waste storage room to the collection point must be at least 2500mm in width.
- 27) Prior to the issue of any Construction Certificate for this development, the applicant must obtain approval from Council's Traffic Section for a Site, Pedestrian and Traffic Management Plan (SPTMP). This Plan must address the measures that will be implemented for pedestrian safety and traffic management as specified below.

A PRIVATE CERTIFIER CANNOT APPROVE YOUR SITE, PEDESTRIAN & TRAFFIC MANAGEMENT PLAN

This plan shall include details of the following:

- a) Proposed ingress and egress points for vehicles to and from the construction site;
- b) Proposed protection of pedestrians, adjacent to the construction site;
- c) Proposed pedestrian management whilst vehicles are entering/exiting the construction site;
- d) Proposed method of loading and unloading excavation machines, building material, construction materials and waste containers during the construction period;
- e) Proposed traffic control measures such as advanced warning signs, barricades, warning lights, after hours contact numbers etc. are required to be displayed and shall be in accordance with Council's and the NSW Roads and Maritime Services requirements and AS1742.3.
- f) Proposed route for transportation of bulk and excavation materials to and from the development site.

The route for transportation to and from the development site of bulk and excavation materials shall generally be by the shortest possible route to the nearest "State Road" via "Regional Roads", with every effort to avoid school zones on public roads. Alternate longer routes will only be considered in order to bypass school zones during school zone hours. If school zones cannot be avoided **no heavy construction vehicle**

movements are to arrive or depart the site during signposted school zone periods 8:00am - 9:30am and 2:30pm - 4:00pm on school days.

An Agreement to Council's satisfaction, signed by the applicant/owner specifying the approved route and acknowledging responsibility to pay Council to rectify damages to public property adjacent to the site as a consequence of building works shall be lodged with Council prior to release of any Construction Certificate. Damage will be rectified as required by Council to remove unsafe conditions. All damage must be rectified upon completion of work to the satisfaction of Council.

The approved Site, Pedestrian and Traffic Management Plan is to be implemented prior to the commencement of any works on the construction site.

In addition a RMS Approval / Road Occupancy Licence will be required for works on Regional or State Roads or within 100m of a traffic facility including roundabouts and traffic signals. Refer to Council's Development Engineering Standards for a list of Regional and State Roads.

- 28) Prior to the issue of any Construction Certificate for this development, the Principal Certifying Authority must approve a Site Operations Management Plan (SOMP). This Plan must address the measures that will be implemented for the ongoing management of operations on and around the construction site, the protection of adjoining properties, and other requirements as specified below.

This plan shall include details of the following:

- a) Proposed hoardings, scaffolding and/or fencing to secure the construction site;
- b) Proposed measures to be implemented, under the separately approved Works Permit issued by Council, for the protection of all public roads and footway areas surrounding the construction site from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like;
- c) Proposed method of support of any excavation, adjacent to adjoining buildings or the public road. The proposed method of support is to be certified by a Civil Engineer with National Professional Engineering Registration (NPER) in the construction of civil works.
- d) Proposed measures to be implemented in order to ensure that no soil/excavated material is transported on wheels or tracks of vehicles or plant and deposited on the public road.
- e) Proposed measures for protection of the environment, according to the relevant provisions of the Protection of Environment Operations (POEO) Act, 1997 including procedures to control environmental impacts of work e.g. sediment control, proper removal, disposal or recycling of waste materials, protection of vegetation and control/prevention of pollution i.e. water, air noise, land pollution.

A number of the above matters may require separate approval from Council, particularly those relating to works on or adjacent to Council property. These may be covered by separate conditions of consent contained in this Determination Notice. Appropriate approvals will need to be obtained prior to the approval of this plan.

The approved Site Operations Management Plan is to be implemented prior to the commencement of any works on the site, and an approved copy provided to Council for information. Ongoing compliance with the matters detailed in the SOMP shall be monitored by the appointed Principal Certifying Authority.

- 29) As any works within, or use of, the footway or public road for construction purposes requires separate Council approval under Section 138 of the Roads Act 1993 and/or Section 68 of the Local Government Act 1993, Council requires that prior to any Construction Certificate for this development being issued, a Works Permit and or a Roadway/Footpath Building Occupation Permit shall be obtained where one or more of the following will occur, within, on or over the public footway or public road:

A PRIVATE CERTIFIER CANNOT ISSUE THESE PERMITS

WORKS REQUIRING A 'WORKS PERMIT'

- a) Dig up, disturb, or clear the surface of a public footway or public road,
- b) Remove or interfere with a structure or tree (or any other vegetation) on a public footway or public road,
- c) Connect a road (whether public or private) to a classified road,
- d) Undertake footway, paving, vehicular crossing (driveway), landscaping or stormwater drainage works within a public footway or public road,
- e) Install utilities in, under or over a public road,
- f) Pump water into a public footway or public road from any land adjoining the public road,
- g) Erect a structure or carry out a work in, on or over a public road
- h) Require a work zone on the public road for the unloading and or loading of vehicles
- i) Pump concrete from within a public road,
- j) Stand a mobile crane within a public road
- k) Store waste and recycling containers, skips, bins and/or building materials on any part of the public road.
- l) The work is greater than \$25,000.
- m) Demolition is proposed.
- n) Subdivision is proposed.
- o) A Swimming pool is proposed.

Assessment of Works Permits (a to e) includes the preparation of footway design levels, vehicular crossing plans, dilapidation reports and issue of a Road Opening Permit.

All proposed works within the public road and footway shall be constructed under the supervision and to the satisfaction of Council. The applicant/developer shall arrange for necessary inspections by Council whilst the work is in progress.

For commercial or multi-unit residential developments within the designated CBD or an urban village area, footway design and construction and street tree supply, installation and tree hole detailing shall be as per the Council master plan for that area. Full width footways are to be supplied and installed at full cost to the developer to specification as supplied by Council. Layout plan of pavement to be submitted to Council for approval prior to the issue of the Works Permit.

All Council fees applicable, minimum restoration charges and inspection fees shall be paid prior to the assessment of the Work Permit in accordance with Council's adopted fees and charges. Note: Additional fees after approval will be charged where the Work Permit requires occupation of the Road or Footpath i.e. Hoardings, Work Zones etc.

In determining a Works Permit, Council can impose conditions and require inspections by Council Officers.

Forms can be obtained from Council's Customer Service counter located on the ground floor of Council's administration building at 66 - 72 Rickard Road, Bankstown or Council's website www.bankstown.nsw.gov.au

Part of any approval will require the person or company carrying out the work to carry public liability insurance to a minimum value of ten million dollars. Proof of the policy is to be provided to Council prior to commencing any work approved by the Work Permit including the Road Opening Permit and must remain valid for the duration of the works.

The commencement of any works on public land, including the footway or public road, may incur an on the spot fine of not less than \$1100 per day that work continues without a Works Permit and/or a Roadway/Footpath Building Occupation Permit.

All conditions attached to the permit shall be strictly complied with prior to occupation of the development. Works non-conforming to Council's specification (includes quality of workmanship to Council's satisfaction) shall be rectified by the Council at the applicant's expense.

CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION

- 30) Prior to the commencement of works, a dilapidation report shall be prepared by the developer and a copy provided to directly adjoining property owners to the east and west of the subject site. The report must clearly identify the condition of existing structures on adjoining properties prior to the commencement of works. All care shall be taken during the construction process to ensure adjoining structures are protected, and should any change in condition occur from that recorded in the dilapidation report, the rectification of such shall be at full cost to the developer of the subject site.
- 31) The demolition of all structures currently existing on the properties must be undertaken, subject to strict compliance with the following: -
 - a) The developer is to notify adjoining residents seven working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of, and directly opposite the demolition site.
 - b) Written notice is to be given to Canterbury-Bankstown Council for inspection prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours and contact telephone number and licence number of the demolisher. The following building inspections shall be undertaken by Canterbury-Bankstown Council:

- (i) A *precommencement* inspection shall be carried out by Council when all the site works required as part of this consent are installed on the site and prior to demolition commencing.
- (ii) A *final* inspection shall be carried out by Council when the demolition works have been completed to ensure that the site is left in a satisfactory manner, in accordance with the conditions of this consent.

NOTE: Payment of an inspection fee at Council's current rate will be required prior to each inspection. Council requires 24 hours notice to carry out inspections. Arrangements for inspections can be made by phoning **9707 9410, 9707 9412 or 9707 9635**.

- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, license number, contact phone number and site address.
- d) Prior to demolition, the applicant must erect a 2.4m high temporary fence or hoarding between the work site and any public place. Access to the site shall be restricted to Authorised Persons Only and the site shall be secured against unauthorised entry when the building work is not in progress or the site is otherwise unoccupied. Where demolition is to occur within 3m of a public place a Work Permit application for the construction of a Class A or Class B hoarding shall be submitted to Council for approval.
- e) The demolition plans must be submitted to the appropriate Sydney Water Office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements. If the development complies with Sydney Water's requirements, the demolition plans will be stamped indicating that no further requirements are necessary.
- f) Demolition is to be carried out in accordance with the appropriate provisions of Australian Standard AS2601-2001.
- g) The hours of demolition work shall be limited to between 7.00am and 6.00pm on weekdays, 7.00am and 1.00pm on Saturdays and no work shall be carried out on Sundays and public holidays, and weekends (Saturdays and Sundays) adjacent to public holidays.
- h) Where materials containing asbestos cement are to be removed, demolition is to be carried out by licensed contractors who have current WorkCover Accreditation in asbestos removal.
- i) Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the NSW EPA 'Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes 2004'.

- j) Demolition procedures shall maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
 - k) During demolition, the public footway and public road shall be clear at all times and shall not be obstructed by any demolished material or vehicles. The public road and footway shall be swept (NOT hosed) clean of any material, including clay, soil and sand. (NOTE: If required, Council will clean the public road/footway at the applicant's expense). On the spot fines may be levied by Council against the demolisher and or owner for failure to comply with this condition.
 - l) All vehicles leaving the site with demolition materials shall have their loads covered and vehicles shall not track soil and other material onto the public roads and footways and the footway shall be suitably protected against damage when plant and vehicles access the site. All loading of vehicles with demolished materials shall occur on site.
 - m) The burning of any demolished material on site is not permitted and offenders will be prosecuted.
 - n) Care shall be taken during demolition to ensure that existing services on the site (i.e. sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services shall be repaired by the relevant authority at the applicant's expense.
 - o) Suitable erosion and sediment control measures shall be erected prior to the commencement of demolition works and shall be maintained at all times.
 - p) Prior to the demolition of any building constructed before 1970, a Work Plan shall be prepared and submitted to Council in accordance with Australian Standard AS2601-2001 by a person with suitable expertise and experience. The Work Plan shall outline the identification of any hazardous materials, including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- 32) The building / subdivision work in accordance with the development consent must not be commenced until:
- a) a construction certificate for the building / subdivision work has been issued by the council or an accredited certifier, and
 - b) the person having benefit of the development consent has:
 - i. appointed a principal certifying authority for the building / subdivision work, and
 - ii. notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
 - c) the person having the benefit of the development consent, if not carrying out the building work as an owner-builder, has:
 - i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and

- ii. notified the principal certifying authority of any such appointment, and
 - iii. unless the person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - d) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the building / subdivision work.
- 33) Existing trees within the vicinity of the construction works or paths of travel for construction vehicles accessing the development that are to be retained shall be protected with temporary fencing of a style non injurious to tree roots, placed 2m from the trunk base of the existing tree to prevent damage during construction, and retained in accordance with Council's Tree Preservation Order. There is to be no stockpiling of materials within the 2m fenced zone.
- 34) Suitable erosion and sediment control measures shall be erected in accordance with the plans accompanying the Construction Certificate prior to the commencement of construction works and shall be maintained at all times.
- 35) Council warning sign for Soil and Water Management must be displayed on the most prominent point of the site, visible to both the street and site works. The sign must be displayed throughout the construction period.
- 36) Prior to the commencement of work, the applicant must provide a temporary on-site toilet if access to existing toilets on site is not adequate.
- 37) A section 73 compliance certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Building and Developing > Developing your Land > Water Servicing Coordinator or telephone 13 20 92.

- 38) Prior to the commencement of work, a fence must be erected around the area of the works, except where an existing 1.8m high boundary fence is in good condition and is capable of securing the area. Any new fencing shall be temporary (such as cyclone wire) and at least 1.8m high. All fencing is to be maintained for the duration of construction to ensure that the work area is secured.
- Where the work is located within 3.6m of a public place then a Type A or Type B hoarding must be constructed appropriate to the works proposed. An application for a Work Permit for such hoarding must be submitted to Council for approval prior to the commencement of work.
- 39) A sign shall be displayed on the site indicating the name of the person responsible for the site and a telephone number of which that person can be contacted during and outside normal working hours or when the site is unattended.

- 40) In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of the Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- 41) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
- a) in the case of work for which a principal certifying is required to be appointed:
 - i. the name and licence number of the principal contractor, and
 - ii. the name of the insurer by which the work is insured under Part 6 of the Act,
 - b) in the case of work to be done by an owner-builder:
 - i. the name of the owner-builder, and
 - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

- 42) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

CONDITIONS TO BE SATISFIED DURING CONSTRUCTION

- 43) The hours of site works shall be limited to between 7.00am and 6.00pm on weekdays and 7.00am and 1.00pm on Saturdays. No work shall be carried out on Sundays and public holidays, and weekends (Saturdays and Sundays) adjacent to public holidays.

- 44) The building work must be carried out in accordance with the requirements of the Building Code of Australia.
- 45) Prior to the ground floor slab being poured, an identification report by a Registered Surveyor must be submitted to the principal certifying authority verifying that the proposed buildings finished ground floor level and siting to the property boundaries conforms to the approved plans.
- 46) All Civil and Hydraulic engineering works on site must be carried out in accordance with Council's Development Engineering Standards. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.
- 47) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 48) If soil conditions require it, retaining walls or other approved methods of preventing movement of the soil must be provided, and adequate provisions must be made for drainage. Separate approval may be required for retaining walls should they be required.
- 49) If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - a) protect and support the adjoining premises from possible damage from the excavation, and
 - b) where necessary, underpin the adjoining premises to prevent any such damage.
- 50) Where boundary fencing is necessary, existing boundary fencing shall be replaced by a 1.8m high lapped and capped timber or sheet metal fence, or as stipulated in a flood study prepared for the site, or as determined in consultation with the adjoining property owners at the developer's expense.
- 51) The stormwater drainage system shall be constructed in accordance with Council's Development Engineering Standards and the engineering plans and details approved by the Principal Certifying Authority (PCA). Should the developer encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, the developer must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at the developer's expense.
- 52) The wastewater from the car wash bay shall be collected and disposed of, in accordance with the requirements contained in Council's Development Engineering Standards.
- 53) Prior to the commencement of work, the builder shall prepare a photographic record of the road reserve which clearly shows its condition prior to works occurring on site. For the entirety of demolition, subdivision or construction works, there shall be no stockpiling of building spoil, materials, or storage of equipment on the public road, including the footway and the road reserve shall be maintained in a safe condition at all times. No work shall be

carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.

- 54) If unexpected soil contaminants are unearthed during excavation and/or construction works, which has the potential to alter previous conclusions made regarding potential site contamination; all work is to cease and Council notified immediately.

The contaminated land situation is to then be evaluated by a suitably qualified and experienced environmental consultant and an appropriate response determined by the applicant and/or owner, which is agreed to by Council, prior to the re-commencement of works.

Any new information which comes to light during works which has the potential to alter previous conclusions about site contamination, shall be notified to Council immediately.

CONDITIONS TO BE SATISFIED PRIOR TO OCCUPATION

- 55) The occupation or use of the building must not be commenced unless an occupation certificate has been issued for the building.
- 56) A final Occupation Certificate shall not be issued until all conditions relating to demolition, construction and site works of this development consent are satisfied and Council has issued a Work Permit Compliance Certificate.
- 57) Prior to the issue of any Occupation Certificate a design verification from a qualified designer shall be submitted to the Principal Certifying Authority. The design verification is a statement in which the qualified designer verifies that the development has been constructed as shown in the plans and specifications in respect of which the Construction Certificate was issued, having regard to the design quality principles set out in Schedule 1 of SEPP No. 65.
- 58) A minimum of thirty-two (32) off-street car spaces being provided in accordance with the submitted plans. This shall comprise a minimum of:

Sixteen (16) residential spaces
Three (3) residential visitor spaces
Thirteen (13) commercial spaces

An appropriate number of the above car parking spaces are to be provided for people with mobility impairment in accordance with AS 2890.1, including one space being provided for the use by the occupants of the commercial tenancy complying with AS/NZS 2890.6: 2009.

All car parking spaces shall be allocated and marked according to these requirements.

- 59) Landscaping is to be installed in accordance with the approved landscape plan. All works and methods nominated and materials and plants specified on the approved landscape plan are to be completed prior to the issue of an occupation certificate.

For planting in Council's nature strip, investigation to locate underground services shall be the responsibility of the applicant. Should such services be located and there is a reasonable belief that damage may occur to those services by the new planting, the applicant is to:

- a) Carry out engineering works to protect those services from damage; or
- b) Relocate the plantings to a more suitable location following written approval from Bankstown City Council; or
- c) Substitute the approved tree species with an alternative species following written approval from Bankstown City Council.

The street trees shall be planted to the satisfaction of Councils Tree Management Officer. The Applicant shall contact Councils Tree Management Officer to arrange for a site inspection of the completed tree planting prior to the issue of an occupation certificate.

The landscaping shall be maintained for the life of the development.

- 60) A suitably qualified Professional Civil Engineer shall certify that the driveways, parking bays, and service areas have been constructed in accordance with the approved plans and specifications. Such Certification shall be submitted prior to the issue of the Occupation Certificate or occupation of the site.
- 61) Lighting must be provided to the entries of the dwellings, driveways and parking areas to promote a high level of safety and security at night and during periods of low light. Lighting provided should be hooded, shielded or directed away from neighbouring dwellings to minimise glare and associated nuisances to residents.
- 62) The premises must be readily identified from the street with the allocated house numbers. Numbering of the development without Council's written approval is not permitted. An official "house numbering" letter will be sent to the applicant indicating the proposed house numbers of the new development. Note: The house numbers of the development are subject to change depending of the type on subdivision that may occur at a later stage.
- 63) The Section 73 compliance certificate under the Sydney Water Act 1994 must be submitted to the principal certifying authority before occupation of the development / release of the plan of subdivision.
- 64) A Copy of the Work Permit Compliance Certificate shall be submitted to the PCA Prior to the issue of the Occupation Certificate.
- 65) Prior to the issue of any Occupation Certificate, verification from a qualified acoustic engineer shall be submitted to the Principal Certifying Authority to verify that the development complies with the requirements of Condition 3 of this development consent, and that any measures required to be installed to comply with the requirements of that condition, have been installed.
- 66) A registered surveyor shall prepare a Work As Executed Plan, and a suitably qualified Hydraulic Engineer shall provide certification of the constructed on-site stormwater detention system.

The Work As Executed information shall be shown in red on a copy of the approved stormwater plan and shall include all information specified in Council's Development Engineering Standards. The Work As Executed plan shall be submitted to the Hydraulic Engineer prior to certification of the on-site stormwater detention system.

The engineer's certification of the on-site stormwater detention system should be carried out similar to Council's standard form "On-Site Stormwater Detention System - Certificate of Compliance", contained in Council's Development Engineering Standards.

A copy of the Work As Executed Plan and Hydraulic Engineer's Certification shall be submitted to Council for information prior to issue of the final occupation certificate.

- 67) The developer shall register, on the title of the subject property, a Restriction on the Use of Land and Positive Covenant, in accordance with the standard terms for "Registration of OSD on title", as outlined in Council's Development Engineering Standards and in accordance with the appropriate provisions of the Conveyancing Act.

Note: The location of the "On-Site Stormwater Detention System" shall be included on an A4-sized site plan attached to the Section 88E Instrument and registered on the title prior to the issue of the final occupation certificate.

The developer shall submit to Council evidence of the final registration of the Restriction and Positive Covenant on the title of the property.

ONGOING CONDITIONS

- 68) The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations.

In this regard, the operation of the premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background $L_{A90, 15min}$ noise level, measured in the absence of the noise source/s under consideration by 5dB(A). The source noise level shall be assessed as an $L_{Aeq, 15min}$ and adjusted in accordance with the NSW Environment Protection Authority's Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance).

- 69) The use of the premises shall not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and Regulations. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage other premises.
- 70) Any activity carried out in accordance with this approval shall not give rise to offensive odour, offensive noise or pollution of air, land or water as defined in the Protection of the Environment Operations Act 1997.

-END-

Canterbury Bankstown Local Planning Panel - 3 December 2018

ITEM 2	88-98 Fairford Road, Padstow Re-configuration of driveway access from Fairford Road, construction of traffic signals, join existing traffic islands to the north and south of Bryant Street to restrict vehicular access and egress to left in/left out from the east and west side of Bryant Street, and earthworks to facilitate the construction of a new single storey warehouse (Masters Home Improvement), new bulky goods building consisting of two tenancies, associated car park, landscaping and drainage works. Section 4.55(2) Proposal: Modify approved Masters Home Improvement and Bulky Goods Tenancies to accommodate a Bunnings Warehouse. Modifications include a change in the development description to construction and use of a hardware and building supplies development including car parking, traffic lights, earthworks, road works, landscaping and business identification signage, reconfiguration of buildings on site, increase in gross floor area, reduction in car parking, modified vehicle access arrangements and modifications to landscaping.
FILE	DA-1145/2013/2 - Revesby Ward
ZONING	IN2 Light Industrial
DATE OF LODGEMENT	11 July 2018
APPLICANT	Padstow Spotlight Property 2 Pty Ltd
OWNERS	Padstow Spotlight Property 2 Pty Ltd
ESTIMATED VALUE	\$23,157,000.00
AUTHOR	Development Services

REPORT

Development Application DA-1145/2013 was determined by Council at its meeting on 16 September 2014. The modification application made under Section 4.55(2) of the *Environmental Planning and Assessment Act, 1979*, is therefore reported to the Canterbury-Bankstown Local Planning Panel for determination.

On 16 September 2014, Council approved DA-1145/2013 on a deferred commencement basis for a proposed single level home improvement centre (known as Masters Home Improvement) with separate bulky goods tenancies, associated car parking, traffic lights, road works, earthworks, landscaping, drainage and advertising signage. There were a number of variations supported by Council; of which related to the building setback, landscaping and signage.

The deferred commencement matters that were required to be satisfied prior to the issue of an operational consent included the following:

- The site to be remediated;
- The requirement for a Site Audit Statement to be prepared by a NSW EPA Accredited Site Auditor that certifies that the site is suitable for the proposed use, subject to the implementation of a long term Site Management Plan, also known as an Environmental Management Plan;
- Final approval to be obtained from NSW Roads and Maritime Services (RMS) for the provision of no right turn signage at the intersection of Fairford Road and Bryant Street or a concrete median extension in Fairford Road across the intersection of Fairford Road and Bryant Street;
- The driveways to be redesigned in a manner that would permit customer access but prevent vehicles not associated with the business from using the site as a link between Bryant Street and Fairford Road.

On 9 September 2016, Council determined DA-1145/2013/1 made under Section 4.55(1A) of the *Environmental Planning and Assessment Act, 1979*, which involved the extension of the lapsing period of the deferred commencement consent by one year.

On 16 September 2017, an operational consent was issued by Council, as the deferred commencement conditions were satisfied by the applicant.

The subject modification application seeks consent under Section 4.55(2) of the *Environmental Planning and Assessment Act, 1979*, for modifications to the approved Masters development involving a reconfiguration of the building and car parking on the site with ancillary site and landscaping works. The modified development seeks to refine the overall layout design in order to accommodate the new landowners and meet the needs of the future tenant; a hardware and building supplies store known as Bunnings.

The proposed modifications under DA-1145/2013/2 have been assessed in accordance with the provisions of Section 4.55(2) and Section 4.15 of the *Environmental Planning and Assessment Act, 1979*, which includes, amongst other things, an assessment against the following:

- *State Environmental Planning Policy No. 55- Remediation of Land*;
- *State Environmental Planning Policy (Infrastructure) 2007*;

- *State Environmental Planning Policy (Coastal Management) 2018;*
- *Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment (a deemed SEPP);*
- *Bankstown Local Environmental Plan 2015 (LEP); and*
- *Bankstown Development Control Plan 2015 (DCP).*

The modifications proposed under DA-1145/2013/2 comply with the relevant legislative and statutory requirements, however the proposed development fails to comply with the industrial development controls under Part B3 of the Bankstown DCP 2015, with respect to the building setback, landscape depth and signage provisions.

The modification application was advertised for a period of 21 days commencing 1 August 2018 and concluding 21 August 2018. During the exhibition period, a total of ten submissions were received all of which objected to the modification application. The fundamental concern raised in each submission relates to the no right turn restrictions at the Fairford Road / Bryant Street intersection that RMS require (of which forms part of the deferred commencement conditions under DA-1145/2013), and the disruption this may potentially have on the day to day operations of the businesses in Bryant Street. In subsequent advice from RMS, which was received during the assessment of the modification application, the no right turn prohibitions initially requested are no longer an RMS requirement. Therefore, with the relinquishment of the no right turn prohibitions, the concerns raised by the objectors are considered to be addressed.

In summary, the development, as proposed to be modified, is considered to be in the public interest. The proposed building presents the orderly economic redevelopment of the site with a use that is appropriate to its context and compatible with the desired future character of the area. It is therefore recommended that the modification application under DA-1145/2013/2 be approved.

POLICY IMPACT

There are no major policy implications as a result of this matter. Whilst there are a number of variations to Council's policy controls, they are minor in nature given the context of the site and for a development of this nature and scale. As such, the implications for the consistent application of Council's policies is limited.

FINANCIAL IMPACT

Approval of this modification application will have no direct financial implications for Council. All costs associated with road works and other requirements that follow from the issue of an approval, are to be borne by the developer.

RECOMMENDATION

It is recommended that the modification application made under Section 4.55(2) of the *Environmental Planning and Assessment Act, 1979*, be approved subject to the conditions of Determination Notice DA-1145/2013, being either modified, deleted or supplementary conditions included as per Attachment B.

ATTACHMENTS

- A. Assessment Report
- B. Conditions of Consent

DA-1145/2013/2 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject development site is currently zoned IN2 Light Industrial under the provisions of Bankstown LEP 2015 and is legally described as Lot 2 and Lot 3 in DP 814242, Nos. 88 – 98 Fairford Road, Padstow. Together, the sites form an irregular shaped allotment with a total site area of approximately 42,445sqm. The development site is situated on the south-eastern corner of Fairford Road and Bryant Street. It has a west facing primary frontage to Fairford Road comprising a length of approximately 161 metres (across Lot 2 and Lot 3) and a north facing secondary frontage to Bryant Street with a length of 287 metres (including the splay corner). The site has a fall of approximately 12 metres from the south-west of the site to the north-east. The surface level of Fairford Road (ranging from approximately RL17.35 to RL17.10) is significantly higher compared to that of the site (RL14.20) with up to a 3 metre difference in levels. Vehicular access to the site is currently provided from Bryant Street.



Fairford Road is a state classified road and a major vehicle thoroughfare. The site is situated within an established industrial pocket with the closest residential zone located approximately 520m to the west and 270m to the south of the site. The surrounding area

within close proximity to the site consists of various industrial type developments and land uses. Bryant Street, which forms the northern boundary of the site, has been developed for industrial units and currently occupies industrial uses, offices and businesses. The Bryant Street road reservation extends in an east-west direction from Fairford Road to Salt Pan Creek. However, the formed section of road only extends approximately halfway along the subject site, where it terminates in a cul-de-sac bulb. Beyond the northern boundary of the industrial properties in Bryant Street is the M5 Motorway corridor; located 100 metres to the north of the site.

Immediately adjoining the site to the south is industrial land used for metal processing and manufacturing. Opposite the site to the west on Fairford Road is an engineering steel fabricator and manufacturer. Vacant land immediately adjoining the site to the east extends eastward to the Salt Pan Creek Reserve, which is located approximately 144 metres east of the site. Developments and uses beyond those that immediately adjoin the subject site are similar in nature to these adjoining land uses mentioned.

A bus stop currently exists on Fairford Road in front of the subject site. A number of established street trees line the road verge along Fairford Road and Bryant Street adjacent to the sites boundaries. The development site is currently vacant, with demolition works recently undertaken to remove all structures that existed on the site. Scattered vegetation exists throughout the site, none of which is considered significant from an ecological perspective.

SITE HISTORY

The recent demolition works included the removal of a number of large industrial buildings such as chemical warehouses, associated structures and hardstand areas. Due to the nature of the historical uses on the site, the land was identified as heavily contaminated and various remediation works were undertaken to allow the site to be suitable for future industrial / commercial occupation.

A portion of the site at the far eastern end, comprising an area of 5,394sqm, is a 'cap and contain' area where the contaminants that occupied the site have been contained and sealed.

LAND CONTAMINATION

As part of the original development application, a soil contamination assessment was undertaken that identified contamination present within onsite soils. A Remediation Action Plan (RAP) was prepared for the site by AECOM dated 11 June 2015. A suitable remedial option that the RAP identified was onsite containment. Remedial works were subsequently completed in accordance with the RAP and an Environmental Management Plan was produced for the purpose of managing stored contaminated soils onsite. The Environmental Management Plan was incorporated within a Site Audit Statement dated 27 September 2016, which stated that the site was suitable as an industrial / commercial development subject to compliance with the Environmental Management Plan. Six monthly site inspections are required to be undertaken of the stored contaminated soils; Council has been issued with two inspections that have been conducted to date (March and September 2018). The visual

inspections are required to evaluate the condition of the overlying capping materials as specified in the Environmental Management Plan. The visual inspections revealed that the integrity of the cap has been compromised involving erosion and cracking, which will require reinstatement in order to allow the site to remain suitable for occupation. An Environmental Consultant has been engaged to provide recommendations for the appropriate reinstatement of the cell cap area.

The applicant will be required to undertake the necessary rectification works, in order to allow the site to remain suitable for the intended use. These rectification works do not form part of the modification application, rather it is a matter to be addressed separately.

PROPOSED DEVELOPMENT

This modification application is submitted under the provisions of Section 4.55(2) of the *Environmental Planning and Assessment Act, 1979*. The application seeks to amend Determination Notice No. DA-1145/2013, which includes modifying the development description, deleting the smaller tenancies, reconfiguring the main building on the site, increasing the gross floor area, reducing car parking spaces, modifying vehicle access arrangements and adjusting the landscaping for the site to accommodate the new revised development.

The development description is to be amended as follows:

“construction and use of a hardware and building supplies development including car parking, traffic lights, earthworks, road works, landscaping and business identification signage”

The ‘cap and contain’ area is situated at the far eastern end of the site, where the contaminants on the site have been contained and sealed, is not proposed to be used as part of the Bunnings development, rather it is to be fenced off so that access is not permitted into that portion of the site. No building activity or use will be undertaken in the containment cell cap area. This is consistent with the requirements of the Remediation Action Plan and Environmental Management Plan that relate to the site.

Specifically, DA-1145/2013/2 seeks the following modifications to the approved development:

- Increase the overall gross floor area from 15,325sqm to 16,958sqm, which is approximately an 11% increase, and comprises the following components:
 - Warehouse area 9,134sqm;
 - Main entry 84sqm;
 - Outdoor nursery 1,407sqm;
 - Bagged goods 1,688sqm;
 - Timber trade sales 3,280sqm;
 - Building materials and landscape yard 1,109sqm;
 - First floor 256sqm;
- Relocation of the main building from the eastern edge of the site to the northern boundary of the site;

- Re-orientation of the main building entrance fronting Fairford Road to the new internal access road along the southern side boundary;
- Relocation of signage zones;
- Deletion of the separate bulky goods tenancy in the south-west corner of the site;
- Relocation of the car park from the west of the site to the southern edge of the site;
- Re-adjusted boundary to accommodate bus stop relocation and entrance slip lane;
- Increased landscaping depth and landscape density to Fairford Road;
- Reduction in car parking spaces from 406 to 377 car spaces; including 8 accessible spaces;
- Change approved customer entry/exit point from Bryant Street to an entry point for delivery vehicles only and relocation of the two driveways west towards Fairford Road
- Customer vehicle entry to be from Fairford Road only;
- Deletion of the truck turning area next to the loading dock in the north-east corner of the site;
- Alterations to civil works and drainage commensurate with the amended built form and circulation layout;
- Along with the development description being amended to suit the changes involved, the following conditions under DA-1145/2013 are also proposed to be amended or deleted:
 - No. 2 – to be deleted, as there are no longer separate bulky goods tenancies in the south-western portion of the site proposed as part of the development.
 - No. 3 – to be modified, so that reference to ‘Masters Home Improvement Centre tenancy’ is deleted and replaced with the type of development proposed as defined under the BLEP 2015; being a *hardware and building supplies*.
 - No. 4 – supersede current approved plan references and replace with Section 4.55(2) plan references
 - No. 6 – to be modified to reflect details of the landscape plan as proposed under the Section 4.55(2) application, with the current reference to be deleted.
 - No. 11 – amend long service levy condition to reflect the revised cost of works.
 - No. 12 – amend Section 94 contribution condition to reflect the revised cost of works.
 - No. 13 – reword the condition to allow consolidation of the sites (lot 2 and Lot 3 in DP814242) to be registered prior to the issuing of the Occupation Certificate rather than prior to the release of the Construction Certificate.
 - No. 16 – to be modified to reflect details of the stormwater drainage plan as proposed under the Section 4.55(2) application, with the current reference to be deleted.
 - No. 19 – to be deleted; this condition relates to the requirement of a BASIX Certificate, which is not relevant to the type of development proposed. This condition was imposed in error.
 - No. 26 – to be modified in accordance with RMS concurrence letter dated 19 September 2018;
 - No. 32(a) – to be deleted; this condition relates to the requirement of an internal road connection between the driveway on Bryant Street and the

proposed signalised intersection on Fairford Road. With the access arrangement changes required to suit the modified development, this condition is no longer applicable.

- No. 59 – to be modified, to reflect the new number of car parking spaces proposed under the Section 4.55(2) modification application. The number of car spaces that this condition references is 406; the Section 4.55(2) modification application seeks to propose a total number of 377 car spaces for the development.
- No. 66 – to be modified in accordance with Council’s environmental health requirements;
- No. 67 – to be modified, to reflect the new number of car spaces provided for the development.
- No. 82 – to be modified, the last sentence of the condition is to be deleted, which relates to the illumination of the signage for the development.
- Deletion of the Roads and Maritime Services requirement (as stipulated under Condition No. 3 of Schedule A within Determination Notice DA-1145/2013) relating to the provision of the ‘no right turn’ signage or concrete median across the Fairford Road and Bryant Street intersection, in line with the advice provided by Roads and Maritime Services.

Trading hours are proposed to be 6am to 10pm, 7 days a week. A café is provided within the building and the fit out of this area will be subject to separate approval.

SECTION 4.55(2) ASSESSMENT – MODIFICATION OF CONSENTS

The proposed modifications to the approved development have been assessed pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act, 1979*. A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and***

The applicant has obtained legal advice stating that the modifications result in a development that is substantially the same development to that which was originally approved by Council. Council has accepted this legal advice and considers that the application, as modified, remains substantially the same development to that which consent was originally granted.

The proposed modifications to the development are not of an extent such that it would be considered dissimilar to the original approved design. Although the development has undergone design changes to suit the needs of the future tenant, the variations initially presented under the original application remain similar to that as proposed under the subject modification application. The development will remain as a hardware building

supplies store with the modified works involving a reconfiguration of the building and car park in order to suitably accommodate the future tenant.

The changes mainly relate to the reconfiguration of the building and car parking area, with the deletion of two additional tenancies. While landscaping is generally consistent with the original approved design, it has been substantially upgraded to improve the visual aesthetic appearance and streetscape presentation. Whilst the gross floor area of the modified development is increased compared to that originally approved, the floor space ratio remains compliant with the maximum FSR entitlements for the site. Overall, the development remains substantially the same development to that which was originally approved.

- (b) it has consulted with the relevant Minister, public authority or approval body 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***

Concurrence is required from RMS under Section 138 of the *Roads Act 1993* and *State Environmental Planning Policy (Infrastructure) 2007*, due to the road works required in Fairford Road. Under the original application, RMS provided conditions of consent which were included in the determination notice. RMS have also reviewed the changes made under the modification application and have raised no objection to the changes proposed, subject to the inclusion of conditions for any further approval granted.

- (c) the application has been notified in accordance with the regulations or a development control plan, and***

The modification application has been advertised in accordance with the notification requirements of the Bankstown DCP 2015. The application was advertised for a 21 day period with notification letters sent to adjoining land owners and also to industrial properties located in Bryant Street that are situated to the west of Fairford Road. The exhibition period commenced on 1 August 2018 and concluded on 21 August 2018.

- (d) consider any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan***

A total of ten submissions were received in response to the notification of the modification application. Each submission expressed concern in relation to the no right turn restrictions at the Fairford Road / Bryant Street intersection, which RMS have imposed under the original development approval.

The submissions claim that enforcing such road prohibitions at this intersection will result in detrimental disruptions to the operations of the current businesses in Bryant Street and be an interference to their daily functions.

A deferred commencement consent was granted on 16 September 2014, which included amongst other things, the requirement for final approval from RMS to be granted for the provision of no right turn signage at the intersection of Fairford Road and Bryant Street, or for a concrete median extension to be constructed in Fairford Road across the intersection with Bryant Street.

RMS provided an approval letter dated 9 January 2015 (after the deferred commencement consent was issued) which stated that:

1. *The right turn movement from Fairford Road into Bryant Street (west) is already prohibited. Right turn movements out of Bryant Street on both the east and west approaches are to be prohibited on road safety grounds and enforced with regulatory sign posting. The ongoing accident history at the intersection should be monitored for a period of two years following implementation of "No Right" turn signs.*
2. *The proponent shall prepare an intersection monitoring plan that will allow RMS to evaluate safety at the intersection of Fairford Road and Bryant Street. Any costs associated with the evaluation and reporting shall be at full cost to the developer. Following trial evaluation, RMS will assess and determine whether the concrete median in Fairford Road should be extended across the intersection of Fairford Road and Bryant Street.*
3. *RMS reserves the right to direct installation of a concrete median in Fairford Road across the intersection of Fairford Road and Bryant Street at any point during the trial, should the need arise on safety or network performance grounds.*

An operational consent was subsequently granted on 16 September 2017.

This undeniably has implications on access routes for a small number of businesses in the vicinity of the site, specifically for those businesses in Bryant Street. This is evident in the submissions received, which are addressed by business owners / operators in Bryant Street situated directly across from the site to the north.

The concerns raised in the submissions received under the modification application are summarised as follows:

- There will be a negative impact on Bryant Street and its occupied businesses due to the road access changes to and from Bryant Street (no right turn signage / joining of the traffic island on Fairford Road). These proposed changes are not practical and are extremely detrimental to all the small businesses located on both sides of Bryant Street. It is disruptive to the operations of the businesses for staff, customers and delivery vehicles.
- Staff, customers and delivery trucks accessing businesses in Bryant Street will be inconvenienced by the closing off of the traffic island as a longer travel route will be required to access Bryant Street.
- Loss of value to properties due to the restricted road access to Bryant Street.
- It is stated that the original plans for Masters included an access road which would permit access through this retail site to Fairford Road. The new plans include only a one way road. It is requested that a two-way road through

Bunnings site be provided to permit 24 hour access to Fairford Road in either direction.

- A suggested solution would be:
 - Either leave access to Bryant Street as is;
 - Provide traffic lights instead of joining the traffic islands;
 - Provide internal access through the Bunnings Warehouse car park into Bryant Street.

The original development was approved allowing customers to access the site from Bryant Street, and via a new signalised intersection on Fairford Road. Due to the additional vehicle movements that would be experienced in and out of Bryant Street, RMS required the provision of no right turn signage or an extension of the road median at the intersection of Fairford Road and Bryant Street.

With a reconfiguration of the development, the modification application seeks to change the access arrangements to the site to only allow delivery vehicles associated with the use to access the site via Bryant Street and the customer access to be solely via a new signalised intersection on Fairford Road.

Further advice from RMS was received during the assessment process of the modification application, stating that the no right turn prohibitions initially requested are no longer an RMS requirement, as the vehicle movements in and out of Bryant Street would not be increased as a result of the modified development.

As such, with the relinquishment of the no right turn prohibitions in this regard, the concerns raised by objectors are considered to be addressed.

SECTION 4.15 ASSESSMENT

The proposed modifications to the approved development have been assessed pursuant to Section 4.15 of the *Environmental Planning and Assessment Act, 1979*. A consent authority is to take into consideration such of the following matters as are of relevance to the development and that apply to the land to which the development application relates:

Environmental planning instruments [Section 4.15(1)(a)(i)]

State Environmental Planning Policy (Coastal Management) 2018

The requirements of this SEPP (which came into effect on 29 June 2018) have been considered in the assessment of the modification application, as the site is partially affected by the Coastal Management SEPP 2018. The aims of the policy are as follows:

- 3 *The aim of this Policy is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area, by:*

- (a) managing development in the coastal zone and protecting the environmental assets of the coast, and*
- (b) establishing a framework for land use planning to guide decision-making in the coastal zone, and*
- (c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.*

Salt Pan Creek is situated 140 metres east of the site. A portion of the site to the east over Lot 3, for an area of approximately 12,200sqm, is affected by the Coastal Management SEPP.

The applicant has obtained engineering advice in this respect, which states (in summary) that the proposal will continue to drain via existing systems to Salt Pan Creek, however the volume of runoff will not increase as the site is currently highly impervious, and some of the water falling on the site will be captured for on-site reuse as described in the Energy Performance Report. In addition, it is stated that the installation of a Gross Pollutant Trap will improve the quality of the water draining from the site.

Council accepts this statement by the applicant and considers that the development, along with its intended operation, is not anticipated to have an adverse impact on the water quality and ecological environment waterway that is within close proximity to the site to the east. The proposal is not envisaged to significantly impact the biophysical, hydrological or ecological integrity of the adjacent wetland, nor generate additional runoff. Furthermore, a coastal management plan is not considered warranted for this application.

State Environmental Planning Policy No. 33 – Hazardous and Offensive Development

This SEPP has been considered for the purpose of this development application. As part of the Bunnings operations it is necessary to store and handle a number of dangerous goods. The aim of the SEPP is to determine whether a development is a hazardous or offensive industry. Under the provisions of the SEPP, the applicant must initially undertake a screening analysis to determine whether a Preliminary Hazard Analysis is required to accompany the development application.

In addressing the requirements of this SEPP, a screening risk assessment (identifying the type and quantity of goods, method of storage and means of transportation involved) has been prepared for the development which determines that the dangerous goods involved with the proposed use will not exceed the threshold quantities stipulated by SEPP 33. The report concludes that SEPP 33 does not apply to this development proposal, and as such, a Preliminary Hazard Analysis is not required for the application. The development does not fall within the category of hazardous and offensive development.

State Environmental Planning Policy No. 55 – Remediation of Land

The issue of land contamination has been considered under the assessment of the modification application. SEPP 55 requires the consent authority to consider whether land is contaminated prior to granting development consent for the proposed development, and if

the land is suitable in its current state or suitable after remediation, for the purpose for which the development is proposed to be carried out.

The provisions of SEPP 55 were considered during the assessment of the original application, resulting in deferred commencement conditions requiring the land to be suitably remediated. As a result of historical land uses, the subject land was declared significantly contaminated. A determination notice for the development was issued on a deferred commencement basis, requiring the site to be remediated prior to the issuing of an operational consent and development of the Masters Home Improvement Centre, but subject to procedures to occur outside the development application process. An operational consent was not issued until such time that the land had been suitably remediated and evidence of such was provided to Council.

A detailed contamination report and remediation strategy was prepared as part of the original application. Remediation of the land has since occurred allowing the site to be deemed suitable for the proposed development. As part of the remediation process, it was resolved that the contaminants be subject to a residual area containment mound (capping); located at the far eastern end of the site.

An ongoing Environmental Management Plan (EMP), prepared by AECOM titled *'Environmental Management Plan Lot 2 and 3 – DP 814242, Padstow NSW'* dated 3 September 2016, was submitted in support of DA-1145/2013. As per Section 4.8.7.2 of the EMP, Council is required to see records that the site has been visually inspected every six months.

A report prepared by Matthew Junghans, Environmental Consultant, (Environmental Resources Management Australia dated 29 March 2018), noted that the integrity of the cap has been compromised (erosion and cracking was evident) and that any further development or occupation will require the repair and reinstatement of the cap. The applicant has since advised that the land owner is committed to undertaking these reinstatement works as soon as practicable. Council's Compliance section will follow up on this matter and ensure the requirements of the EMP are satisfactorily adhered to and the reinstatement of the cap is done in accordance with the EMP, which is a plan that has been prepared for the long term management of the site.

State Environmental Planning Policy No. 64 – Advertising and Signage

The requirements of SEPP 64 have been considered for the signage proposed under the modification application. The aims and objectives of this SEPP are to ensure that signage is compatible with the desired amenity and visual character of area, provides effective communication in suitable locations and is of high quality design and finish.

The Section 4.55(2) application seeks to modify the location of the previously approved signage as well as the design and appearance of signs to be consistent with the Bunnings corporate branding and logo. The signage scheme involves a pylon sign, business identification signage, entry / exit signs and various directional signage within the customer car park area and around the site.

Specifically, the following signage for the proposed Bunnings development is as follows:

- One 12 metre high pylon sign situated midway along the sites frontage to Fairford Road (within the landscape setback area), with a setback of 1.5 metres from the Fairford Road boundary. The pylon sign structure is proposed with an overall height of 12 metres and a width of 4 metres.
- Double sided mounted signage identifying the 'entry' point, to be positioned in the landscape setback area at the entry point of the site (located at the south-western corner adjacent to the new internal entry road from Fairford Road) and also located further in the site at the vehicle entry area of the car park.
- Large 'Bunnings Warehouse' identification signage and associated corporate branding; two per elevation. Signage to be externally illuminated by lights.
- Various wall and fence mounted signage to prompt delivery vehicles of storage locations around the building.
- Various mounted signage in and around the car park area to direct customers to entry points and trolley bays.

The proposed signage scheme for the Bunnings development is considered to be acceptable and satisfactorily meets the aims and objectives outlined in the SEPP. The signage is compatible with the industrial character of the area and is consistent with the Bunnings corporate logo and branding.

The following is an assessment of the criteria under Schedule 1 of SEPP 64 which demonstrates that the proposed signage scheme for the development is acceptable:

SEPP 64 Schedule 1 Assessment Criteria		
Provision	Comment	Complies
1. Character of the area		
• Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The proposed signage for the development is compatible with the IN2 Light Industrial zone. The signage is also suited to the new building on which the signs are to be attached to.	Yes
• Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The signage incorporates the Bunnings corporate logo and branding. The signage proposed under the modification application remains consistent with signage for other Bunnings development in the wider regional area.	Yes
2. Special areas		
• Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	All signs are appropriately sited and do not have an impact on any nearby 'special areas'.	Yes

3. Views and vistas		
• Does the proposal obscure or compromise important views?	The proposed signage does not compromise any important views. All signs are to be located within the sites boundaries. Signs will be attached to the external walls of the building and the pylon sign is to be erected within the landscape setback area along the Fairford Road frontage. The car park signage is essential to provide direction for customers. The signs will also not obstruct public views of landmarks or natural features.	Yes
• Does the proposal dominate the skyline and reduce the quality of vistas?	All the signage is sized appropriately for its location and will not interfere with the quality of vistas.	Yes
• Does the proposal respect the viewing rights of other advertisers?	The viewing rights of other advertisers will not be compromised as a result of the proposed signage.	Yes
4. Streetscape, setting or landscape		
• Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale, proportioning and form of the signage is considered appropriate for the locality and is sympathetic to the overall form of the building to which it is to be attached.	Yes
• Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The signs support and complement the use of the proposed building as a hardware and building supplies store. The signage is designed to be well integrated and comprises of high quality materials and finishes. The signs are designed with visual interest that will not detract from the streetscape appearance or landscape setting.	Yes
• Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The signage is proportionate to the size of the overall development. It is simple and well suited for the scale of the building without appearing cluttered.	Yes
• Does the proposal screen unsightliness?	There is no need for the signs to screen any part of the building or site.	Yes
• Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	<p>The wall signs do not protrude above the building to which the signs are to be attached. The height of the pylon sign (12m) is well proportioned given the large scale of the site.</p> <p>Due to the variation in levels between the road and the site, the pylon sign, which is to be located adjacent the Fairford Road boundary, will be at a height such that it would protrude above the proposed building on the site. The height and size of the pylon sign remains consistent with that which was previously approved.</p>	Yes

• Does the proposal require ongoing vegetation management?	The proposal does not require the ongoing management of vegetation on the site.	Yes
5. Site and building		
• Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposed signage is sympathetic and has a fresh appearance with no negative visual impacts. The scale and proportions of the signage is acceptable and consistent with the Bunnings corporate logo and branding.	Yes
• Does the proposal respect important features of the site or building, or both?	The dominant features of the façade are not hidden or detracted from as a result of the proposed signage. The scale of the signage complements the building and site.	Yes
• Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The signage scheme has a positive relationship and dialogue with the building and site.	Yes
6. Associated devices and logos with advertisements and advertising structures		
• Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The graphics and colours used are designed to be in accordance with the corporate logo of the Bunnings business. Some signs are proposed to be illuminated.	Yes
7. Illumination		
• Would illumination result in unacceptable glare?	There will not be an unacceptable level of glare as a result of the signage.	Yes
• Would illumination affect safety for pedestrians, vehicles or aircraft?	The illumination of signs is not expected to result in safety issues for pedestrians, vehicles or aircraft. Illumination will occur within the acceptable limitations.	Yes
• Would illumination detract from the amenity of any residence or other form of accommodation?	There are no residential properties that are in the visual catchment of the site.	Yes
• Can the intensity of the illumination be adjusted, if necessary?	The intensity of the illumination can be adjusted if necessary.	Yes
• Is the illumination subject to a curfew?	The signage illumination will be turned on / off as necessary.	Yes
8. Safety		
• Would the proposal reduce the safety for any public road?	The signage for the development will be securely fixed within the site and building.	Yes
• Would the proposal reduce the safety for pedestrians or bicyclists?	No signs are to be erected outside the confines of the site that would have the potential to affect the safety of pedestrians or cyclists.	Yes
• Would the proposal reduce the safety for pedestrians, particularly children, by	The signage will not reduce the safety for pedestrians passing by or customers accessing	Yes

obscuring sightlines from public areas?	the site. All signs will be securely fixed and are designed such that sightlines remain clear.	
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State Environmental Planning Policy (Infrastructure) 2007

Clause 101 of this SEPP regulates development with frontage to classified roads. As the site has frontage to a classified road (Fairford Road is classified as a 'State' road under the *RMS Schedule of Classified Roads and Unclassified Regional Roads*), the modification application was referred to RMS for comment and concurrence in accordance with the provisions of this SEPP.

The application is also considered a 'traffic-generating development' pursuant to Clause 104 of the SEPP, due to the size of the site, proposed building size, number of car parking spaces and due to the site having direct access to a classified road. For this reason, the modification application was also referred to RMS for concurrence.

Under the original application, concurrence from RMS was originally sought due to the development involving the provision of a signalised intersection in Fairford Road to allow for vehicle access to the site, and the possible extension of a median island in Fairford Road (opposite Bryant Street) in order to prevent vehicles turning across multiple lanes of traffic from Bryant Street. It was also referred to RMS for assessment as a 'traffic generating development'.

On 9 January 2015, RMS granted concurrence to the Masters development subject to satisfying conditions of consent. The most significant traffic related issue was the installation of a signalised intersection to provide access to the site, and the implication this will have on traffic movements into and out of Bryant Street.

RMS also recommend right turn prohibitions at the intersection of Fairford Road and Bryant Street for traffic safety reasons, of which formed part of Schedule A under Determination Notice DA-1145/2013, as a deferred commencement condition. A deferred commencement consent was issued on 16 September 2014, which included, amongst other things, the following specific condition from RMS:

2. *Final approval from New South Wales Roads and Maritime Services for the provision of no right turn signage at the intersection of Fairford Road and Bryant Street, or a concrete median extension in Fairford Road across the intersection of Fairford Road and Bryant Street shall be submitted to Council. Any works required by New South Wales Roads and Maritime Service shall be at the cost of the applicant. All conditions imposed by Roads and Maritime Service shall be complied with. Such approval is to be submitted to Council prior to the issue of an operational consent.*

An operational consent was subsequently granted on 16 September 2017 on the basis that the deferred commencement conditions were satisfied, including final approval being granted from RMS regarding the no right turn prohibitions. Conditions from RMS also included the provision for a signalised intersection on Fairford Road towards the southern end of the site.

In response to the referral of the modification application, which was referred pursuant to the Infrastructure SEPP and Section 87 and 138 of the *Roads Act, 1993*, RMS provided concurrence on 19 September 2018, and have raised no objection to the modification application under DA-1145/2013/2, subject to the following conditions:

1. *The geometric layout of the proposed signalised intersection on Fairford Road shall be generally in accordance with the Roads and Maritime Approval in Principle letter dated 20 July 2018 which was issued to the developer's consultant (attached). The signalised intersection shall be designed and constructed in accordance with Austroads and Roads and Maritime supplements.*

In addition the developer will be required to dedicate land sufficient to allow Roads and Maritime to locate traffic signal components on their (private) property.

2. *The signalised entrance to the development shall be clearly indicated and differentiated from the footpath that crosses it. In this regard, there shall be a level separation between the access road and the footpath through the construction of a barrier kerb and gutter.*
3. *The developer shall provide an upfront fee to cover the cost of maintaining the traffic signal equipment and hardware for the first 10 years. This fee shall be paid, prior to the release of the traffic signal and civil road design plans for construction.*
4. *The existing bus stop and associated bus bay on Fairford Road, directly in front of the subject site shall be relocated to accommodate the proposed signalised intersection. The developer shall consult with the local bus operator, Transport for NSW and Roads and Maritime in identifying a suitable new location on Fairford Road to place this bus stop. This consultation and determination of the relocated bus stop shall be undertaken prior to the release of the detailed signal and civil design plans for construction.*
5. *The developer will be required to enter into a "Works Authorisation Deed" (WAD) with Roads and Maritime for the above-mentioned traffic signal and associated civil works. In this regard the developer is required to submit detailed design plans and all relevant additional information, as may be required in the Roads and Maritime's Works Authorisation Deed documentation, for each specific change to state road network for the Roads and Maritime's assessment and final decision concerning the work. The detailed design plans submitted shall be in accordance with Austroads and Roads and Maritime supplements.*
6. *The swept path of the longest vehicle entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AS 2890.2 – 2002.*
7. *Off-street parking associated with the proposed development shall be in accordance with AS 2890.1 – 2004 and AS 2890.2 – 2002.*

8. *All works associated with the proposed development shall be at no cost to the RMS.*
- Further to the above, in email correspondence dated 18 October 2018 from RMS, it is advised that "the provision of the 'no right turn' signage or a concrete median across the Fairford Road

and Bryant Street intersection is **not** required by the applicant. Whilst this was originally conditioned in the Roads and Maritime correspondence (SYD10/00778/05 dated 9 January 2015), after review, it is no longer required. As such, Roads and Maritime advises that deferred Condition “3” of Determination Notice DA-1145/2013 can be removed. All other conditions, specifically ones imposed by Roads and Maritime, are to remain the same.”

On the basis of this advice provided by RMS, Council acknowledges that deferred commencement condition No. 3 is no longer required. As such Council will impose a condition in the modified consent so as not to require the provision of the no right turn prohibitions as previously required of the deferred commencement consent.

Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment

The requirements of the Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (a deemed SEPP) have been considered in the assessment of the modification application, as the subject site falls within the Georges River catchment area.

The proposed development is not considered to have any detrimental impacts on the catchment area of the Georges River. Furthermore the proposed development, as modified, is not a listed development type under Part 3 – Planning requirements of the GREP No. 2.

Bankstown Local Environmental Plan 2015

An assessment of the application revealed that the proposed modifications comply with the matters raised in each of the clauses of the *Bankstown Local Environmental Plan 2015*, those that are relevant to the application. The following specific clauses of the *Bankstown Local Environmental Plan 2015* were considered in the assessment of the Section 4.55(2) modification application:

Clause 1.2 Aims of Plan

The proposed development meets the objectives and aims of the Bankstown LEP 2015. The proposed hardware and building supplies development is of high quality design that is considered to make a positive contribution to the surrounding industrial area and broader area. Its intended operations are not anticipated to unreasonably interfere with adjoining developments in the immediate vicinity, subject to strict adherence with the conditions of consent. The proposal will continue to encourage employment opportunities and remain consistent with the industrial character of the area and surrounding land uses. The proposed building represents the orderly economic redevelopment of the site, which is appropriate to its context.

The development is considered to satisfactorily meet the aims of this plan.

Clause 2.7 Demolition requires development consent

Consent for demolition works was granted under DA-1145/2013.

Part 2 – Permitted or prohibited development

The subject site is zoned IN2 – Light Industrial pursuant to the Bankstown LEP 2015. The proposed development falls with the definition of a *hardware and building supplies*, which is permitted in the zone with the consent of Council.

Zone IN2 Light Industrial

1 Objectives of zone

- *To provide a wide range of light industrial, warehouse and related land uses.*
- *To encourage employment opportunities and to support the viability of centres.*
- *To minimise any adverse effect of industry on other land uses.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*
- *To support and protect industrial land for industrial uses.*

2 Permitted without consent

Nil

3 Permitted with consent

*Agricultural produce industries; Building identification signs; Business identification signs; Depots; Food and drink premises; Garden centres; **Hardware and building supplies**; Hospitals; Industrial training facilities; Kiosks; Landscaping material supplies; Light industries; Markets; Medical centres; Neighbourhood shops; Places of public worship; Plant nurseries; Roads; Timber yards; Vehicle sales or hire premises; Warehouse or distribution centres; Any other development not specified in item 2 or 4*

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Biosolids treatment facilities; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Centre-based child care facilities; Charter and tourism boating facilities; Commercial premises; Correctional centres; Crematoria; Eco-tourist facilities; Entertainment facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Function centres; Health services facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industries; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Port facilities; Recreation facilities (major); Residential accommodation; Resource recovery facilities; Respite day care centres; Restricted premises; Rural industries; Schools; Sewage treatment plants; Signage; Tourist and visitor accommodation; Transport depots; Truck depots; Waste disposal facilities; Water recreation structures; Water recycling facilities; Wharf or boating facilities; Wholesale supplies

The development is considered to satisfactorily meet the underlying objectives of the IN2 Light Industrial zone.

Clause 4.3 Height of buildings

The subject site does not have a maximum building height limitation under this clause of the Bankstown LEP 2015.

Clause 4.4 Floor space ratio (FSR)

The maximum FSR for the subject site is 1:1, as identified on the Bankstown LEP 2015 maps. The modifications will result in an increase in the currently approved gross floor area.

The FSR approved under the original application for the Masters development was 0.36:1. With a gross floor area of 16,958sqm proposed for the Bunnings development, the FSR for the modified development is 0.4:1, which complies with the maximum FSR permitted for the site.

Clause 6.1 Acid sulfate soils (ASS)

The site is affected by Class 5 ASS, with Class 2 ASS being located within close proximity to the site. The water table is not considered to be altered with the works proposed on the development site or within the nearby Class 2 ASS land. As such, the works will not have an impact on the ASS and as such, an ASS management plan is not considered warranted in this instance.

Clause 6.3 Flood planning

The site is partially affected by Flood Riverine - low risk. The extent of the affectation is not significant and is not in an area where structures are to be erected. As such, the requirements of this clause have been considered in the assessment of the modification application, and the intent of the objectives of this clause are satisfactorily met.

Draft environmental planning instruments [Section 4.15(1)(a)(ii)]

There are no draft environmental planning agreements that relate to the subject site.

Development control plans [Section 4.15(1)(a)(iii)]

The following table provides a summary of the proposed modifications under DA-1145/2013/2 against the controls contained in *Part B3 of Bankstown Development Control Plan 2015* relating to industrial development.

Bankstown Development Control Plan 2015 – Part B3 – Industrial Precincts			
Clause / Provision	Approved under DA-1145/2013 Deferred Commencement 14/09/2014	Proposed under S4.55(2) modification application DA-1145/2013/2	Compliance
Section 2 – Building Envelopes			
2.1 Site Coverage Must not exceed 70% of the site area of a single business	40%	Excluding landscaping and car parking, the development has a site coverage of 46.05%. (That is: 16,958sqm / 36,819sqm = 46.05%) *This calculation is based on the development site area alone (being 'Lot 1' which will include the Bunnings building and associated parking) and	Yes

		excludes the 'cap and contain area' to the far east.	
2.2 Setbacks to Primary & Secondary Frontage Min. 15m setback to the primary and secondary road frontage for development that adjoins a state or regional road. *Fairford Road is identified as a 'state' road, under the <i>State and Regional Roads in the City of Bankstown</i> (Appendix 1)	8.8m from Fairford Road	Setback from the primary frontage for the development ranges between 8.1m and 16.1m. The varying setbacks are explained as follows: The site has an irregular boundary alignment along the Fairford Road frontage, partially due to an existing bus stop. As such, this results in an irregular building setback for the proposed development. The Bunnings building is proposed with a setback ranging between 8.1m at the shortest point to 16.1m measured at the longest point (at the south-western part of the building).	No – refer to discussion below.
2.3 Setbacks to Primary & Secondary Frontage Min. 3m setback to the secondary for an allotment that does not adjoin a state or regional road. *Bryant Street is not identified as a State or Regional road under the <i>State and Regional Roads in the City of Bankstown</i> (Appendix 1).	7.4m from Bryant Street	Bryant Street is the secondary frontage for the development site. The proposed development seeks a secondary frontage setback of 7.6m from the Bryant Street boundary.	Yes

2.4 Variation to Setback Controls

The setbacks to the primary frontage may be varied by Council if the development provides adequate space to meet the vehicle access, car parking, loading and landscaping controls; or is compatible with building alignment of neighbouring development or the desired future character of the area; or achieves an appropriate bulk and scale.

Comment:

The proposed building setback is twice to that of the existing adjoining northern industrial development and its building setback generally aligns with the southern neighbouring property. The proposed building setback under this modification application seeks a greater setback compared with the setback under the original application, which was supported by Council. The vehicle access, car parking controls are compliant and the landscaping controls are generally satisfied.

This matter is further discussed below.			
2.5 Setbacks to side and rear boundaries Council may require minimum setbacks to maintain solar access, to avoid easement or dripline of tree or to comply with any multi-level risk assessment relating to adjoining residential zoned land	<ul style="list-style-type: none"> • Southern boundaries 7.07m & 6.315m • Rear (east) boundary setback 6m 	<p>The subject development site is not adjoined by residential zoned land. As such, there are no impacts to be considered with regards to solar access and visual privacy for neighbouring dwellings.</p> <p>There are no easements or trees on the subject site that will be impacted by the proposed development.</p> <p>The site is not adjoined by land that is zoned residential. As such, a 'multi-level risk assessment' is not deemed warranted for this application.</p>	Yes
2.6 Design of Buildings The design of a building must consider solar access for adjoining residential dwellings.	<ul style="list-style-type: none"> • No corner element as majority of the main building is setback from Fairford Road. • Elevations consist of profile metal cladding, wall panels (precast) and CFC cladding. 	<p>The site is not adjoined by land that is zoned residential. As such, solar access requirements in this regard are not relevant to this application.</p>	N/A
2.7 Setbacks to Riparian Corridors 15m min. setback required from riparian corridor.	<p>Greater than 15m setback to Salt Pan Creek.</p>	<p>The site is situated approximately 144m to the west of Salt Pan Creek and its associated reserve.</p>	Yes
2.11 Residential adjacent to Residential Zones	<p>Site not adjoined by residential zones.</p>	<p>The subject development site is not adjoined by land that is zoned R2, R3 or R4.</p>	N/A
Section 3 – Building Design			
3.1 Façade design Must articulate facades to achieve a unique contemporary architectural appearance	<p>Design and style typical of a large scale bulky goods premise; 'Masters'.</p>	<p>Although the design of the building does not incorporate glazing in the façade with high architectural treatment, the design and appearance of the building is unique to the identity of the Bunnings corporate logo and branding, and is consistent with the appearance of other Bunnings buildings in the wider regional area.</p> <p>The development overall is considered to achieve an acceptable quality design that is typical of a large scale building and home and building supplies store.</p>	Yes

		<p>To maintain the corporate logo and appearance of the company, the building presents a design that is consistent with other established Bunnings buildings.</p> <p>The materials and finishes proposed are acceptable for a building of this nature.</p>	
<p>3.2 Façade design</p> <p>Development <u>may</u> have predominantly glazed facades provided it does not cause significant glare nuisance.</p>	<p>Approved 'Masters' building similar to that as currently proposed under the subject modification application.</p>	<p>Glazing proposed for the building which is limited to the customer entry doors on the southern facade. Facades are of masonry and metal construction providing a solid appearance. The design in this regard is satisfactory and typical of similar large scale hardware supplies stores</p>	Yes
<p>3.3 Industrial retail outlets</p> <p>Industrial retail outlets to have shopfront style windows with clear glazing.</p>	NA	<p>Development not defined as an 'industrial retail outlet'.</p>	NA
<p>3.4 Portal Frames and Parapet</p> <p>Where portal frames proposed, stepping of parapet not permitted.</p>	<p>As currently proposed under the modification application.</p>	<p>The proposed building does not consist of any stepping in the parapets</p>	Yes
<p>3.5 Corner allotments</p> <p>The street façade of development on a corner allotment must incorporate architectural corner features to add visual interest to the streetscape.</p>	<p>Car parking area approved in the north-west corner of the site, as the main building is approved with a significant setback from the street. Therefore no corner element incorporated.</p>	<p>As was approved under the original application, there is no corner feature element provided for the building; that is, to the corner of Fairford Road and Bryant Street.</p> <p>However substantial landscaping is proposed within the landscape setback area, which provides a level of screening to the building at the north-western corner of the site. Dense landscaping at the corner of the site will reduce the visual impact of the building and soften the appearance by providing a 'green' presentation to Fairford Road.</p>	<p>Proposed modified design considered acceptable, and is consistent with what was approved under the original application.</p>
<p>3.6 Materials</p> <p>Developments must use quality materials. Council does not</p>	<p>Elevations consist of profile metal cladding, wall panels (precast) and CFC cladding.</p>	<p>The external finishes for the building generally comprise painted precast concrete wall panels. Façade materials comprise masonry, metal and glazing. The bagged goods area has a glazed</p>	Yes

permit the use of standard concrete block.		<p>façade to Bryant Street enabling visual permeability into the space. The nursery structure will be lightweight in appearance. Also, colourbond parapet capping is proposed.</p> <p>The materials and finishes to be used for the building are acceptable and in keeping with the Bunnings corporate style and logo.</p>	
3.10 Roof design Must incorporate an innovative roof design: a) achieves a unique & contemporary appearance b) combines high quality materials & finishes	Similar style to that as currently proposed under the subject modification application.	The proposed roof is colourbond with a 3 degree fall. The roof is designed as a simple metal structure. The front portion of the building will have a recessive zincalume roof that will not be reflective. The roof to the main warehouse building will not be visible from the street as it is contained behind the parapet line. The roof design presents a contemporary architectural appearance.	Yes
3.11 Safety & security Front door should face the street.	Main front entry faces Fairford road, although has a significant setback from Fairford Road.	Main front entry to the premises faces south toward the car park and does not directly face either Fairford Road or Bryant Street, however the entrance to the site is visually prominent from the main entry of the building and looks directly towards the customer car park area.	No – Acceptable for the type of the large scale type of development proposed.
3.12 Admin / retail outlets The location of administration and retail outlets must be located at the front of the building.	Administration and amenities located at front of building.	The general location of the retail area faces the car park which is at the front of the building. The design is typical of a bulky goods store of this nature and scale.	Yes
3.13 Windows Upper floor windows must overlook the street where possible.	Similar to that as currently proposed under the modification application.	The development incorporates an upper floor which is to be used for staff amenities. There is no direct overlooking of windows from the upper floor towards the street.	Design accepted, as currently approved under the original application.
3.14 Loading Docks Access to loading docks must only be available to tenants via security door.	Similar to that as currently proposed under the modification application.	Secure access is provided to loading areas, accessible via Bryant Street, with internal security gates on site.	Yes
3.15 Car Parks	Similar to that as currently proposed under the	The customer parking area will not be secured after trading hours however	Yes

Outdoor car parks are to be closed to the public via lockable gate outside business hours.	modification application.	access to the rear of the building will be closed with lockable security gates.	
3.16 Lighting Lighting to be provided to external entry paths, driveways and car parks using vandal resistant, high mounted light fixtures.	Lighting provided for the development and determination notice conditioned accordingly.	Lighting is to be provided around the development.	Yes Currently conditioned under DA-1145/2013.
3.17 Setback to Rail Corridors & Open Stormwater Drains Setback min. 1.5m	NA	The site does not adjoin a railway corridor or an open stormwater drain.	N/A
3.18 General Considerations for Industrial Development <ul style="list-style-type: none"> • Adequate off street parking • Suitable landscaping • Contribute to the maintenance or improvement of the character of locality • Access to development by non-residential street • Goods, plant & equipment suitably stored or screened • Will development detract from the amenity of any residential area in the vicinity • The development adopts energy efficiency and resource 	As currently proposed under the modification application.	<p>Sufficient and ample parking is provided for the development that complies with Council's parking controls and is commensurate with the rates generally provided for other Bunnings stores.</p> <p>Sufficient landscaping proposed around the sites boundaries and within and around the perimeter of the car park.</p> <p>The development is a compatible use within the zone and the redevelopment of the site is considered to make a contribution to the industrial character of the locality.</p> <p>There is no access to the site required via residential streets.</p> <p>All goods and equipment associated with the use will be suitably screened from the public domain.</p> <p>The subject site is not located in close proximity to residential zoned land. Therefore the development is not considered to detract from the amenity of any nearby residence by means of visual, acoustic or overshadowing impacts, or the like.</p>	Yes

conservation measures related to its design, construction and operation		The applicant has submitted an energy efficiency report which is deemed acceptable. The proposal will utilise energy efficiency measures as outlined in the report. Overall, the proposed building will achieve the energy and water saving requirements of the DCP.	
Section 4 – Environmental Management			
4.1 Acoustic privacy Consider Noise Policy, may require sound proofing	Conditioned to comply with POEO Act and requirements of EPA.	There are no noise impacts anticipated as no machinery is to be used and the general nature of the use is retail. Due to the nature of use being a bulky goods style retail outlet, it would not result in any adverse acoustic impacts beyond that typically experienced with such uses.	Yes Currently conditioned to comply with EPA guidelines and POEO Act under DA-1145/2013.
4.2 Pollution control Development must adequately control pollution in accordance with the requirements of the relevant public authority.	Conditioned to comply with POEO Act and requirements of EPA.	The nature of the use will not result in the emission of any fumes, odours or water pollutants that would have an adverse impact on the environment.	Yes Managed under conditions of consent.
4.3 Open space Landscaped area along the primary and secondary frontage for an allotment greater than 4,000sqm: Min. 10m width adjoining a state road and 3m for sites that do not adjoin state or regional road.	Between 2.5m and 10m	Due to the irregularity of the Fairford Road boundary alignment, the landscape width at the primary frontage to Fairford Road ranges between 8.7m and 13m, resulting in a partial non-compliance. The setback is achieved in all but for two small incursions. Quality of landscaping will ensure high quality presentation to the street. Bryant Street has a landscape setback of approximately 5.2m.	No Refer to discussion below.
4.4 Employee Amenities Employee amenities required where access to landscaped areas is provided	Not provided.	The development does not provide employee amenities within the landscaped area, however staff amenities are provided within the building on the first floor. The staff amenities proposed within the building are considered acceptable for this type of development.	No – Acceptable in this instance, as this aspect of the development is consistent with the original approved development.
4.5 Retention of trees Development must retain any trees	No trees of significance.	There are no trees or vegetation on the site that are of any significance from an ecological perspective. Any trees on	Yes

identified by Council on the site and on adjoining sites; must not change the NGL within 3m of the base of trunk or within dripline whichever is greater.		adjoining sites are not affected by the proposed development.	
4.6 Street Trees Development with frontage greater than 5m to provide 1 street tree per 5m of primary road frontage.	Street trees retained, however those that interfere with driveway access permitted to be removed.	<p>The site currently has established street trees along both the Bryant Street frontage and Fairford Road frontage.</p> <p>Council's Tree Management Officer has assessed the application and permits 3 street trees to be removed along the Bryant Street frontage (starting from the corner of Fairford Road), with the fourth tree to be retained. The modification application seeks to provide new vehicle footway crossings in addition to hardstand areas along the Bryant Street boundary for the purpose of access and manoeuvring of delivery vehicles associated with the business. A condition will be included to require particular construction methods to ensure there are no adverse impacts on the street trees, including their root systems, for those street trees that are to be retained.</p> <p>The modification application does not seek to alter the development beyond the sites Fairford Road boundary, therefore no changes are required to the existing street trees along the Fairford Road boundary.</p>	<p>Yes</p> <p>Subject to conditions relating to construction methods to be implemented to protect street trees and their root system during construction; and subject to requirements under Condition No. 6 of DA-1145/2013.</p>
4.7 Canopy Trees 1 canopy tree required per 30sqm of landscaped area; trees to be capable of achieving a mature height greater than 5m.	Similar to that as currently proposed under the subject modification application.	Canopy trees are proposed to be planted in the landscaped areas, particularly within the landscape setback along the Fairford Road boundary.	Yes
4.8 Outdoor Car Park 1 tree per 5 car parking spaces. Single trunk species required	20 trees in car park	Canopy trees are proposed to be planted in the car parking area.	<p>No – Acceptable in this instance.</p> <p>Consent to be conditioned with</p>

and Island bed to be min. 2m wide and 4m in length.		<p>The dimensions of the island bed are less than what is required (< than 2m width x 4m length).</p> <p>377 car spaces / 5 = 75.4 trees required</p> <p>66 canopy trees provided + additional trees within landscape setback along Fairford Road boundary.</p>	<p>recommendations of Council's Tree Management Officer for viability of tree growth within car park area.</p> <p>Council considers the number of trees proposed within car park area sufficient for the development, and the provision of landscaping within the front setback offsets the deficiency of trees within the car park.</p>
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Section 5 – Ancillary Development

5.1 Front Fence Max. front fence height is 1.8m	Fencing around perimeter of site.	1.8m high fence around perimeter of site.	Yes
5.2 External Appearance of Front Fence Solid construction no more than 1m in height, remaining height to comprise open style construction.		Fencing will be open style, located within the site and be recessive in the landscape.	Yes
5.4 Business & Building Identification Signage Limited to one pylon sign for each allotment boundary that adjoins a classified road. Pylon sign to be rectangular in shape with vertical proportion. Max. size of pylon sign is 4m or 9m in height and max. 2m in width.	1 pylon sign approved with size: 12m high x 3.95m wide.	One pylon sign is proposed for the development which faces Fairford Road. It is rectangular in shape with an overall dimension of 12m in height and 4m in width. The pylon sign identifies the business that is to operate on the site. The actual advertising signage area per side of the pylon sign is 22.4sqm.	No Refer to discussion below
5.5 Other Business Signs	Various directional signage approved for development.	Total frontage for site = 448m (161m to Fairford Road + 287m to Bryant Street),	No

<p>Total area of signs must not exceed 1.1sqm per 3m of street frontage. Signs will not be permitted nearer to the street alignment than 1/3 of prescribed building line, and does not exceed 2/3 of what is normally permitted.</p> <p>*Total permissible area of all signs for the subject site, as per the above formula, is <u>164.3sqm</u>.</p>	<p>264sqm on the small bulky goods tenancy; 473sqm on the main building; 33.1sqm pylon corner sign 5sqm other direction signage <u>Total: 775sqm</u>.</p> <p>Signage approved with minimal setback to Fairford Road and Bryant Street intersection.</p>	<p>therefore maximum signage permitted for the site is 164.3sqm.</p> <p>Total identification signage on building walls = 603.6sqm + Other signage (including directional / car park signage) = 41.8sqm + Pylon sign (advertising signage area only) = 22.4sqm per side; pylon sign setback approximately 1.5m from Fairford Road boundary.</p> <p><u>Total: 667.8sqm</u>.</p> <p>Signs are suitably integrated with the design of the building and the signage is consistent with the Bunnings corporate logo and company identity.</p>	<p>Refer to discussion below</p>
5.6 Signs not permitted	<p>Application did not seek to propose signage that is described as being prohibited.</p>	<p>The application does not seek to propose signage that is described as being prohibited.</p>	<p>Yes</p>
5.7 Painted Signs <p>Painted signs on buildings must not screen windows and other significant architectural features of the building.</p>	<p>Similar to that as currently proposed under the subject modification application. 'Masters' building included painted wall signage.</p>	<p>All painted signs are integrated into the façade design. The wall painted Bunnings logo business signs will not screen windows or interfere with architectural features of the building.</p>	<p>Yes</p>
5.8 Food Premises <p>To comply with relevant Food legislative and regulatory requirements</p>	<p>Café proposed internal to the building. The Determination Notice is conditioned to require a separate development consent to be obtained for the fit out of any café or other food premises within the 'Masters Home Improvement Centre' tenancy.</p>	<p>A BBQ area is proposed adjacent to the main pedestrian entry of the building. A café is also proposed internally.</p>	<p>Conditions provided under DA-1145/2013 for any food component to comply with relevant Food legislative and regulatory requirements.</p>
5.9 Storage Areas of Hazardous Material	<p>Similar to that as currently proposed under the subject</p>	<p>A Preliminary Hazard Analysis is not required for the application.</p>	<p>NA</p>

Storage and use of hazardous materials must comply with WorkCover requirements.	modification application.		
5.10 Storage and use of dangerous goods The storage and use of dangerous goods must comply with Dangerous Goods Act 2008 and its regulation and WorkCover.	Similar to that as currently proposed under the subject modification application.	As part of the Bunnings operations, it is necessary to store and handle a number of Dangerous Goods A Dangerous Goods assessment has been prepared for the application. The report concludes that SEPP 33 thresholds are not exceeded and as such, does not apply to this development proposal. A Preliminary Hazard Analysis is therefore not required for the application. The development does not fall within the category of hazardous and offensive development.	Yes
5.11 Infrastructure The siting of infrastructure must be well integrated with the building and screened from the public domain.	Suitably screened and similar to that as currently proposed under the subject modification application.	The infrastructure for the development is appropriately located and integrates with the overall form of the building. It is all sufficiently screened when viewed from the street.	Yes
5.12 External Lighting Consideration to the impact of glare on the amenity be adjoining residential properties.	DA-1145/2013 conditioned accordingly.	There are no residential properties that adjoin the site or are within the visual catchment of the site.	Yes Subject to conditions
5.13 Public Domain Improvements Improvement works to the public domain may be required by Council	Development not approved with the requirement for public domain improvement works.	At present, there is no footpath that exists along the Fairford Road and Bryant Street frontages.	NA
Bankstown Development Control Plan 2015 – Part B5 – Parking			
Clause / Provision	Approved under DA-1145/2013 Deferred Commencement 14/09/2014	Proposed under S4.55(2) modification application DA-1145/2013/2	Compliance
1 space per 60sqm of gross floor area.	406 customer parking spaces situated at the western end of the	377 car parking spaces for customer vehicles, which includes 8 accessible parking spaces and 4 trailer bays.	Yes

GFA 16,958sqm requires 282.6 parking spaces for the development.	site forward of the Masters building		
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As the above table indicates, there are a number of variations proposed relating to the building setback, landscape width and signage controls. The variations are justified in this instance and are supported on the following grounds, as discussed below.

Variation to Building Setback to Fairford Road

Although partially compliant at one point, the setback for the development fails to comply with the minimum 15m setback requirement for the full length of the building at the primary frontage. The non-compliance is justified on the basis that:

- There is a significant difference in levels between the road reserve and the site. The proposed building has a finished floor level of RL11.3m. The surface level of Fairford Road in the vicinity of the Bunnings building varies from RL17.34m to RL17.44m, meaning that the majority of the building is below the surface level of the roadway. Therefore the building is set lower than the street frontage at Fairford Road and as such the perception of the scale of the building is much less when viewed from the road;
- Regardless of the building setback, there is no appreciable difference when viewed from the street due to the variation in levels between the road reserve and site levels. Therefore the proposed breach is considered minor given the context of the site;
- The main building façade, which is beyond the bagged goods and nursery area that sits at the forefront of the site, is setback well over 15 metres;
- The setback variation is generally consistent with that which was approved under the original application. The non-compliance presented under the original application, which was supported by Council, is greater compared to that which is now currently presented under the modification application;
- The development makes provision for substantial high quality and dense landscaping forward of the building, which is considered to provide an appropriate level of screening and enhances the visual amenity for the development. The landscape objectives are satisfactorily met with the design proposed;
- The uneven Fairford Road boundary alignment (due to the presence of a bus stop) results in a variable building setback, for which in this instance, severely restricts a fully compliant setback of the building;
- Clause 2.4 of Part B3 of the Bankstown DCP 2015 allows Council to vary the setback control, subject to the development being able to provide adequate space for vehicle access, generally complying with landscape controls and the development achieving an appropriate bulk and scale for the site. Council is of the opinion that the design of the development satisfies all such requirements of this clause, as demonstrated in this report.

Variation to Landscape Setback

The landscape setback for the development fails to comply with the minimum 10 metre requirement along the Fairford Road frontage, and also with the 3 metre requirement along the Bryant Street frontage. It is mostly compliant with the 10 metre setback requirement, however some minor incursions occur due to the car park and as a result of the uneven boundary alignment of the Fairford Road boundary. The non-compliances are justified on the basis that:

- The development provides substantial dense landscaping within the front setback area along Fairford Road;
- The majority of the setback along Fairford Road is compliant, aside from some minor incursions resulting from the presence of the car parking area, pedestrian access into the site and the building footprint;
- Despite the numerical non-compliances, the overall landscape design for the proposed development is considered substantial and of high quality design;
- Owing to the significant fall from Fairford Road down to the site, it is considered futile in providing a deeper landscape strip as all landscaping, aside from larger trees, would not be visible from Fairford Road;
- The reduced depth of landscaping along both street frontages are offset by the provision of landscaping in and around the car parking area and the dense landscaping provided along the Fairford Road setback area;
- The development consent currently includes a condition to ensure a tree canopy which is equivalent to 50% of the car parking area proposed. This ensures a high quality landscaped setting for the development that meets the objectives of the landscape controls, which offsets the numerical non-compliances in this regard;
- The uneven boundary alignment along the Fairford Road frontage results in minor incursion into the landscape setback.

Variation to Signage Controls

The development fails to comply with the signage area controls, proposing a total 667.8sqm of signage compared to the maximum permitted area of 164.3sqm. A pylon sign is also proposed which fails the permitted dimensions. The aims and objectives of the signage controls are to avoid proliferation of signage and to ensure there is an equitable level of exposure for all businesses. The non-compliances are justified on the basis that:

- The signage for the development is not dissimilar to other Bunnings developments or competitor developments found elsewhere in the Canterbury-Bankstown local government area;
- Approval of such variations to the signage controls would not create an undesirable precedent; rather it would remain consistent with the precedent Council has already set in relation to this specific issue. Such variations with other similar applications have been consistently supported by Council. The original approved application for the Masters development presented a breach to the signage controls, which Council supported;
- The signage is well coordinated and provides visual interest from the public domain without a cluttered appearance;
- The signage scheme is consistent with the aims and objectives of SEPP 64;

- Given the significant setback of the main building façade, signage needs to be larger in order to be legible. Façade signage to Fairford Road is located approximately 58 metres from the sites primary frontage boundary on the west facing parapet wall; wall signage facing Bryant Street is located approximately 7.5 metres from the secondary frontage boundary on the building;
- The extent of signage and design is commensurate with the signage of other Bunnings warehouse developments in the region;
- Whilst the signage area proposed presents a variation to the development controls, the signage scheme overall is considered to be appropriate for the development and is proportionate to the scale of the site and size of building to which they are to be erected upon.

Other provisions

In addition to the specific controls assessed in the previous sections of this report, the following policies also apply to this development:

- Part B4 of the Bankstown DCP 2015 – Sustainable Development;
- Part B13 of the Bankstown DCP 2015 – Waste Management and Minimisation;
- Development Engineering Standards.

The proposal has been assessed against the provisions of these policies and has been found to be acceptable.

Planning agreements or draft planning agreements [Section 4.15(1)(a)(iii)]

There are no known planning agreements or draft planning agreements that relate to the subject application.

The regulations [Section 4.15(1)(a)(iv)]

The relevant requirements of the *Environmental Planning and Assessment Regulation 2000* have been considered in the assessment of the modification application. The development, as modified, does not contravene the *Environmental Planning and Assessment Regulation, 2000*, and remains consistent with the relevant requirements. The development proposal is not defined as either designated or State Significant Development under the Regulations.

The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality [Section 4.15(1)(b)]

Just as the original application concluded, it is not envisaged that the modified development will have an adverse impact on the surrounding natural and built environment. The likely impacts as a result of the modifications on a social and economic level are also considered appropriate. This report has provided a thorough assessment of the application on all relevant aspects and it has been demonstrated that the likely impacts of the proposal are acceptable.

Suitability of the site for the development [Section 4.15(1)(c)]

The modifications proposed are not of an extent to compromise the site suitability for the development, beyond that which was considered for the original approval of the Masters development. Subject to the strict adherence of environmental conditions and requirements set out in the Environmental Management Plan prepared for the site, the development as modified, is considered to be a suitable form of development for the site. With the modifications proposed, the site remains suitable for a hardware and building supplies store chain.

Submissions made in accordance with the Act [Section 4.15(1)(a)(d)]

The modification application was advertised for a period of 21 days. A total of ten submissions were received during this period, which raised concerns relating to the RMS requirement for no right turn prohibitions at the Fairford Road and Bryant Street intersection. RMS have subsequently advised that such prohibitions are no longer required as a result of the modification application. The objectors concerns are therefore considered to be addressed and no longer relevant with the removal of this requirement.

The public interest [Section 4.15(1)(a)(e)]

In light of the above, the development, as modified, is considered to be in the interests of the general public. The proposed building presents the orderly economic redevelopment of the site with a use that is appropriate to its context and compatible with the desired future character of the area.

CONCLUSION

The proposed modification has been assessed in accordance with the provisions of Section 4.55(2) and Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

It has been demonstrated that the modification application is largely compliant with such relevant provisions and requirements, aside from a number of variations against the controls of *Bankstown DCP 2015*, which are justified accordingly in this report. Despite the variations involved, the application presents a development that is compatible in the zone and is in keeping with the industrial character of the area. Subject to adherence with conditions of consent, there are no adverse natural or built environmental impacts foreseen as a result of the proposal and it is not considered to result in any detrimental impact on the amenity of nearby industrial uses and businesses. The proposed development is considered to be in the public interest as it will activate the site, which is currently vacant, and contribute to the viability of surrounding established industrial businesses by attracting customers to the area. From an environmental perspective, the redevelopment of this once heavily contaminated site is a positive building outcome compared to what previously occupied the site.

Given the relevant planning policies, codes and requirements of the *Environmental Planning and Assessment Act, 1979*, have been duly satisfied, the proposal is deemed worthy of support and it is therefore recommended that the modification application made under Section 4.55(2) of the *Environmental Planning and Assessment Act, 1979*, be approved.

Conditions

The following conditions are deleted:

- Condition No. 2
- Condition No. 19
- Condition No. 32(a)

The following conditions are amended to read as follows (*amendments in italics*):

- 3) Separate development consent shall be obtained for the fit out of any café or other food premises within the *hardware and building supplies development*.
- 4) Development shall take place in accordance with Development Application No. DA-1145/2013, submitted by Hydrox Nominees Pty Ltd, accompanied by the following drawings:
 - Drawing No. DA01 Job No. 3024 dated 16.12.13, Issue Option 01, prepared by Leffler Simes Architects
 - Drawing No. DA02 Job No. 3024 dated 28.11.13, Issue A, prepared by Leffler Simes Architects
 - Drawing No. DA03 Job No. 3024 dated 28.11.13, Issue A, prepared by Leffler Simes Architects
 - Drawing No. DA04 Job No. 3024 dated 28.03.14, Issue B, prepared by Leffler Simes Architects
 - Drawing No. DA05 Job No. 3024 dated 28.11.13, Issue A, prepared by Leffler Simes Architects
 - Drawing No. DA06 Job No. 3024 dated 28.11.13, Issue A, prepared by Leffler Simes Architects
 - Drawing No. DA07 Job No. 3024 dated 28.11.13, Issue A, prepared by Leffler Simes Architects
 - Drawing No. SA01 Job No. 3024 dated 28.11.13, Issue A, prepared by Leffler Simes Architects
 - Drawing No. SA02 Job No. 3024 dated 28.11.13, Issue A, prepared by Leffler Simes Architects
 - Drawing No. SA03 Job No. 3024 dated 28.11.13, Issue A, prepared by Leffler Simes Architects
 - Drawing No. SA04 Job No. 3024 dated 28.11.13, Issue A, prepared by Leffler Simes Architects

and affixed with Council's approval stamp, *unless altered, amended or superseded by Section 4.55(2) Modification Application DA-1145/2013/2 submitted by Padstow Spotlight Property 2 Pty Ltd accompanied by the following drawings:*

- *Drawing No. ATP-01 Job No. 316147 dated 09.07.18, Revision P11C prepared by The Buchan Group Melbourne Pty Ltd;*

- *Drawing No. ATP-02 Job No. 316147 dated 14.02.18, Revision P02 prepared by The Buchan Group Melbourne Pty Ltd;*
- *Drawing No. ATP-03 Job No. 316147 dated 09.07.18, Revision P01 prepared by The Buchan Group Melbourne Pty Ltd;*
- *Drawing No. ATP-04 Job No. 316147 dated 09.07.18, Revision P03 prepared by The Buchan Group Melbourne Pty Ltd;*
- *Drawing No. ATP-05 Job No. 316147 dated 09.07.18, Revision P01 prepared by The Buchan Group Melbourne Pty Ltd;*
- *Drawing No. ATP-06 Job No. 316147 dated 09.07.18, Revision P00 prepared by The Buchan Group Melbourne Pty Ltd;*

affixed with Council's approval stamp, except where otherwise altered by the specific amendments listed hereunder and/or except where amended by the conditions contained in this approval.

- 6) A detailed landscape plan prepared by a qualified landscape architect or designer is to be approved prior to the issue of a Construction Certificate. The landscape plan is to be generally in accordance with the concept landscape plans bearing Council's approval stamp and described as follows:

- *Landscape Plan. Drawing No. 101 Issue F Job No. SS18-3747, dated 23.10.2018, prepared by Site Image Landscape Architects;*
- *Landscape Details. Drawing No. 102 Issue G Job No. SS18-3747, dated 24.10.2018, prepared by Site Image Landscape Architects, identified with 'Blueprint 7-11-18' and includes shrub plantings along the northern side of the entry ramp and additional canopy tree at the south-western corner of the site;*
- *Landscape Details. Drawing No. 103 Issue F Job No. SS18-3747, dated 24.10.2018, prepared by Site Image Landscape Architects;*
- *Landscape Details. Drawing No. 501 Issue % Job No. SS18-3747, dated 24.10.2018, prepared by Site Image Landscape Architects;*

The landscape plan is to be prepared in accordance with the relevant DCP and is to show all features, built structures including retaining walls, irrigation, mulch and natural features such as significant gardens, landscaping, trees, natural drainage lines and rock outcrops that occur within 3 metres of the site boundary. The landscape plan shall consider any stormwater, hydraulic or overland flow design issues where relevant.

The landscape plan shall make provision for a 50% tree canopy throughout the car park. All plantings are to be super advanced specimens.

Approval is required from Council's Tree Management Officer for replacement street tree planting and such approval is to be obtained prior to the issue of the Construction Certificate. The landscape plan is to be amended to include required street tree replacement plantings, prior to the issue of the construction certificate. *With regards to all street trees that are to be retained, particular construction methods are required to be implemented to ensure there are no adverse impacts on the street trees, including their root systems, during the construction of the development. The approved landscape plan shall include a notation to this effect.*

The Landscape Plan shall also include:

- *Tree planting in the open car park area shall be designed to provide a minimum of 50% shade cover of the car park within 15 years of planting. Trees used in the car park area shall be 400L container size specimens, and species known to thrive in the site conditions.*
 - *Car parking bays adjacent to tree plantings in the open car park shall be constructed on structural soil cells (such as StrataCell® or equivalent) to provide sufficient soil volume for long term tree growth. This shall be combined with permeable paving (such as Ecotrihex® or equivalent) to provide stormwater harvesting for the trees and allow for gaseous interchange. This system will also contribute to Water Sensitive Urban Designs (WSUD) outcomes.*
- 11) Prior to issue of a Construction Certificate, a Long Service Levy payment, which is 0.35% of the value of the work, is required to be paid to Council on behalf of the Long Service Corporation prior to release of the Construction Certificate.
- 12) Pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979, and the Bankstown City Council Section 94A Development Contributions Plan 2009 (Section 94A Plan), a contribution of \$231,570.00 shall be paid to Council.

The amount to be paid is to be adjusted at the time of actual payment, in accordance with the provisions of the Section 94A plan. The contribution is to be paid before the issue of the construction certificate.

Note: The Section 94A Contributions Plans may be inspected at Council's Customer Service Centre, located at Upper Ground Floor, Civic Tower, 66-72 Rickard Road, Bankstown, between the hours of 8.30am-5.00pm Monday to Friday.

- 13) The subject sites shall be consolidated in accordance with the approved plan. The plan for consolidation is to be registered prior to the release of the *Occupation Certificate*.

- 16) Stormwater drainage from the development shall be designed so as to comply with Council's Development Engineering Standards. A final detailed stormwater drainage design shall be prepared by a qualified Professional Civil Engineer in accordance with the above requirements and shall generally be in accordance with the concept stormwater plan No. 17B72_DA_C100, C101, C102, C103, and C104, Revision 02, dated 27.06.2018, prepared by Henry & Hymas Consulting Engineers. The final plan shall be certified by the design engineer that it complies with Council's Development Engineering Standards, and the relevant Australian Standards.

- 26) The geometric layout of the proposed signalised intersection on Fairford Road shall be generally in accordance with the *Roads and Maritime Approval in Principle letter dated 20 July 2018 which was issued to the developer's consultant. The signalised intersection shall be designed and constructed in accordance with Austroads and Roads and Maritime supplements.*

In addition the developer will be required to dedicate land sufficient to allow Roads and Maritime to locate traffic signal components on their (private) property. Evidence of approval of the design by Roads and Maritime Services shall be provided to the Principal Certifying Authority prior to the issue of the Construction Certificate.

- 59) *Three hundred and seventy-seven (377) off street car parking spaces shall be provided/maintained for the use of visitor and employees to the premises in accordance with the submitted plans. Such spaces are to be sealed and line marked and maintained.*
- 66) *The food premises is required to be registered with Council, prior to the opening of the business and commencement of trading at the premises, so that regular inspections can be carried out to ensure food safety standards are maintained. A registration form is available on Council's website which must be completed and submitted to Council prior to the operations commencing.*
- 67) Car parking spaces for 377 vehicles shall be provided in marked spaces in the manner generally shown on the approved site plan. The car parking spaces, driveways and manoeuvring areas are to be used for employees and visitors vehicles only and not for the storage of new or used materials, finished goods or commercial vehicles. *Parking spaces shall be designed to meet the requirements of the relevant Australian Standards.*
- 82) The signs shall only be illuminated during the trading hours associated with the use of the premises.

The following are supplementary conditions under Schedule B of Determination Notice No. DA-1145/2013:

- 4(a) Deletion of the Roads and Maritime Services requirement (as stipulated under Condition No. 3 of Schedule A within Determination Notice DA-1145/2013) relating to the provision of the 'no right turn' signage or concrete median across the Fairford Road and Bryant Street intersection, in line with the advice provided by Roads and Maritime Services.
- 4(b) The premises must comply with the relevant sections of the *Protection of the Environmental Operations Act 1997* and Regulations and the 'Noise Policy for Industry' (NSW EPA, 2017).
- 4(c) The premises shall be operated so as to avoid unreasonable noise or vibration and cause no interference to adjoining or nearby occupants. In the event of Council receiving complaints and if it is considered by Council that excessive and/or offensive noise is emanating from the premises, the person(s) in control of the premises shall arrange for an acoustic investigation to be carried out (by an accredited acoustic consultant) and submit a report to Council detailing the proposed methods for the control of noise emanating from the premises. The measures shall be approved by Council prior to implementation and shall be at full cost to the applicant.
- 4(d) Implementation of the NSW EPA Accredited Site Auditor approved ongoing environmental management plan prepared by AECOM Australia Pty Ltd titled, '*Environmental Management Plan, Lot 2 and 3 – DP 814242, Padstow NSW*' dated 3 September 2016 and any other conditions in the Site Audit Statement prepared by Mr Andrew Kohlrusch, GHD Pty Ltd, Site Audit Statement Number, 028-2125120R must be adhered to and interpreted to form part of development consent.
- 4(e) In the event that works cause the generation of odours or uncovering of previously unidentified contaminants, works must immediately cease, Council and the Principal Certifying Authority must be immediately notified in writing and an appropriately qualified environmental consultant appointed to undertake an assessment of the potential contaminant and works required to make the site safe from potential human health and environmental harm, which is agreed to by Council.
- Council may also request that a NSW EPA Accredited Site Auditor is involved to assist with the assessment of the unexpected finds and review any new contamination information. The applicant must also adhere to any additional conditions which may be imposed by the NSW EPA Accredited Site Auditor.
- 4(f) Any soil to be excavated and disposed of from the site must be analysed and classified by a suitably qualified environmental consultant, in accordance with relevant NSW EPA guidelines including the 'Waste Classification Guidelines' (NSW EPA, 2014) prior to off-site disposal.

Any waste material is to be transported to an appropriately licensed waste facility by an EPA licensed waste contractor in accordance with relevant NSW EPA guidelines.

- 4(g) Any fill imported onto the site must be virgin excavated natural material or excavated natural material, classified as such in accordance the 'Waste Classification Guidelines' (NSW EPA, 2014) or excavated natural material meeting the requirements of the Excavated Natural Material Exemption (NSW EPA, 2014).

Certificates verifying that the fill imported is virgin excavated natural material or excavated natural material must be provided to Council prior to the issue of an occupation certificate.

All imported fill must be compatible with the existing soil characteristics of the site.

- 4(h) The operation of the development must not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.

-END-