

# AMENDED REPORT

9 September 2015  
To the Ordinary Council Meeting

Director's Report  
Development and Building Department

## 5.1 DA/171/2015 - Bunnings - 80-90 Pacific Highway Charmhaven

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TRIM REFERENCE: DA/171/2015 - D11996845

MANAGER: Scott Cox, Director

AUTHOR: Tracy Sharp; Senior Development Planner

### SUMMARY

A development application has been received for a Hardware and Building Supplies Development (Bunnings) at 80-90 Pacific Highway (Corner Chelmsford Road) Charmhaven. The application has been assessed having regard to the matters for consideration detailed in Section 79C of the *Environmental Planning and Assessment Act 1979* and other statutory requirements.

|                              |   |
|------------------------------|---|
| <b>Applicant</b>             | Bunnings Properties Pty Ltd   |
| <b>Owner</b>                 | Mr CP Beresford and Mrs CL Beresford  |
| <b>Application No</b>        | DA/171/2015   |
| <b>Description of Land</b>   | Lot 2 DP 24696 and Lots 5 & 6 DP 738274 No. 80-90 Pacific Highway (Corner Chelmsford Road) Charmhaven |
| <b>Proposed Development</b>  | Hardware and Building Supplies  |
| <b>Site Area</b>             | 2.39 hectares   |
| <b>Zoning</b>                | IN2 Light Industrial and SP2 Road and Traffic Facility  |
| <b>Existing Use</b>          |   |
| <b>Employment Generation</b> | 160   |
| <b>Value of Works</b>        | \$24,150,000  |
| <b>Determining Authority</b> | Joint Regional Planning Panel   |

### RECOMMENDATION

- 1 ***That Council receive the report on DA/171/2015 - Bunnings - 80-90 Pacific Highway Charmhaven.***
- 2 ***That Council determine whether it wishes to make a submission to the Joint Regional Planning Panel regarding the application.***

### BACKGROUND

#### Referral to Hunter Central Coast Joint Regional Planning Panel

The proposal is referred to the Hunter Central Coast Joint Regional Planning Panel (JRPP) for determination pursuant to Section 21(1)(a) of this State Environmental Planning Policy (State and Regional Development) (SEPP) 2011, as the propose development has a capital investment value (CIV) over \$20 million as indicated within Schedule 4A of the *Environmental Planning and Assessment Act 1979*.

Enclosed is the report being forwarded to the Hunter Central Coast JRPP's for determination on 24 September 2015.

**ATTACHMENTS**

|   |                             |           |
|---|-----------------------------|-----------|
| 1 | Report to JRPP              | D12062611 |
| 2 | SEPP 64 Assessment          | D12062614 |
| 3 | Draft Conditions of Consent | D12062617 |
| 4 | Development Plans           | D12062870 |

## Assessment Report and Recommendation Cover Sheet

### JOINT REGIONAL PLANNING PANEL (Hunter Central Coast)

|  |   |
|--|---|
| <b>JRPP No</b>   | 2015HCC006  |
| <b>DA Number</b>   | DA/171/2015   |
| <b>Local Government Area</b>   | Wyong Shire Council   |
| <b>Proposed Development</b>  | Hardware and building supplies development (Bunnings) ancillary food and drink premises including demolition, remediation and ancillary works as well as the consolidation of lots  |
| <b>Street Address</b>  | Lot 2 DP 24696 and Lots 5 & 6 DP 738274<br>80-90 Pacific Highway (Corner Chelmsford Road) Charmhaven  |
| <b>Applicant/Owner</b>   | Bunnings Properties Pty Ltd - Applicant<br>Mr CP & Mrs CL Beresford - Owner   |
| <b>Number of Submissions</b>   | Four (4)  |
| <b>Regional Development Criteria (Schedule 4A of the Act)</b>                      | Capital investment value of \$24,150,000  |
| <b>List of All Relevant s79C(1)(a) Matters</b>                                     | <ul style="list-style-type: none"> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy 55 – Remediation of Land</li> <li>• State Environmental Planning Policy No. 64 – Advertising and Signage</li> <li>• Wyong Local Environmental Plan 2013</li> <li>• Wyong Shire Development Control Plan 2013 <ul style="list-style-type: none"> <li>- Chapter 2.6 - Signage</li> <li>- Chapter 2.11 – Parking and Access</li> <li>- Chapter 2.12 Industrial Development</li> <li>- Chapter 2.15 – Public Art</li> <li>- Chapter 3.1 Site Waste Management</li> </ul> </li> </ul> |
| <b>List all documents submitted with this report for the panel's consideration</b> | Officer's Assessment Report<br>Recommended conditions<br>Plans  |
| <b>Recommendation</b>  | Approval  |
| <b>Report by</b>   | Tracy Sharp – Senior Development Planner  |

## Assessment Report and Recommendation

### WYONG SHIRE COUNCIL

#### Hunter and Central Coast Joint Regional Planning Panel

**DA/171/2015 - Hardware and Building Supplies Development (Bunnings) including Demolition and Remediation**

#### Summary

An application has been received for a hardware and building supplies development (Bunnings) and food and drink premises. The application also includes demolition of the existing structures, remediation of the site and ancillary works. The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment Act (EP&A) 1979 and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

|                              |   |
|------------------------------|---|
| <b>Applicant</b>             | Bunnings Properties Pty Ltd   |
| <b>Owner</b>                 | Mr CP Beresford and Mrs CL Beresford  |
| <b>Application No</b>        | DA/171/2015   |
| <b>Description of Land</b>   | Lot 2 DP 24696 and Lots 5 & 6 DP 738274 No. 80-90 Pacific Highway (Corner Chelmsford Road) Charmhaven               |
| <b>Proposed Development</b>  | Hardware and building supplies development (Bunnings), food and drink premises including demolition and remediation |
| <b>Site Area</b>             | 2.39 hectares   |
| <b>Zoning</b>                | IN2 Light Industrial and SP2 Road and Traffic Facility  |
| <b>Existing Use</b>          | Formerly a concrete pipe manufacturing facility   |
| <b>Employment Generation</b> | 240 construction jobs and 160 full-time and part-time jobs  |
| <b>Value of Works</b>        | \$24,150,000  |

#### RECOMMENDATION

- 1 ***That the Joint Regional Planning Panel grant consent to DA/171/2015 at Lot 2 DP 24696 and Lots 5 & 6 DP 738274 No. 80-90 Pacific Highway (Corner Chelmsford Road) Charmhaven for a hardware and building supplies development (Bunnings) including demolition and remediation of the site subject to the conditions provided in Attachment 1.***
  
- 2 ***That Council advise those who made written submissions of the Joint Regional Planning Panel decision.***



## PRECIS

|                                  |   |
|----------------------------------|---|
| <b>Proposed Development</b>      | Construction of a hardware and building supplies development (Bunnings) and ancillary café, including demolition, remediation, parking and ancillary works  |
| <b>Permissibility and Zoning</b> | The proposal is permissible as ' <i>hardware and building supplies</i> ' under Wyong Local Environmental Plan (WLEP) 2013   |
| <b>Relevant Legislation</b>      | <ul style="list-style-type: none"> <li>• Environmental Planning and Assessment Act 1979</li> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy 55 – Remediation of Land</li> <li>• State Environmental Planning Policy No. 64 – Advertising and Signage</li> <li>• Wyong Local Environmental Plan 2013</li> </ul> |
| <b>Current Use</b>               | The site currently contains a hardstand area from the previous concrete pipe manufacturing facility.  |
| <b>Submissions</b>               | Four (4)  |

## VARIATIONS TO POLICIES

The development proposes the following variations: -

|                        |  |
|------------------------|--|
| <b>DCP</b>             | Chapter 2.12 Industrial Development              |
| <b>Clause</b>          | 2.2 Site Coverage                                |
| <b>Standard</b>        | 50%  |
| <b>Departure basis</b> | The development proposes a site coverage of 55%. |

|                        |   |
|------------------------|---|
| <b>DCP</b>             | Chapter 2.12 Industrial Development   |
| <b>Clause</b>          | 2.3 Setbacks  |
| <b>Standard</b>        | Front Setback - 10m to other roads  |
| <b>Departure basis</b> | The DCP does not have specific requirements in relation to corner allotments with two (2) street frontages. The proposed building has a varied setback to Chelmsford Road with one (1) minor element, the pedestrian entryway portion, having a proposed setback of between 1m to 3.5m to Chelmsford Road. This is a variation of 6.5m to 9m for an 18m length or 9.3% of the overall building length (192m). |

|                        |   |
|------------------------|---|
| <b>DCP</b>             | Chapter 2.12 Industrial Development   |
| <b>Clause</b>          | 2.3 Setbacks  |
| <b>Standard</b>        | 5m landscaping within front setback   |
| <b>Departure basis</b> | The entryway of the proposed building is set within the required 5m landscaped area. This variation is for 18m in length or 7.5% of the overall site length of 240m on Chelmsford Road. |

The proposed variations are discussed in further detail within the report.

## THE SITE AND SURROUNDING DEVELOPMENT

The subject site is commonly known as 80-90 Pacific Highway (Corner Chelmsford Road) Charmhaven and is legally described as Lot 2 DP 24696 and Lots 5 and 6 DP 738274.

The site subject to this application is located on the western side of Pacific Highway and southern side of Chelmsford Road. The site has a frontage of approximately 80m to Pacific Highway and approximately 240m to Chelmsford Road. The subject site has an overall site area of approximately 2.39 hectares. Vehicle access to the site is currently from Pacific Highway, however access for the proposed development will be from Chelmsford Road.

The site contains the existing structures mainly concrete slabs from the previous concrete pipe manufacturing facility. The site has a fall of approximately 3% from the south eastern corner to Chelmsford Road.

The site sits within an existing mix of industrial and highway related developments with the surrounding properties characterised by a variety of land uses including:

- the vacant Kellogg's buildings to the south; and
- the Millennium Health Club adjacent the western boundary.
- to the north of the site on the other side of Chelmsford Road exists a Before and After School Care, Petbarn, Bristol and Carroll's Timber and Hardware.
- low density residential development is located to the east across the Pacific Highway.
- in addition to these, the Lake Haven Home Mega Centre, which includes the existing Bunnings Warehouse and Lake Haven Shopping Centre, are located diagonally opposite the site to the north-east.

The subject site has been identified as being subject to road widening along its Pacific Highway frontage.

Lot 2 is burdened by an easement containing an electricity substation.



Figure 1 - Aerial photograph



Figure 2 – Zoning plan

## THE PROPOSED DEVELOPMENT

The applicant proposes the demolition of the existing structures (concrete slabs) on the site, remediation of the site and construction and use of a hardware and building supplies including ancillary food and drink premises development. It is proposed that the Bunnings warehouse will relocate from the existing facility located diagonally opposite the site within the Lake Haven Home Mega Centre.

The proposed development comprises the following elements: -

- Demolition of all structures on site;
- Bulk Earthworks involving approximately 2.0m of cut at the Pacific Highway boundary to 2.4m of fill across the length of the Chelmsford Road frontage;
- Construction of a Bunnings Warehouse with a total floor space of 16,313 m<sup>2</sup> including:
  - Main entry – 490m<sup>2</sup>;
  - Main warehouse – 9,456m<sup>2</sup>;
  - Timber trade sales area – 3,143m<sup>2</sup>;
  - Mezzanine office/administration area - 255 m<sup>2</sup>;
  - Bagged goods canopy - 1,736m<sup>2</sup>;
  - Outdoor nursery – 1,145m<sup>2</sup>;
  - Goods receiving canopy;
  - Café selling pre-packaged goods and beverages – 88m<sup>2</sup>;
- Lifts and travellers;
- Bunnings signage theme to extend across the building:
  - 2 x 12m high pylon signs, 1 on Pacific Highway and 1 on Chelmsford Road with areas of 34.5m<sup>2</sup>;
  - Building identification wall signage (painted on) with areas of 105m<sup>2</sup>, 116m<sup>2</sup>, 237m<sup>2</sup> and 257m<sup>2</sup>;
- Ancillary works including firefighting water supply, landscaping areas and provision of sewer, water and stormwater services;
- Access and car park:
  - Two (2) new access points onto Chelmsford Road requiring the construction of a single lane round-about incorporating Callaghan Drive for the main customer entry and a two-way delivery and timber trade sales access/ramp along the western boundary;
  - Undercroft parking providing 410 spaces including 10 disabled spaces;
- Employment of approximately 160 full time and part time staff;
- Opening hours:
  - Monday – Friday: 6am to 10pm;
  - Saturday, Sunday and Public Holidays: 6am to 7pm;
- Delivery hours: 6.00am to 9.00pm.
- Consolidation of lots

The majority of the building will have a height of approximately 13.4m (undercroft RL to parapet RL) with the maximum height of 15.4m at the top of the entry structure. Due to the topography of the site and proposed earthworks, the building would present as height of 9.5m to Pacific Highway after the site has been cut a maximum of 2m at the Pacific Highway boundary.



The existing Bunnings within the Lake Haven Homemakers Centre has a floor space of 8,318m<sup>2</sup>. The proposed Bunnings has an extra floor space of 7,250m<sup>2</sup> and will employ an additional 40 staff.



Photomontage 1: Proposed Bunnings, corner of Pacific Highway and Chelmsford Road – looking south



Photomontage 2: Proposed Bunnings (eastern facade) from Pacific Highway – looking north

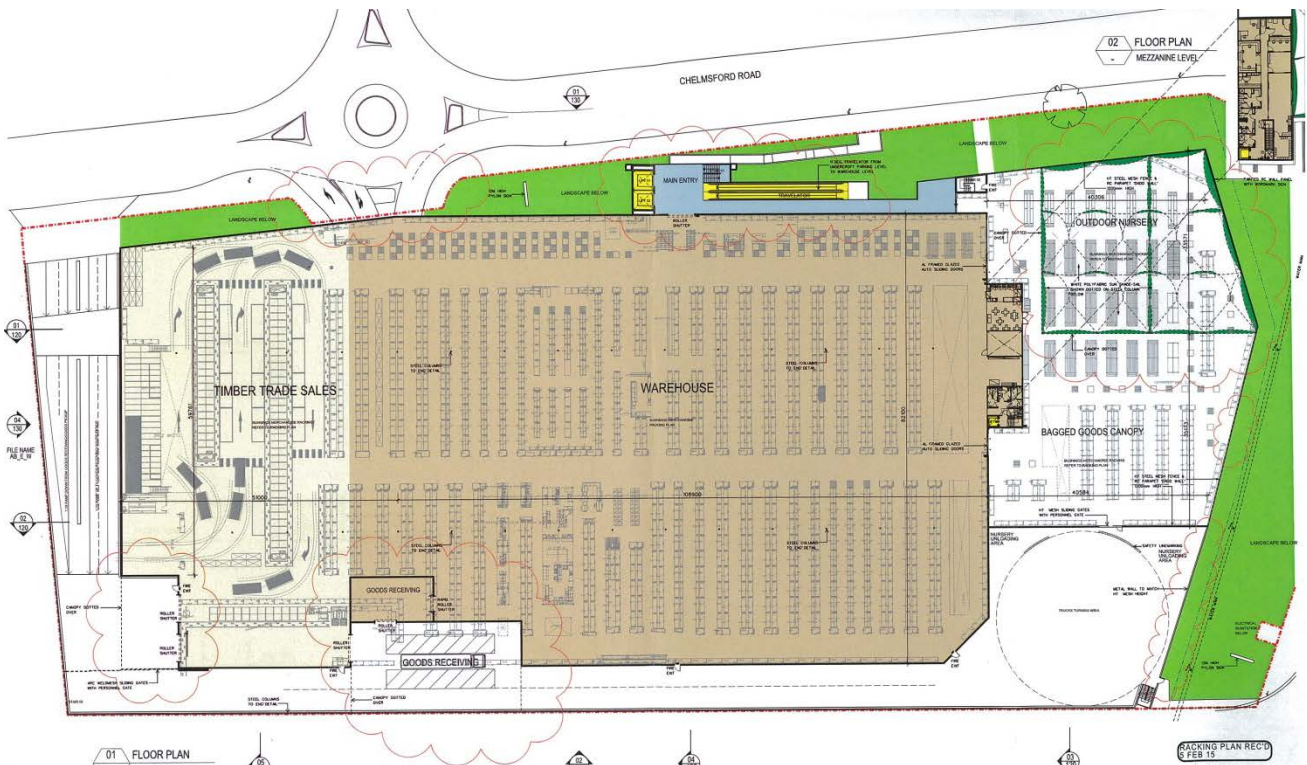


Figure 3 - Plan of proposed Bunnings sales area



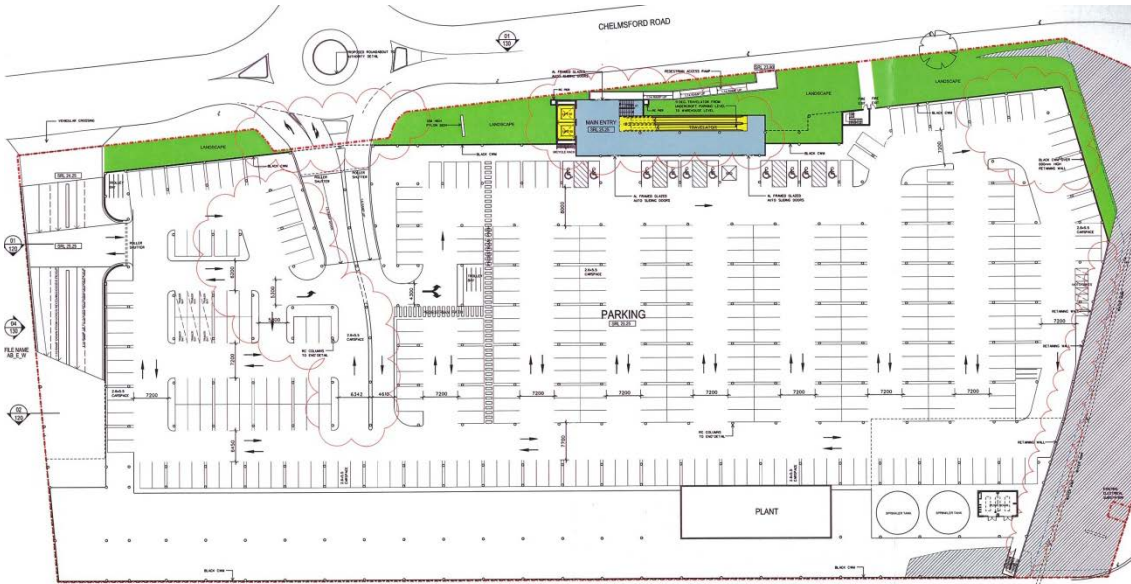


Figure 4 - Plan of undercroft car parking

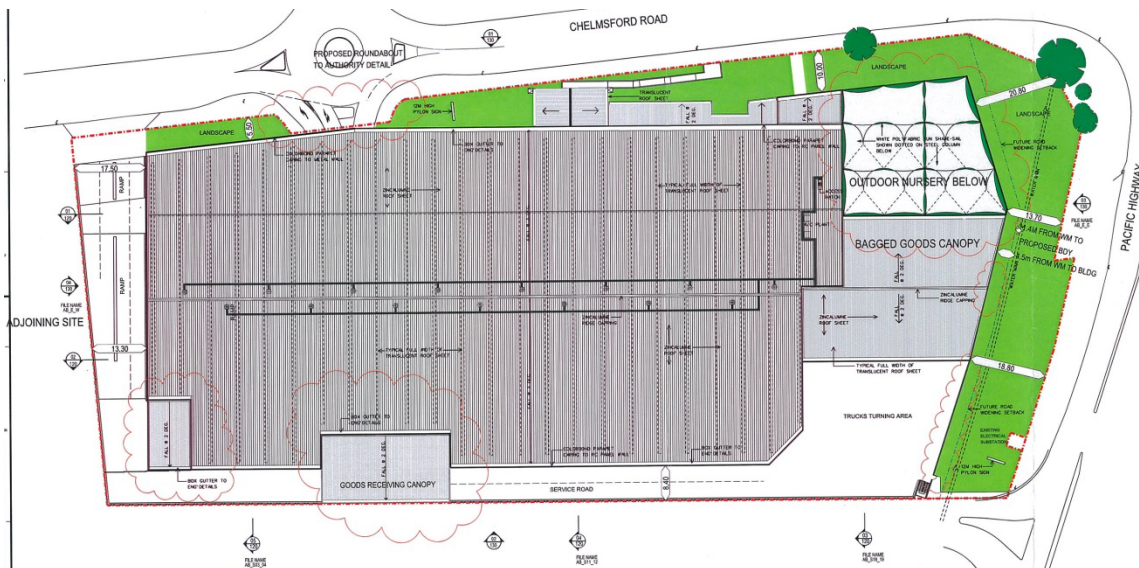


Figure 5 - Plan of roof, outdoor nursery and bagged goods canopies

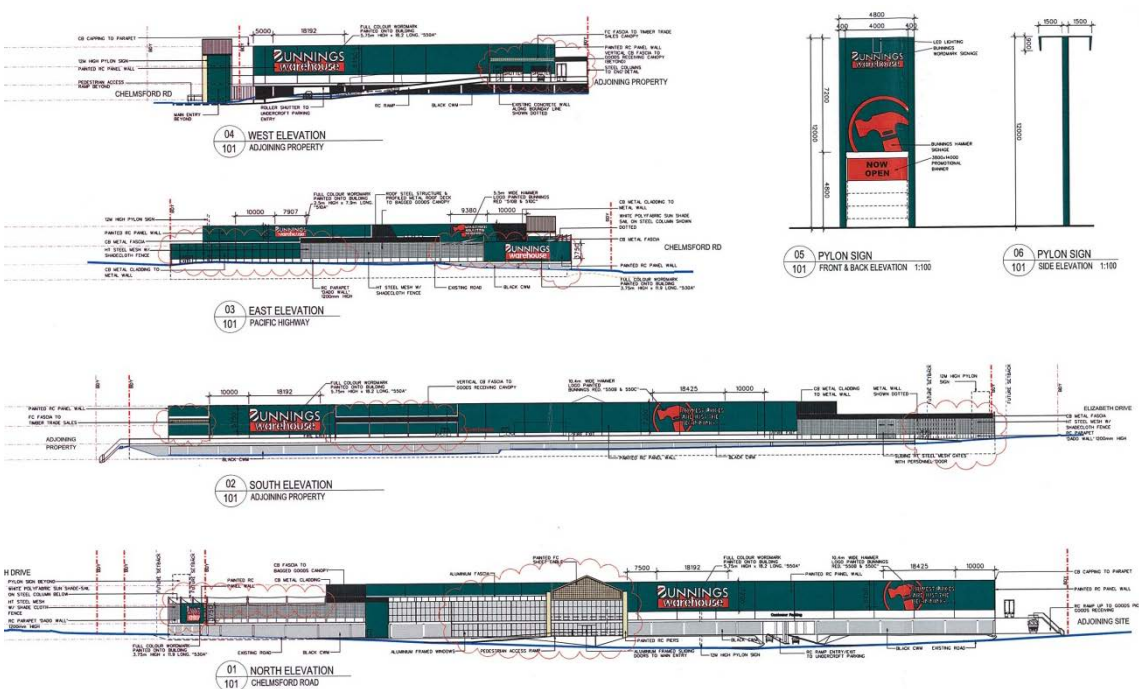


Figure 6 - Plan of proposed elevations

## HISTORY

### Applications

The following applications have been determined on the subject land: -

- DA/73/75 to erect a workshop (350ft x 90ft) for manufacture of plumbing and drainage material, with ancillary office and storage area" was issued on 4 May 1973.
- DA/75/68 to use bay 3 in an existing factory building as a bottle storage area was issued on 5 May 1975.
- DA/75/258 for a fencing contractor yard and display area was issued on 24 December 1975.
- DA/82/820 for alterations to existing development" was issued on 7 July 1982.
- DA/85/455 for the erection of cement silos and external storage of industrial material was issued on 18 August 1986.
- DA/376/88 for the demolition of existing amenities and construction of new facilities was issued on 22 June 1988.
- DA/1078/88 for factory bays and storage units was issued on 24 February 1989.

### Recent Demolition

Prior to the development application being lodged with Council for consideration and determination, various structures on the site were demolished and/or removed without consent of Council of which the matter was investigated by Council's compliance staff and appropriate action taken.

## **ANY SUBMISSION MADE IN ACCORDANCE WITH THIS ACT OR REGULATIONS**

### **Any submission from the public**

Under Wyong Development Control Plan 2013 (DCP) Chapter 1.2 Notification of Development Proposal, the proposed development was advertised and notified to adjoining property owners from 6 March 2015 to 25 March 2015 and was extended to 15 April 2015 following a request from a nearby resident. During this period four (4) submissions were received. The general issues raised in relation to the proposal are included below: -

- Distribution to other Bunnings will generate a lot more traffic.

### Comment:

The proposed Bunnings Warehouse will not act as a warehouse or distribution centre as defined under the WLEP 2013. The reference to distribution included within the SEE describes how most Bunnings Warehouses operate, in that they receive their merchandise direct from the manufacturer or distribution centre in Sydney. The goods are then displayed for sale and are not distributed to other stores. The traffic assessment report written by Transport and Traffic Planning Associates indicates that the proposed development will not have any adverse traffic impacts on the road system serving the site. In addition, RMS have indicated that they have no objection to the proposed development and an upgrade of the Pacific Highway/Chelmsford Road intersection does not need to be upgraded.

- Noise from truck turning area, air-conditioning system/roof fans, undercover car park, motor bikes, PA system, forklifts/trucks outside hours of operation.

Comment:

It is anticipated that there will be a certain amount of noise associated with the proposed use. It is noted however that the subject site is zoned IN2 Light Industrial, is within an existing established industrial area, and adjoins the Pacific Highway. A noise assessment by Wilkinson Murray was submitted with the application that included the assessment noise from fixed mechanical plant, patrons, traffic and activities associated with the delivery of goods. This assessment determined that compliance with established site specific noise criteria; compliance with the established sleep disturbance screening criteria and compliance with traffic noise was established at all existing residences within directly opposite the site on the Pacific Highway and Chelmsford Road East. The hours of operation and delivery hours will be conditions so as to minimise impact upon adjoining development.

- Deliveries should be Monday to Friday 8am to 5pm, forklifts should not be used before 8am and after 5pm.

Comment:

The proposed hours of operation are Monday – Friday 6am to 10pm and Saturday, Sunday and Public Holidays 6am to 7pm. It is proposed that all delivery activities including loading and unloading shall be restricted to the hours between 7am to 7pm. The noise assessment by Wilkinson Murray has indicated that the development complies with the required noise criteria. However, the majority of Bunnings within the Hunter and Central Coast areas have hours less than those proposed by this development and therefore it is considered more appropriate to comply with those hours (Monday to Friday 7am to 9pm, Saturday 7am to 7pm and Sunday 7am to 6pm) especially as the development is located opposite existing residential development.

- Pylon sign is not in keeping with residential area and does not comply with Council's requirements.

Comment:

The proposed signage complies with the requirements of SEPP 64 advertising and the RMS has indicated that they have no objection to the proposed sign which is located on industrial not residential zoned land. The proposed pylon sign is of a similar scale to other signs utilised for commercial and industrial development in the surrounding area.

- Congestion on roundabout, deliveries should use Mataram and Arizona Road.

Comment:

A traffic report has been provided supporting the application. RMS has indicated that the proposed development does not warrant an upgrade of the roundabout (Pacific Highway/Chelmsford Road) and deliveries can utilise this intersection.

- During busy times, the public will park in front of my house and duck across the highway, pedestrian access across the Highway should not be permitted.

Comment:

The application proposes to provide 410 car parking spaces which is in excess for the required minimum number of spaces required of 323. It is envisaged that people will utilise the proposed car park and not park on the Pacific Highway.

The Pacific Highway is a very busy road with approximately 330 vehicle movements during peak periods at this intersection. Any members of the public wishing to cross the road will be encouraged to utilise the new pedestrian refuge near the Lake Haven Homemakers Centre. A condition requires a pedestrian refuge and footpaths in Chelmsford Road and this will assist in the distribution of pedestrians.

- Demolition of buildings was undertaken illegally.

Comment:

Prior to the development application being lodged with Council and after lodgement, various existing structures on the site were demolished and/or removed without the prior consent of Council. These matters were investigated and appropriate action taken.

- Concern that removal of concrete slabs will expose toxic waste.

Comment:

The removal of the concrete slabs and any structures under these slabs will need to be undertaken in accordance with the Remediation Action Plan which has been prepared as part of the application documentation and would be included as a condition of consent.

- Construction of the building will cause damage to my house (Pacific Highway) through vibration.

Comment:

The dwellings located along the Pacific Highway directly opposite the site are located approximately 50m from the subject site. Research indicates that ground vibrations from construction activities do not often reach the levels that can damage structures. It is considered that there is appropriate distance between the development site and the existing dwellings to minimise any damage during construction.

- Hours of operation exceeds hours of Lake Haven Bunnings (7am-9pm week days, 7am-7pm Saturday and 7am-6pm Sunday) and will have a detrimental impact up on the existing residential development.

Comment:

Consideration has been given to the zone objectives, the location relative to the highway and industrial/commercial nature of development on Chelmsford Road. The proposed hours of operation are Monday – Friday 6am to 10pm and Saturday, Sunday and Public Holidays 6am to 7pm. It is proposed that all delivery activities including loading and unloading shall be restricted to the hours between 7am to 7pm. The noise assessment by Wilkinson Murray has indicated that the development complies with the required noise criteria. However, the majority of Bunnings within the Hunter and Central Coast areas have hours less than those proposed by this development and therefore it is considered more appropriate to comply with those hours (Monday to Friday 7am to 9pm, Saturday 7am to 7pm and Sunday 7am to 6pm) especially as the development is located opposite existing residential development.

- Sign should be relocated to roundabout away from residential development.

Comment:

The proposed sign is located approximately 42m from the nearest residential property. The proposed sign on the Pacific Highway is considered to be located in an appropriate location a suitable distance away from the roundabout to promote sight distances, reduce distraction and promote traffic safety. The proposed Pacific Highway sign is illuminated with stationary lighting baffles to be installed to ensure there is minimal light spill to adjoining residential properties.

- Impact of light spill from trucks on residential development.

Comment:

The plans have been amended to incorporate a colour matched colorbond wall (2m high) in front of the truck tuning area along the Pacific Highway as well as landscaping to minimise light spill onto the residential properties opposite the subject site.

- Dust from handling building materials eg cement.



Comment:

There are no loose building materials stored on-site and all products are already bagged, therefore minimal dust creation from this area. In addition, this area is approximately 50m from the nearest residential property. The bagged goods area is also under a canopy and separated from residences by an 18m wide landscaping strip and the Pacific Highway (30m).

- Overdevelopment of site.

Comment:

The previous development had a significant development footprint as evidenced by the existing concrete slabs. The proposed development will remove these slabs and introduce greater setbacks and landscaping to both street frontages thereby substantially increasing pervious areas on the site. The development seeks a variation to the DCP control which requires 50% site coverage in that it proposes 55% site coverage.

The proposed variation is considered acceptable for the following reasons: -

- provides an additional 87 car parking spaces;
- increased landscaping of approximately 4,500m<sup>2</sup> comparative to the existing site which is approximately 1500m<sup>2</sup>;
- the variation to the front setback to Chelmsford Road is only for a small portion (18m) 9.3% of the overall building length (192m);
- 222m or 92.5% of the Chelmsford Road frontage achieves a minimum landscape width of more than 5.5m with the exception of the entry feature which encroaches to 1m for 18m;
- the development also provides on-site detention;
- the development is suitably located within an industrial setting adjacent to the Highway; and
- if the LEP or DCP had an FSR requirement, the FSR for the proposed development would be 0.68:1, where 0.8:1 is a common FSR requirement for industrial development.

Therefore, the proposed development is considered satisfactory and not an overdevelopment of the site.

**Any submission from public authorities**

The following government authorities were consulted in relation to the proposed development: -

- NSW Roads and Maritime Services

The application was referred to the NSW Roads and Maritime Services (RMS) for comment under the provisions of Clause 104 and Schedule 3 of *State Environmental Planning Policy (Infrastructure) 2007*, as the proposed development is located within 90m of a state classified road, (in this instance the Pacific Highway (HW10)) and is a traffic generating development. In addition, the application was referred to RMS in accordance with Clause 18 of *State Environmental Planning Policy No. 64 – Advertising and Signage* for the display of advertising signs higher than 8m above the ground or greater than 20m<sup>2</sup> and within 250m of and visible from a classified road.

The RMS have indicated that they have no objection to the proposed development including signage and have granted concurrence subject to several conditions being included on any consent.

- Mine Subsidence Board

The application was referred to the Mine Subsidence Board (MSB) as the subject site is located within a proclaimed mine subsidence district. MSB have assessed the application and have no objection to Council issuing an approval and have recommended several conditions be attached to any consent.

### **Internal Consultation**

The development was referred to the following internal officers and the following comments have been provided: -

- Arborist Officer

The applicant seeks to retain vegetation along the Pacific Highway road reserve.

The application has been assessed by Council's Arborist and the application is recommended for approval subject to several conditions being included on any consent.

- Development Engineer

The application has been assessed by Council's Development Engineer and the application is recommended for approval subject to several conditions being included on any consent. The following comments have been provided: -

### **Stormwater Management and Drainage**

#### Catchment & Site Investigation

The inspection of the site identified that the adjoining upstream property Lot 1 DP787758 (former Kellogg's site) has a piped stormwater drainage system connecting part of the driveway access, car parking area and the roofed drainage of the original Kellogg's building along the northern boundary into a pit and 600 diameter pipeline that traverses the proposed Bunnings site. A title search indicates that there is no easement for drainage over the 600 diameter pipeline.

Further investigations revealed that the 600 diameter pipeline connects to the public stormwater drainage pit within Chelmsford Road adjacent the Callaghan Close intersection. The Chelmsford Road and Callaghan Close intersection is the sag point in this catchment area.

Surcharge stormwater flows from the entire upstream site Lot 1 DP787758 (former Kellogg's site) in excess of the Pacific Highway pipework's capacity would naturally flow into a low point and then over the subject site (Lot 2 DP 24696 and Lot 5 DP738274).

The results of these investigations have been incorporated into the engineering requirements for the proposed development as indicated below: -

#### Stormwater Management

In response to the identified upstream catchment stormwater discharges the applicant's consultant C & M Consulting Engineers prepared an additional drainage plan which details the construction a stormwater diversion pipeline to a 100 year ARI capacity to collect and discharge all stormwater flows generated within the upstream property (Lot 1 DP787758) catchment area for connection into the piped public stormwater drainage system within Chelmsford Road. The plan also includes the provision of a catch drain or wall with a controlled spillway across the southern boundary of the Bunnings site to accommodate any stormwater surcharges due to blockages. The spillway weir will control the flows by the formation of an emergency overland flow path through the proposed car park connecting to the sag point within Chelmsford Road.

The Stormwater Management Plan included in the "Statement of Environmental Effects" prepared by C & M Consulting Engineers provided preliminary engineering plans detailing the construction of an on-site detention system comprising of a large tank (815m<sup>3</sup>) within the car park to maintain existing stormwater discharges within the sub-catchment area. The Stormwater Management Plan also includes the provision of a rainwater re-use tank for irrigation purposes associated with the proposed nursery and toilet flushing within the Bunnings store. A comprehensive water quality system consisting of a gross pollutant trap, hydrodynamic separator and storm filter is also proposed to ensure pollution controls comply with the pollutant targets set in Council's DCP 2013 Civil Works Design Guideline.

The proposed stormwater drainage management works including the additional diversion works have been included as conditions of consent.

### ***Traffic and Transport***

#### **Vehicle Access**

The proposed roundabout on Chelmsford Road will become the vehicle access driveway servicing the Bunnings at grade car park at its intersection with Callaghan Close. The roundabout will be designed to accommodate the swept path of an articulated vehicle (19m), a prime mover and in accordance with the Austroads "Guide to Road Design Part 4B: Roundabouts". The roundabout will also necessitate the reconstruction of the existing stormwater drainage inlet and pipeline system, adjustment and relocation of the existing services including water and sewer mains/manholes to accommodate the proposed roundabout alignment.

The service vehicle access to the trades sale area, goods pickup and loading dock area is located along the western boundary of the site adjoining Chelmsford Road and separated from the proposed roundabout. This service access driveway connects to a ramp and truck turning area located at the upper warehouse level in the south eastern corner of the site. The construction of this wide commercial vehicle access crossing servicing the loading dock ramp will require the relocation of the existing bus stop within Chelmsford Road to a suitable location west of the proposed access crossing.

The above described road works have been included as conditions of consent.

#### **Pedestrian Access**

To provide a safe formal pedestrian link to the relocated bus stop along Chelmsford Road a concrete footpath linking the bus stop to the Bunnings building pedestrian entry is recommended by conditions. The footpath shall also extend east to cross the main vehicle entry/exit ramp a minimum of 12m from the roundabout holding line. The footpath works include the construction of pedestrian kerb ramps, a 2m wide dividing median (Splitter Island), adequate lighting and signage.

Continuing the pedestrian link access Chelmsford Road requires a pedestrian refuge adjacent to the Bunnings building pedestrian entry in accordance with the RMS Technical Direction TDT2011/01a is necessary. The refuge shall include all associated works including line marking, signage and pedestrian kerb ramps to both sides of Chelmsford Road which are conditioned.

The construction of a concrete footpath along the Chelmsford Road northern footway and the Pacific Highway linking the Chelmsford Road pedestrian refuge with the recently constructed pedestrian refuge across the Pacific Highway north of the Pacific Highway/Lake Haven Drive roundabout is required to ensure safe pedestrian movements.

The above described road works including footpath construction have been included as conditions of consent.

- Environmental Health Officer

The application has been assessed by Council's Environmental Health Officer in relation to the potential contamination impacts and the application is recommended for approval subject to several conditions being included on any consent and have provided the following comments: -

#### Contamination

The applicant lodged a "Preliminary Environmental Site Assessment for Proposed Commercial Development at 80-90 Pacific Highway, Lake Haven", for Andermatt Pty Ltd C/O John R Brogan & Associates Pty Ltd, report ref: E27560KGrpt by Environmental Investigation Services.

This assessment indicates that the site contains minor traces of arsenic, nickel and zinc detected in the groundwater samples as well as total petroleum hydrocarbon (TPH) in the standing water of the former diesel aboveground storage tank bund and oil/water arrestor pit. In addition some fill on the site contains asbestos.

The contamination report recommends that a remediation action plan shall be prepared for the proposed development. This plan includes remedial measures to be implemented to render the site suitable for the proposed land use. The impact upon the environment will be minimal. A validation assessment report shall be prepared to document the remediation action undertaken at the site.

#### Noise

The applicant lodged an acoustic assessment titled "Bunnings Warehouse, Lake Haven – Development Application Noise Assessment, Report No. 14428 version A dated February 2015 by Wilkinson Murray Pty Ltd. Background noise monitoring was used to establish the existing noise levels from which project specific noise criteria were derived. This noise assessment determined that compliance with established site specific noise criteria will be achieved at all residential receivers with the exception of a small exceedance at residences located on industrial zoned land to the north of the site. All residential receivers complied with the established sleep disturbance screening criterion and traffic noise criterion.

This assessment indicated that due to the delivery activities being located on the western end of the proposal this activity is shielded by the proposed building. It is anticipated that any noise impacts upon the environment will be minimal.

This assessment recommended that in order to minimise adverse impacts to surrounding residences, all deliveries will be restricted between 7am to 9pm. This has been included as a condition.

- Section 94 Contributions Officer

The application has been assessed by Council's Section 94 Contributions Officer and the application is recommended for approval subject a condition in relation to Section 94A contributions being paid prior to issue of the Construction Certificate being included on any consent. The following comments have been provided: -

The proposed development is subject to Section 94A contributions being 1% of the cost of development which equates to a Section 94A contribution of \$241,500. CPI is to be applied to this contribution.

- Trade Waste Officer

The application has been assessed by Council's Trade Waste Officer and the application is recommended for approval subject to several conditions being included on any consent. The following comments have been provided: -

In accordance with Table 1: Exemptions of Council's Policy for Discharge of Liquid Trade Waste to the Sewerage System, provided a mixed business installs a floor waste basket and sink strainer, and housekeeping practices are complied with, a Liquid Trade Waste Application is not required. These controls will be included within the conditions of consent to ensure compliance.

- Traffic Engineer

The application has been assessed by Council's Traffic Engineer and the application is recommended for approval subject to several conditions being included on any consent. The following comments have been provided: -

The proposed roundabout will assist in reducing traffic speed on Chelmsford Road and around the service vehicle entry.

The roundabout must be designed to accommodate the swept path of Council's low loader and a 19m articulated vehicle.

It appears that the roundabout will encroach into the Bunnings site. In this regard the proponent will be required to dedicate a portion of the site as road reserve to facilitate access for maintenance.

- Water and Sewer Officer

The application has been assessed by Council's Water and Sewer Officer and the application is recommended for approval subject to several conditions being included on any consent. The following comments have been provided: -

Loading

The development will generate a loading of 48.3 ETs (Equivalent Tenements) on water supply and sewerage systems based on the information available as of 16 March 2015. This is based on a bulky good development (0.003ET/m<sup>2</sup>) with an area of 16,104m<sup>2</sup>.

Water Supply

Water service is available for the proposed development from Chelmsford Rd (150mm AC) and Pacific Hwy (150mm AC). Council's existing system is adequate to provide water supply to the proposed development.

As stated in the Civil Engineering Plan, new entries will be constructed along Chelmsford Rd and this will require the replacement of the existing asbestos cement water main with a new PVC water main. This is required for the extent of the area to be disturbed as part of the construction of new kerb, pavement or earthworks to avoid causing damage to the asbestos cement main.

In addition, the major water trunk main feeding the north of Wyong Shire is laid on the Pacific Highway side of the site. The alignment of the main should be identified prior to any construction work with the main likely protected by an existing easement. No construction is permitted within the easement or within the water mains zone of influence as described in Council's "Build over Sewer Policy".

Any proposed adjustments to Council's water assets will require a detailed design to be prepared by the applicant for approval prior to the issue of the Construction Certificate. The design and construction of the water mains are to be in accordance with the WSA Water Supply Code of Australia WSA – 02 Sydney Water Edition, Wyong Shire Council Amendments.

### Sewer

The site is currently serviced for sewer laid on the Chelmsford Road side of the site. There is sufficient capacity within this existing sewerage network for the proposed development. Connection can be made to the sewer manhole located on the northern side of the proposed development site.

Council's "Build over Sewer Policy" applies to development within the vicinity of the existing mains.

Any proposed adjustments to Council's sewerage assets will require a detailed design to be prepared by the applicant for approval prior to the issue of the Construction Certificate. Any adjustment or protection of the sewer mains are to be fully funded by the developer. The design and construction of any sewer main adjustments are to be in accordance with the WSAA Sewerage Code of Australia WSA-02 Sydney Water Edition, Wyong Shire Council Amendments. Council will undertake final connections to its live sewer system at the developer's full cost.

### DSP Contributions

The proposed development falls within the latest Development Servicing Plan for Wyong Shire implemented on 1<sup>st</sup> July 2014. Water supply and sewerage contributions will be applicable and will need to be paid prior to issue of the Occupation Certificate.

An existing credit of 12 ET is allocated to the site based on the existing industrial land use which is credited at 5ET/Ha. Therefore, the water and sewer contributions payable for this development will be 36.3ET.

## **ECOLOGICALLY SUSTAINABLE PRINCIPLES**

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles.

The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control and site remediation where possible and is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

### **Climate Change**

The potential impacts of climate change on the proposed development have been considered by Council as part of its assessment of the application.

This assessment has included consideration of such matters as potential rise in sea level; potential for more intense and/or frequent extreme weather conditions including storm events, bushfires, drought, flood and coastal erosion; as well as how the proposed development may cope/combat/withstand these potential impacts.

## **ASSESSMENT**

Having regard for the matters for consideration detailed in Section 79C of the *Environmental Planning and Assessment Act 1979* and other statutory requirements, Council's policies and Clause 149 Certificate details, the assessment has identified the following key issues, which are discussed for Council's information.

## THE PROVISIONS OF RELEVANT INSTRUMENTS/PLANS/ POLICIES

### a) Wyong Local Environmental Plan 2013

#### Permissibility

The subject site is partly zoned IN2 Light Industrial and SP2 Road and Traffic Facility under the provisions of the *Wyong Local Environmental Plan 2013* (LEP). The proposal is defined as a *hardware building supplies*, and includes *business identification signs* and an ancillary café (*Food and drink premises*) as indicated as follows under the LEP

**Hardware and building supplies** means a building or place the principal purpose of which is the sale or hire of goods or materials, such as household fixtures, timber, tools, paint, wallpaper, plumbing supplies and the like, that are used in the construction and maintenance of buildings and adjacent outdoor areas.

**Business identification sign** means a sign:

- (a) that indicates:
    - (i) the name of the person or business, and
    - (ii) the nature of the business carried on by the person at the premises or place at which the sign is displayed, and
  - (b) that may include the address of the premises or place and a logo or other symbol that identifies the business,
- but that does not contain any advertising relating to a person who does not carry on business at the premises or place.

**Food and drink premises means** premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) a pub,
- (d) a small bar.

**Restaurant or cafe** means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.

The whole of the building with internal café and one (1) pylon sign are located within this IN2 zone which are all permissible with consent in the IN2 Light Industrial zone. One (1) pylon sign is located within the SP2 Road and Traffic Facility zone and signs are prohibited within this zone, however it is considered under Clause 5.3 Development near zone boundaries and is permissible under the IN2 Light Industrial zone.

#### Objectives

The objectives of the IN2 Light Industrial zone are as follows:

- 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.

The objectives of the SP2 Road and Traffic Facility zone are as follows:

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*
- *To recognise existing railway land and to enable future development for railway and associated purposes.*
- *To recognise major roads and to enable future development and expansion of major road networks and associated purposes.*
- *To recognise existing land and to enable future development for utility undertakings and associated purposes.*

The proposed development complies with the objectives of the IN2 Light Industrial zone as the development is a land use compatible with the zone, providing employment, with minimal impact upon adjoining land uses, is providing services to meet the day to day needs of workers in the area and is supporting industrial uses.

One of the proposed pylon signs is located within the SP2 Road and Traffic Facility zone which RMS have indicated they have no objection to subject to the sign being erected in this location so long as it is removed at the owners cost upon road acquisition being required for future infrastructure, therefore complying with the objectives of the zone. A condition will require the removal of the sign upon acquisition of the road widening area.

#### *Relevant Clauses*

- Clause 2.7 – Demolition requires development consent

Development consent is required for the demolition of the existing structures on the subject site.

- Clause 5.1 – Relevant acquisition authority

The objective of this clause is to identify the authority of the State that will acquire land reserved for certain public purposes if the land is required to be acquired under the *Land Acquisition (Just Terms Compensation) Act 1991*.

Council's Land Reservation Acquisition Map identifies that a portion of the subject site adjoining the Pacific Highway is required for road widening by the Roads and Maritime Services (RMS).

The application was referred to RMS who have indicated that the road widening is still required, however, there are no current plans to widen this portion of the road and acquisition is not required at this time.

The RMS have indicated that they have no objection to the proposed development and do not require dedication of the portion of land zoned SP2 at this time. With the exception of one pylon sign and landscaping there are no works provided within this space. As such the development will not substantially increase future acquisition costs for RMS.

- Clause 5.3 – Development near zone boundaries

The objective of this Clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone. The relevant flexibility distance is 20m. This Clause applies to both IN2 Light Industrial and SP2 Road and Traffic Facility zones.

The proposed pylon sign is located on land zoned SP2 and is approximately 10.8m from the IN2 Light Industrial zone, where signage is a permissible form of development. Therefore, within the prescribed 20m to utilize the provisions of this Clause.



Before development consent may be granted the consent authority is to be satisfied that:

- (a) *the development is not inconsistent with the objectives for development in both zones, and*
- (b) *the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.*

As indicated above, it is considered that the proposed development complies with the objectives of both zones. The proposed sign is considered compatible to the proposed development. A condition will require the removal of the sign at the owners cost upon acquisition of the land. The relevant acquisition authority, RMS have not objected to this.

- Clause 7.9 – Essential services

This Clause requires consideration of essential services. Services such as water, sewer, electricity, stormwater drainage and road access can be adequately provided.

#### **b) Relevant SEPPs**

The relevant State Environmental Planning Policies are as follows: -

- *State Environmental Planning Policy (State and Regional Development) 2011*

The proposed development has a capital investment value (CIV) over \$20 million as indicated within Schedule 4A of the *Environmental Planning and Assessment Act 1979*. In accordance with the provisions of Clause 21(1)(a) of this SEPP, the Joint Regional Planning Panel (JRPP) are the determining authority.

- *State Environmental Planning Policy (Infrastructure) 2007*

The subject site adjoins Pacific Highway which is a classified (State) road. Under Clause 101 of this SEPP, development with frontage to a classified road must be referred to the Roads and Maritime Service (RMS) for comment.

Under Clause 101(2) of this SEPP, *the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:*

- (a) *where practicable, vehicular access to the land is provided by a road other than the classified road, and*
- (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
  - (i) *the design of the vehicular access to the land, or*
  - (ii) *the emission of smoke or dust from the development, or*
  - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

With regards to the above,

- access to the development is provided via Chelmsford Road and not the Pacific Highway;
- The development sites existing access direct to the Pacific Highway will be removed thereby improving conditions;
- the safety, efficiency and ongoing operation of the Pacific Highway is not adversely affected by the development as access to the development is via Chelmsford Road, the

- development does not generate smoke or dust and RMS have indicated that the proposed development does not generate significant traffic generation to warrant the upgrade of the Pacific Highway/Chelmsford Road intersection; and
- the proposed development is not sensitive to traffic noise or vehicle emissions arising from the Pacific Highway.

Under Clause 104 of this SEPP, the proposed development is classified as traffic generating development as the proposed commercial development exceeds 10,000m<sup>2</sup> in gross floor area and the proposed development is located within 90m of a state classified road. In accordance with Clause 104 the application was referred to RMS for comment.

The RMS has indicated that they have no objection to the proposed development or the location of the proposed pylon sign within the identified road widening area. RMS have recommended that upon the land being acquired this sign is to be removed at no cost to RMS or Council.

Under Clause 104(3) of this SEPP, *the consent authority must:*

- (a) *give written notice of the application to the RTA within 7 days after the application is made, and*
- (b) *take into consideration:*
  - (i) *any submission that the RTA provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, the RTA advises that it will not be making a submission), and*
  - (ii) *the accessibility of the site concerned, including:*
    - (A) *the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
    - (B) *the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*
  - (iii) *any potential traffic safety, road congestion or parking implications of the development.*

With regards to the above,

- Council provided written notice to RMS;
  - RMS provided a submission to Council which have been considered and included within the conditions;
  - The accessibility of the site has been considered to ensure efficiency of movement of people and freight of which the development is considered to be satisfactory; and
  - Council has considered the potential traffic safety, road congestion and parking implications of the development which has resulted in several conditions being included.
- *State Environmental Planning Policy No. 64 – Advertising and Signage*

This Policy applies to all signage which can be displayed with or without consent and is visible from a public place.

The LEP permits signage with consent. The provisions of this SEPP are applicable as the proposed signage is visible from a public place.

In accordance with Clause 18 of this SEPP, RMS must concur with any signage greater than 20m<sup>2</sup> and within 250m of and visible from a classified road. Pacific Highway is a classified (State) road. One (1) of the proposed pylon signs is located within the proposed road widening area adjacent to the Pacific Highway and the other pylon sign is located on Chelmsford Road, approximately 120m from the Pacific Highway intersection. In addition the applicant proposes wall signs with areas of 105m<sup>2</sup>, 116m<sup>2</sup>, 237m<sup>2</sup> and 257m<sup>2</sup>.

Under Clause 19 of this SEPP, *the consent authority must not grant consent to the display of an advertisement with an advertising display area greater than 45 square metres unless:*

- (a) a development control plan is in force that has been prepared on the basis of an advertising design analysis for the relevant area or precinct, or
- (b) in the case of the display of an advertisement on transport corridor land, the consent authority is satisfied that the advertisement is consistent with the Guidelines.

With regards to the above,

- Chapter 2.6 Signage of the Wyong Development Control Plan 2013 (DCP), provides that advertisements that are not considered to be exempt development under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP) are considered under SEPP 64.

Under Clause 8 of this SEPP, Council must be satisfied that the proposed signage is consistent with the objectives of this SEPP set out in Clause 3(1)(a) and satisfies the assessment criteria of Schedule 1 of this SEPP.

The aims and objectives of this SEPP under Clause 3(1)(a) are as follows: -

- (i) is compatible with the desired amenity and visual character of an area, and
- (ii) provides effective communication in suitable locations, and
- (iii) is of high quality design and finish.

The proposed signage is compatible with the desired amenity and visual amenity of this area which is a mixture of industrial, commercial and residential development set along a major transport route. The proposed signage provide effective communication in suitable locations so as not to impact upon vehicular safety and are new signs with a high quality design and finish.

The proposed signs have been assessed against the provisions of Schedule 1 – Assessment Criteria of this SEPP and the proposed development has satisfactorily addressed the assessment criteria outlined in the table within Attachment 2.

In addition, the RMS may direct the screening, modification or removal of a structure if, in the opinion of RMS, the structure is considered a traffic hazard under Section 104 of the *Roads Act 1993*.

The RMS has indicated that they have no objection to the proposed signage including the pylon sign located within the identified road widening area as this area is not required to be acquired at this time. However, they have recommended a condition be included on any consent issued, that the sign be removed upon acquisition of the road widening area.

- *State Environmental Planning Policy No. 55 – Remediation of Land*

Clause 7(1) of this SEPP is relevant to the assessment of this Development Application.

Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated. If the land is contaminated, the Council needs to be satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purposes for which the development is proposed to be carried out.

The preliminary environmental site assessment submitted with the application by Environmental Investigation Services indicated that site is contaminated as result of the previous use and contains concentrations of arsenic, nickel and zinc within the ground water samples, concentrations of TPH in the standing water of the former diesel aboveground tank bund and oil/water arrester pit and the fill material contains asbestos.

Provided that a remediation action plan and validation assessment are undertaken for the site, the site will be suitable for the proposed development. This is addressed through relevant conditions.

## c) Relevant DCPs

### Wyong Development Control Plan 2013 (DCP)

The following Chapters of the DCP are applicable to the proposed development: -

- Chapter 2.6 Signage

Under this Chapter, advertisements that are not considered to be exempt development under the Codes SEPP are considered under SEPP 64 subject to merit, which has been addressed previously in this report.

- Chapter 2.11 Parking and Access

Under Clause 3.2 of this Chapter, on-site car parking is required at the following rates: -

Hardware and Building Supplies

1 space per 50m<sup>2</sup> of GFA

Service requirements: 1 space up to 2,000m<sup>2</sup> GFA then 1 space per 1,000m<sup>2</sup> GFA

The proposed development has a gross floor area of 16,313m<sup>2</sup> therefore requiring 323 car parking spaces and 17 service car parking spaces.

In accordance with Clause 2.3 an Assessment of Traffic and Parking Implications by Transport and Traffic Planning Associates as included within the application documentation.

The development proposes 410 car parking spaces including 10 accessible car parking spaces, 8 motorbike parking spaces and therefore comply with the provisions of this Chapter.

- Chapter 2.12 Industrial Development

The Chapter applies to all industrial zoned land and all categories of development permissible on industrial zoned land.

### Site Coverage

Under Clause 2.2 Site Coverage, the maximum site coverage is 50% or 11,985m<sup>2</sup>. The development proposes a site coverage of 55%. It is noted that while the LEP establishes FSR for some sites, it does not for this site.

Under the sites previous use, which was a concrete pipe manufacturing facility, the site contained a mixture of sheds, slabs, pipe storage areas up to the boundaries of the Pacific Highway and Chelmsford Road.

The development proposes a site coverage of 13,177m<sup>2</sup> or 55% which is made up of the timber trade sales area, warehouse and main entry. The nursery and bagged goods areas are not included in the site coverage calculation as it is not classified as a building or part of a building as it is covered by white canvas sail canopies.

The DCP defers to the LEP for definitions. Under the LEP, site coverage is defined as *the proportion of a site area covered by buildings*. However, the following are not included for the purpose of calculating site coverage: -

- (a) Any basement;
- (b) Any part of an awning that is outside the outer walls of a building and that adjoins the street frontage or other site boundary;
- (c) Any eaves,
- (d) Unenclosed balconies, decks, pergolas and the like.

Whilst the development does not comply with the required 50% site coverage, it is considered that the non-compliance of 5% is minor. The development proposes adequate landscaping and increased impervious area and suitable built form for this highly exposed industrial corner site compared to the previous concrete manufacturing facility.

#### Front Setback – Chelmsford Road

Under Clause 2.3 Setbacks, the minimum front setback for a non-State road is 10m. This DCP does not have specific requirements in relation to corner allotments with two (2) street frontages.

The site has a 240m frontage to Chelmsford Road with the development having an overall building length of 192m. Of this building length the development setback is compliant (10m) for approximately 56m or 30%. The setback to the remaining portion of the building varies from 1m to 10m due to the entry treatment (18m wide), vehicle accessways and the angle of the building relative to the irregular property boundary. This is a maximum variation of 9m for an 18m length or 9.3% of the overall building length (192m).

222m or 92.5% of the Chelmsford Road frontage achieves a minimum landscape width of more than 5.5m with the exception of the entry feature which encroaches to a minimum of 1m for 18m from Chelmsford Road.

The proposed encroachments for the proposed main entry are considered minor in relation to the scale of the entire site and development (3%) and as such are not considered to have a negative impact on the streetscape but a positive one by providing a varied setback and breaking up what would otherwise be a straight building line.

The proposed development incorporates extensive landscaping to both street frontages, which has been enhanced around the areas of encroachment.

The corner boundary facing the visually prominent Pacific Highway/Chelmsford round-about will be planted out with a feature hedge providing an informal entry statement into the industrial area.

It is considered that the proposed variation is minor in relation to the size of the site and development and warrants support.

#### Side Setback – Pacific Highway

The subject site is located on the corner of the Pacific Highway and Chelmsford Road. This Chapter does not address corner allotments with dual frontages. Under Clause 2.3 Setbacks, side and rear setbacks can have a nil setback. Front setbacks are generally considered to be where access to the development is proposed, in this instance Chelmsford Road.

Despite this, the applicant does not propose a nil setback to the Pacific Highway. The applicant proposes that the setbacks from the Pacific Highway to the existing boundary prior to road widening is a minimum of 14m. After road widening the proposed setback is 3m to the roofed bagged goods area and outdoor nursery and approximately 55m to the building. Landscaping will be located within this 3m.

By locating the bagged goods area and outdoor nursery between the warehouse building and the Pacific Highway boundary and providing a separation area between the bagged goods area and outdoor nursery, the development is able to satisfy the provisions of Clause 2.4 (design and appearance of buildings) by retaining sufficient curtilage to cater for landscape works and provide visual relief of the Pacific Highway by having different construction elements.

In addition, the proposed development does not propose nil setbacks to the other boundaries, southern and western. The setbacks proposed to the building are 8m and 13m.

The photomontages below illustrate how the building will sit within the current setting: -



**Photomontage 1:** Proposed Bunnings, corner of Pacific Highway and Chelmsford Road – looking south



**Photomontage 2:** Proposed Bunnings (eastern facade) from Pacific Highway

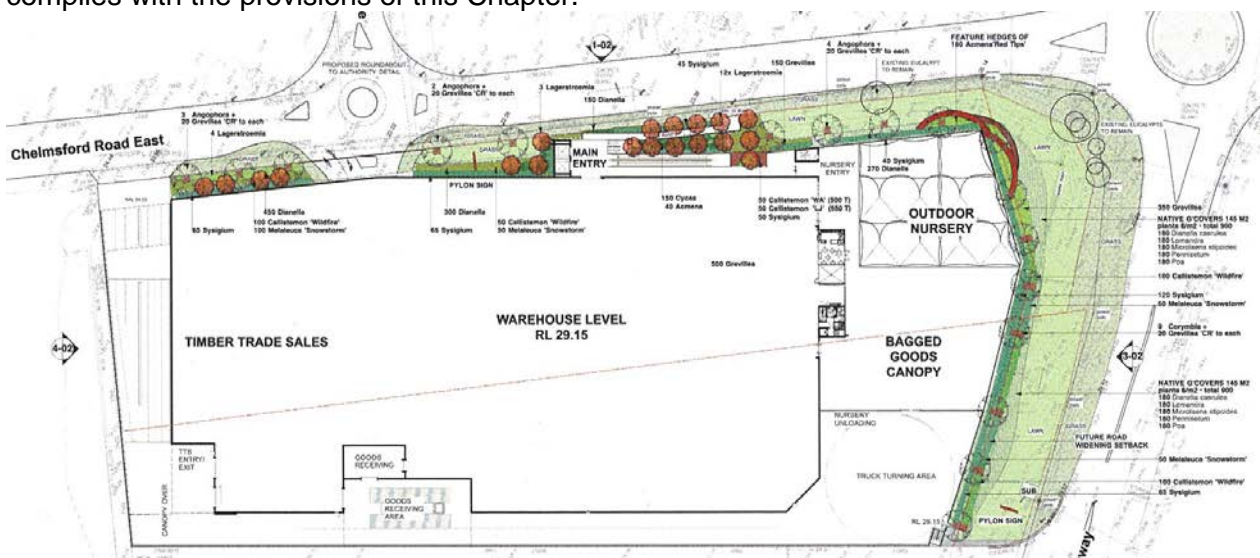
**Landscaping**

Under Clause 2.3 Setbacks, a minimum 5m wide landscaped area must be proposed within the required front setback.

On Chelmsford Road a portion of the building entry does not comply with the required front setback (1m-5m for a length of 18m), this portion of the site does not comply with the required 5m landscaping requirement. However, Chelmsford Road has a length of 240m and this street frontage excluding the access has been landscaped and only a small portion of this landscaping does not have a width of 5m.

Despite the variation the landscaping proposed is considered adequate and provides a visually interesting interface between the Chelmsford Road and the development.

The landscaping proposed on the Pacific Highway exceeds the 5m landscaping width and complies with the provisions of this Chapter.



## Figure 7 - Landscape plan

- Chapter 2.15 Public Art

The objective of this Chapter is that major development comprising commercial, public administration and retail (shops) with a value of \$5 million or more provide a financial allocation towards public art which comprises 1% of the total cost of development. In this instance the total cost of the proposed development is \$24,150,000 and on the basis of 1% of the total estimated cost of the development, public art to the value of \$241,500 (minimum) is applicable.

The applicant has objected to the provision of public art.

### Applicants Submission

*Chapter 2.15 of the DCP requires that major developments valued at \$5M or greater must implement public art as part of the development with a minimum of 1% of the total cost of the development to be designated to the public art budget. "Major development" refers to "commercial, public administration, and retail (shops) development valued at \$5 Million". Chapter 2.15 however goes no further in defining what constitutes "commercial development".*

*Chapter 2.15 is essentially a replica for the now superseded DCP No. 112 (part of DCP 2005), where the exact same definition of "major development" is adopted but where commercial development was defined as "any building or place used for commercial purposes as defined by the Wyong Local Environmental Plan 1991".*

*Under LEP 1991 commercial premises was defined as follows:*

**commercial premises** means a building or place used as an office or for other business or commercial purposes, but does not include a building or place elsewhere specifically defined in this clause or a building or place used for a purpose elsewhere specifically defined in this clause.

*Under LEP 1991 the subject development would have been defined as a "bulky goods sales room or showroom", not a commercial premises and therefore not subject to the provisions of DCP 112. This is further supported by the fact that the public art provisions were not applied to DA/285/2013 involving additions to the existing Bunnings in Tuggerah valued at over \$5M. With the above in mind, it is considered that Chapter 2.15 does not apply to developments such as Bunnings and it appears that Council may have adopted the Standard Template definition of "commercial premises" which is a "cover all" definition and not one intended to be the subject of this requirement. This is further supported by the fact that Chapter 2.15 specifically mentions "retail (shops)", despite this being included within the Standard Template commercial premises definition.*

*In addition to the above, Appendix A of Chapter 2.15 provides photographic examples of where public art provides a meaningful contribution to the built environment. The locations of the examples provided are as follows:*

- *Museum of Sydney: Centre of City;*
- *Marrickville City Council: Petersham café and restaurant strip;*
- *Brighton Le-Sands: Restaurant and café strip;*
- *Lake Haven: Forecourt area at Gravity Youth Centre with the Lake Haven Shopping Centre precinct;*
- *City of Canterbury: Mary McKillop Reserve – part of a heritage walk;*
- *Facade treatment located within retail area;*
- *Canterbury Station;*
- *City of Sydney: Chifley Tower;*
- *Wyong Shire Council: Woodbury Park, Mardi;*
- *Rouse Hill Town Centre.*



The common theme amongst all of the above locations is the fact that they are within areas of high pedestrian activity i.e. cafes, shopping precincts, public spaces. None of the above locations are within an industrial precinct or included as part of an industrial/warehouse style development. Further to the above, to ascertain how the public art DCP has been applied in the past, a search of applicable development applications was undertaken which revealed the following:

|                     |  |                |                  |         |   |
|---------------------|--|----------------|------------------|---------|---|
| <b>DA/285/2013</b>  | Additions to Bunnings Warehouse  | \$5.65 million | Centre Support   | Council | Not applied   |
| <b>DA/514/2013</b>  | Alt & Ads to Westfields Tuggerah: 12,638m <sup>2</sup> of retail + Gmax cinema | \$49.6 million | Business Centre  | JRPP    | Not applied   |
| <b>DA/1066/2013</b> | Performing Arts Centre   | \$11.1 million | Business Centre  | JRPP    | Considered unnecessary as DA purpose for exhibiting art |
| <b>DA/231/2014</b>  | Office Premises – Concept Approval   | \$7 million    | Business Park    | Council | Conditioned for next stage                              |
| <b>DA/1079/2012</b> | Alts & Additions to Registered Club  | \$7.7 million  | Special Uses     | Council | Not applied   |
| <b>DA/14/2013</b>   | Motel  | \$6 million    | Special Uses     | Council | Not applied   |
| <b>DA/212/2013</b>  | Works Depot  | \$16.8 million | Light Industrial | Council | Not applied   |
| <b>DA/847/2013</b>  | Alts and Additions to Supa Centa   | \$8.5 million  | Centre Support   | Council | Waived as included in building design                   |

From the above results, we can conclude that the public art provisions have been applied inconsistently and where they have been applied they relate to retail, office and public developments within commercial/business zones rather than industrial zones – as was intended under DCP 112.

Finally, it is apparent that the intent of Chapter 2.15 is to ensure that developers give back to the community. In this regard, Bunnings help raise and contribute millions of dollars to local, regional and national charities and community organisations. At a local level, community groups are given the opportunity to raise money through the local fundraising Sausage Sizzles that are actively supported at the front of Bunnings stores on weekends and public holidays. Recently Bunnings also donated two (2) buildings valued at approximately \$60,000 to “The Glen”, a non for profit drug and alcohol rehabilitation centre, to help alleviate the pressures experienced since the closure of the Rothbury facility in September 2014 (see DA/304/2015).

In summary, it is considered that Chapter 2.15 is not intended to be applied to developments such Bunnings, nor in industrial locations such as the subject site, and this is substantiated through definitions used within the superseded version of the policy. Should Council determine that the contrary is true, any public art applied to the site would be tokenism and would have no real connection or meaning to site or surrounds. Furthermore, the amount spent on this would then be removed from the meaningful and valued charity work which Bunnings currently do and would also reduce the viability of the project even further given that \$241,500 will be payable under Section 94A plus a further \$310,873 for water and sewer contributions.

#### Assessment Officers Comments

It is considered that the intent of this Chapter is for public art to be located on land associated with development on business zoned land not industrial zoned land or development which has its own unique branding where public art would be lost in the background.



In addition, the development is located at a prominent intersection which will be subject to an upgrade in the future and the location of the public art at this intersection could impact upon the vehicles utilising it and become a distraction and cause an accident.

It is considered that in these circumstances that the required public art contributions are not applicable to the proposed development.

- Chapter 3.1 Site Waste Management

In accordance with this Chapter, the applicant has submitted a comprehensive Waste Management Plan for the development outlining the waste disposal, re-use and recycling (on and off site) for the construction and operational stages of the development. A condition has been included requiring the development to be carried out in accordance with the submitted management plan.

- Chapter 5.1 Retail Centres

The objectives of this Chapter are to identify a network of retail centres, identify future centres, define the objectives and function for each of the different levels of centres and provide guidance for retailing industrial areas.

This Chapter identifies the Wyong retail network. These centres within the retail network are located within B1 Neighbourhood Centre, B2 Local Centre, B3 Commercial Core, B4 Mixed Use, B5 Business Development, B6 Enterprise Corridor and B7 Business Park zoned land where retailing is permissible. The subject site is not located within any of the identified retail centres within this Chapter, and is permissible through the *hardware and building supplies* definition which is permissible in industrial zones. This is discussed further in the report.

#### d) Relevant Regulations

There are no matters prescribed by the Regulations that require elaboration upon.

### THE LIKELY IMPACTS OF THE DEVELOPMENT

#### a) Built Environment

##### *Locality and Streetscape*

The proposed Bunnings is replacing the existing Bunnings within the Lake Haven Homemakers Centre located diagonally opposite the subject site. The proposed development is to be situated amongst other similar sized development within an industrial zone. The proposed development is located adjacent to the Pacific Highway. The impact of the façade of the development to the Highway is minimised with the location of the outdoor nursery and bagged goods area adjoining the Pacific Highway and through the inclusion of landscaping in front and the main building stepped back behind these areas.

The development is also set within an area of 'cut' and the car parking is predominantly underground as such the height relative to the Pacific Highway is reduced and the visual impact of car parking on the surrounding locality is minimised.

##### *Traffic generation*

RMS has indicated that the proposed development is not generate significant traffic generation and does not warrant the upgrade of the Pacific Highway/Chelmsford Road intersection. The proposed development provides 410 car parking spaces 70 spaces above what is required.

*Air quality*

A condition is recommended in relation to dust control during demolition, earthworks and construction requiring adoption of appropriate measures to minimise emissions into the surrounding environment. There is minimal potential for any air pollution, odour, fumes or other air quality impacts associated with the ongoing operation. The development is compatible with the industrial zone provisions.

*Noise and vibration*

A noise assessment report by Wilkinson Murray Pty Ltd has been submitted in support of the application. There will be construction noise for a limited duration as a consequence of the development. A condition has been recommended imposing standard operating hours for the construction of the development. It is not anticipated that the development will cause ongoing excessive or unreasonable noise or vibration and conditions are recommended in relation to the operating hours for the development and deliveries. The development is considered compatible with the industrial zone.

*Safety, security and crime prevention.*

The proposed development will incorporate lighting in the car parking area for safety and along the facades adjoining public roads to discourage vandalism. After hours the car park, timber trades area and rear loading dock will not be able to accessed as a roller door will be in place. In addition, the applicant has indicated that a security company will be employed to undertake regular checks of the building and an alarm will be installed.

*Economic Impact*

Within the Wyong Local Government Area there are nine (9) hardware and building supplies businesses (cater for a variety of products, not just timber or plumbing supplies etc). However, several cater specifically for trade businesses. These hardware and building supplies businesses are located at Gwandalan, Charmhaven, Lake Haven, North Wyong, Wyong, Tumbi Umbi, Ourimbah and The Entrance.

The existing Bunnings within the Lake Haven Homemakers Centre has a floor space of 8,318m<sup>2</sup>. The proposed Bunnings has an extra floor space of 7,250m<sup>2</sup>. It is anticipated that the development of the new Bunnings will contribute significantly to employment during the construction (240 construction jobs) and operation (160 full-time and part-time jobs, an additional 40 staff) phases of the development.

It is considered that the new Bunnings will have minimal economic impact upon the existing hardware and building supplies businesses in the LGA as the new Bunnings is replacing the existing Bunnings and there is a separation distance between this development and the existing hardware and building supplies businesses located in the other suburbs.

A thorough assessment of the impact of the proposed development on the built environment has been undertaken in terms of statutory and DCP compliance, the submissions received and other relevant impacts. As a result, the proposed development is considered to be satisfactory in terms of the built environment.

**b) Natural Environment**

All relevant issues regarding the likely impacts on the natural environment have been considered and determined to be reasonable for the proposed development.

**THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT**

A review of Council's Land Information mapping has identified no significant site constraints.

The subject site has been identified as being affected by future road widening.

The likely impacts of the development have been discussed throughout this report. In general, it is considered that there are no significant site constraints or hazards that would render the location of the development unsuitable for a hardware and building supplies development subject to conditions.

### **THE PUBLIC INTEREST (s79C(1)(e)):**

The proposed development is located within an industrial site on the Pacific Highway and the main road leading into the industrial area. The Wyong LEP 2013 enables hardware and building supplies development to be located within industrial zoned land. The design of the building is considered to be consistent with industrial type building with appropriate form, layout, scale and landscaping.

There are no matters associated with the proposal that would be considered contrary to the local or community interest. The proposal will create additional employment and retail opportunities for the Central Coast Region.

### **OTHER MATTERS FOR CONSIDERATION**

- Retail Centres Strategy

This Strategy includes provisions relating to the retail network, the role and function of centres within that network and how best to encourage investment while maintaining the viability of existing centres. These centres are located within B zoned land. The subject site is not located within any of the identified retail centres within this Strategy and is land zoned industrial. Bunnings is currently a tenant of the Lake Haven Mega Centre diagonally opposite the subject site.

Since 1996 various retail reporting has identified a shortfall of bulky goods land within the North Wyong Catchment.

The 1996 Retail Centres Strategy recognised the potential for this site for the development of centre support adjacent to the Lake Haven Shopping Centre, which would serve the northern part of the Shire. This Strategy identified that there was a clear under supply in the provision of bulky goods (non-food) floor space in the Wyong Shire of 16,700m<sup>2</sup>. At the time it was estimated that there was 20,000m<sup>2</sup> of existing bulky goods floor space in the Shire and that it was projected there was a demand for 36,700m<sup>2</sup> of bulky goods floor space.

No economic statement was included as part of the documentation provided as part of this application. A small section was provided within the Statement of Environmental Effects indicating that the development is considered to represent an employment generating development by employing 160 staff and will also support the economic base for the industrial precinct by adding to the passing trade for other existing businesses in the area.

The Retail Centres Strategy Review dated September 2007 undertaken by Leyshon Consulting, set out recommendations regarding the expansion of existing centres and the development of new centres for the period 2006-2031. This Strategy identified a number of centres that were to be developed by 2011, however only the Village Centre at San Remo (Northlakes Shopping Centre) has been opened. The Strategy recommended an allowance for additional bulky goods floor space in Northern Wyong of up to 20,000m<sup>2</sup> by 2031, although a suggested location was not stated. This Review includes hardware and building supplies within the category of bulky goods. However, the LEP 2013 separately defines *bulky goods premises* and *hardware and building supplies*. The LEP 1991 did not separately define *hardware and building supplies* and the definition of *bulky goods sales room and showroom* gave latitude to include hardware premises within this definition.

The Retail Strategy 2011 provides no clear guidance as to where future bulky goods floor space will be located within the northern part of the Shire. However an allocation of an additional

20,000m<sup>2</sup> to be developed between 2016-2031. Demand for additional bulky goods floor space will increase as the population increases.

It is considered that the development of this proposed Bunnings is complimenting the Retail Strategy 2011 in providing additional bulky goods floor space.

- Section 94A Contribution Plan

The subject site is not subject to a Section 94 Contributions Plan area however, the proposed development is subject to Section 94A contributions. The Section 94A contributions are calculated on 1% of the total estimated cost of the development. The estimated cost quoted on the DA form is \$24,150,000 which equates to a Section 94A contribution of \$241,500.

#### *Water and Sewer Contributions*

Water and sewer contributions are payable for the proposal under the *Water Management Act 2000* and will be included under the Section 306 Notice of Requirements for the proposal.

## **CONCLUSION**

The application seeks approval for construction of a proposal for a hardware and building supplies development (Bunnings) with undercroft parking and ancillary cafe including demolition, remediation and ancillary works on Lot 2 DP 24696 and Lots 5 & 6 DP 738274 No. 80-90 Pacific Highway Charmhaven.

The proposed development includes variations to DCP controls in relation to site coverage, setbacks to Chelmsford Road and landscaping. These variations are considered minor in the context of the proposal.

Aside from these proposed variations, the development is considered to be consistent with the objectives of the controls of the site and generally consistent with Council's LEP and DCP requirements. The proposal will deliver significant public benefit to the community by providing employment during construction and operation of the development. It is generally considered that the proposed development is suitable for the site and will represent a positive opportunity to provide additional services and employment opportunities within the local area.

The proposal is recommended for approval subject to conditions.

## **ATTACHMENTS**

1. Attachment 1 – SEPP 64 Advertising and Signage Assessment
2. Attachment 2 – Draft conditions of consent

**ATTACHMENT 1 – SEPP 64 ADVERTISING AND SIGNAGE – SCHEDULE 1 ASSESSMENT****Schedule 1 Assessment criteria****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?

Applicant's Comments

The proposed signage will adopt the same theme and colour scheme as the current signage on the Bunnings Warehouse located diagonally opposite the site, this being compatible with the industrial and highway character of the area.

Assessment Officer Comments

The proposed signage is considered to be compatible with existing signage in the area.

- Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?

Applicant's Comments

Bunnings Warehouse is a national trader who has a branded corporate image. The proposed signage adopts this corporate theme and the size, type and location of the signage is similar to other newer Bunnings Warehouses in NSW, one example being the recently constructed West Gosford Bunnings.

Assessment Officer Comments

The proposed signage is consistent with the existing outdoor advertising in the area.

**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?

Applicant's Comments

The signs follow the standard Bunnings format and are considered to be consistent with the proposed building form. The site and building are located within an industrial area where the proposed signage would not detract from any visually sensitive areas.

Assessment Officer Comments

The subject site does not adjoin any environmentally sensitive, heritage, natural or other conservation or open spaces areas, waterways or rural landscapes.

Located opposite the site on the other side of the Highway is residential zoned land. The signed proposed on the Pacific Highway side of the development is located approximately 40m from the nearest residential property. It is considered that due to the distance between the proposed sign and the residential zoned land will not to detract from the amenity of the residential area.

**3. Views and vistas**

- Does the proposal obscure or compromise important views?
- Does the proposal dominate the skyline and reduce the quality of vistas?
- Does the proposal respect the viewing rights of other advertisers?

Applicant's Comments

With the exception of the proposed pylon signs, all signage will be painted to the Bunnings Warehouse and will therefore not protrude above any built form to obstruct views, dominate the skyline or impact upon other businesses advertising. The backdrop to both pylon signs is industrial in nature and as such does not impact any important views or scenic areas.

Assessment Officer Comments

It is considered that the proposed sign does not obscure any important views or dominate the skyline.

**4. Streetscape, setting or landscape**

- Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?

Applicant's Comments

All signage has been designed to be in proportion with the standard Bunnings Warehouse theme which is appropriate for the IN2 light industrial zoning and the highway setting.

Assessment Officer Comments

It is considered that the signage is appropriate for the existing industrial streetscape and setting.

- Does the proposal contribute to the visual interest of the streetscape, setting or landscape?

Applicant's Comments

The signage is considered to add visual interest to the currently vacant streetscape and nonexistent landscaping.

Assessment Officer Comments

It is considered that the proposal adds visual interest to this portion of the Highway and Chelmsford Road and proposes to appropriately 'break up' the facade.

- Does the proposal reduce clutter by rationalising and simplifying existing advertising?

Applicant's Comments

The signage will have no impact on clutter.

Assessment Officer Comments

Only one pylon sign is proposed on each street frontage. The building contains several trade mark logo signs. This advertising is not considered to clutter the streetscape.

- Does the proposal screen unsightliness?

#### Applicant's Comments

The signage will have no impact on unsightliness.

#### Assessment Officer Comments

The development is proposing a new building which will remove the existing unsightly concrete hardstand.

- Does the proposal protrude above buildings, structures or tree canopies in the area or locality?

#### Applicant's Comments

The pylon signs will protrude above the proposed buildings on the site but will still be in keeping with the overall scale of the development. In terms of the wider context of the site, the pylon signs will not protrude above the general built form of the industrial backdrop.

#### Assessment Officer Comments

It is considered that the signs though higher than the building, are in keeping with the area for example the nearby Lake Haven Homemakers signage.

- Does the proposal require ongoing vegetation management?

#### Applicant's Comments

The signage will not require ongoing vegetation management.

#### Assessment Officer Comments

Landscaping will be proposed, which will require maintenance.

## **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?
- Does the proposal respect important features of the site or building, or both?
- Does the proposal show innovation and imagination in its relationship to the site or building, or both?

#### Applicant's Comments

As mentioned above, the signage will adopt the standard Bunnings Warehouse format in design which is considered appropriate for the size of the site and building.

#### Assessment Officer Comments

It is considered that the proposed development is compatible in terms of scale with adjoining and adjacent development.

## **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?

Applicant's Comments

Meets requirements.

Assessment Officer Comments

The proposed signage is considered to be corporate logos which have been designed to be an integral part of the development.

**7. Illumination**

- Would illumination result in unacceptable glare?
- Would illumination affect safety for pedestrians, vehicles or aircraft?
- Would illumination detract from the amenity of any residence or other form of accommodation?
- Can the intensity of the illumination be adjusted, if necessary?
- Is the illumination subject to a curfew?

Applicant's Comments

The signs are located within an industrial/highway setting and do not flash or create glare. Illumination will be in the form of LED lighting which will be in accordance with the relevant Australian Standard regarding the control of light spillage.

Assessment Officer Comments

Two (2) signs are to be illuminated and fitted with light baffles. It is considered that the proposed illumination will have minimal impact upon pedestrians and vehicles or amenity of the residential zoned land opposite the site.

**8. Safety**

- Would the proposal reduce the safety for any public road?
- Would the proposal reduce the safety for pedestrians or bicyclists?
- Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?

Applicant's Comments

The signage will have no impact upon matters of safety.

Assessment Officer Comments

It is considered that the location of the proposed signage will have minimal impact upon the safety of those using the public roads. RMS have no objection to the location or style of signage.



**ATTACHMENT 2 – DRAFT CONDITIONS OF CONSENT****PROPOSED CONDITIONS****Approved Plans**

- 1 The development is to be undertaken in accordance with the approved development plans and specifications listed below except as modified by any conditions of consent and any amendments in red made to the approved plans:

| <b>Title</b>                              | <b>Drawing No.</b> | <b>Revision</b> | <b>Date</b>    | <b>Drawn By</b>                      |
|---|--------------------|-----------------|----------------|--------------------------------------|
| Site and Roof Plan                        | 030                | B               | 26.05.15       | John R Brogan & Associates           |
| Area Diagram                              | 040                | B               | 26.05.15       | John R Brogan & Associates           |
| Floor Plan - Undercroft Parking Level     | 100                | B               | 26.05.15       | John R Brogan & Associates           |
| Floor Plan – Warehouse Level              | 101                | B               | 26.05.15       | John R Brogan & Associates           |
| Sections                                  | 120                | B               | 26.05.15       | John R Brogan & Associates           |
| Elevations                                | 130                | B               | 26.05.15       | John R Brogan & Associates           |
| Landscape Plan                            | 2202 LP-01         | H               | 02/06/2015     | John Lock & Associates               |
| Preliminary Environmental Site Assessment | E27560KGr pt       | 1               | 11 August 2014 | Environmental Investigation Services |

**Certificates – Application and Approval**

- 2 A Construction Certificate is to be issued by the Principal Certifying Authority prior to commencement of any construction works. The application for this Certificate is to satisfy all of the requirements of the Environmental Planning and Assessment Regulation 2000.
- 3 Prior to the occupation or use of the building/structure, an application for an Occupation Certificate for the development must be submitted to and approved by the Principal Certifying Authority.
- 4 An application for a Subdivision Certificate must be submitted to and approved by the Council/Certifying Authority prior to endorsement of the plan of subdivision.
- 5 Where conditions of this consent require approval from Council under the Roads Act 1993, Local Government Act 1993 or Water Management Act 2000, a completed Subdivision Construction Certificate application form must be lodged with Council and be accompanied by detailed design drawings and supporting information. Upon submission to Council, fees and charges will be calculated in accordance with Council's Management Plan. The fees and charges must be paid prior to Council commencing the design assessment.

## Prior to Release of Construction Certificate:

***The following conditions must be satisfied prior to the release of the Construction Certificate as applicable to the specific work required under each individual condition. Conditions may require the submission of additional information with the Construction Certificate Application. Applicants should also familiarise themselves with conditions in subsequent sections and provide plans in accordance with any design requirements contained therein.***

### Contribution Payment Requirements

- 6 Prior to the issue of any Construction Certificate, the payment to Council of developer contributions as calculated in the formula below:

$$\text{Developer contribution} = \$241,500 \times \text{Current CPI} \div \text{Base CPI}$$

where “**Current CPI**” is the *Consumer Price Index (All Groups Index)* for Sydney as published by the Australian Statistician at the time of payment of developer contributions pursuant to this condition, and “**Base CPI**” is the *Consumer Price Index (All Groups Index)* for Sydney as published by the Australian Statistician at the date of this consent.

This condition is imposed pursuant to Section 94 of the *Environmental Planning and Assessment Act 1979*.

### Filling and Haulage Requirements

- 7 Prior to the issue of the Construction Certificate, an agreement is to be entered into with Council as the Roads Authority:
- to approve the haulage route attributable to the construction of the subject development; and
  - to approve the methodology of determining the reduced pavement life of the approved haulage route attributable to the construction of the subject development.

The agreement shall include an agreed method of rectification at the sole expense of the developer.

### Food Act Requirements

- 8 Prior to the issue of a Construction Certificate, detailed plans and specifications for the food handling areas are to be submitted to and approved by Council’s Environmental Health Officer- Food.

### Potentially Contaminated Land Requirements

- 9 All recommended actions specified in the environmental assessment report titled “Preliminary Environmental Site Assessment for Proposed Commercial Development at 80-90 Pacific Highway, Lake Haven”, for Andermatt Pty Ltd C/O John R Brogan & Associates Pty Ltd, report ref: E27560KGrpt by Environmental Investigation Services” are to be implemented by a suitably qualified persons prior to the issue of any construction certificate issued.

### Roadworks - Design Requirements

- 10 Where conditions of this consent require approval from Council as the Roads Authority, a Subdivision Construction Certificate application must be lodged with Council and be

accompanied by detailed design drawings and supporting information. Upon submission to Council, fees and charges will be calculated in accordance with Council's Management Plan. The fees and charges must be paid prior to Council commencing the design assessment.

11 The submission to Council of Civil Works design drawings and specifications detailing the construction of the roundabout to service the vehicle entry/exit to the development within the Chelmsford Road reserve to the following requirements:

- The roundabout shall be designed to accommodate the swept path of a 19.0 metre Articulated Vehicle and a Prime Mover 20.0 metre x 2.5-3.2 metres wide.
- The roundabout shall be designed in accordance with the Austroads "Guide to Road Design Part 4B: Roundabouts".
- Pavement marking & signage.
- Street lighting in accordance with AS/NZS 1158.
- The adjustment and reconstruction of the carriageway including the kerb and gutter alignment and pavement within Chelmsford Road and Callaghan Close to ensure satisfactory transitions into the proposed roundabout.
- The reconstruction of the existing stormwater drainage inlet and pipeline system to accommodate the proposed roundabout alignment.
- Adjustment and relocation of the existing services i.e. water & sewer mains/manholes outside the travel paths of the roundabout in accordance with the Wyong Water's requirements.
- Adjustment and relocation of the existing services i.e. Ausgrid, Telstra, gas supply and national broadband network.
- Pavement design prepared by a Geotechnical Engineer. The pavement shall be a Heavily Bound Pavement with minimum 100mm asphalt wearing surface design loading  $7.3 \times 10^6$  ESA's or alternatively a Rigid Pavement Design with design loading  $2 \times 10^7$  CVAGs.
- Detailed Design Road Safety Audit (RSA) prepared by a qualified Level 3 Road Safety Auditor shall be undertaken on the intersection design. The RSA is to be submitted to Council and all issues identified in the RSA shall be addressed to the satisfaction of Council as the Roads Authority prior to the release of the Roads Authority approval for works within roads and footpaths.
- Required design drawings are to be prepared in accordance with Council's Development Control Plan 2013 – Civil Works Design Guideline. The design must be submitted to and endorsed by the "Local Traffic Committee" prior to approval by Council as the Roads Authority prior to the issue of the Roads Authority approval for works within roads and footpaths.

Required design drawings are to be prepared in accordance with Council's *Civil Works Design Guidelines* and must be approved by Council as the Roads Authority prior to the issue of a Construction Certificate.

12 The submission to Council of Civil Works design drawings and specifications detailing the following design requirements:

- Adjustment and reconstruction of the kerb and guttering within Chelmsford Road adjoining the roundabout and the commercial vehicle crossing servicing the loading

dock ramp.

- Construction of a 22.0 metre wide commercial vehicle access crossing servicing the loading dock ramp within Chelmsford Road. The access shall accommodate the 19-25.0 metre long articulated vehicle (AV) turning paths maintaining lane discipline within Chelmsford Road. The access shall be a maximum of 22.0 metres wide at the kerb alignment and 19.5 metres at the site boundary. Line marking and appropriate signage shall be provided to ensure safe entry movements. Note: The design and specifications of the concrete joints within the access crossing shall be provided with the engineering plans.
- Relocation of the existing bus stop within Chelmsford Road to a suitable location west of the proposed vehicle access crossing.
- The construction of a concrete footpath 1.5 metres wide within Chelmsford Road linking the relocated bus stop to the Bunning Building pedestrian entry. The footpath shall also extend east to cross the main vehicle entry/exit ramp a minimum of 12.0 metres from the roundabout holding line. Note: Pedestrian kerb ramps, a 2.0 metre wide dividing median (Splitter Island), adequate lighting and signage shall be provided. The roller shutter shall be relocated to provide continued pedestrian movements along the footpath and across the vehicular ramp.
- The construction of a Pedestrian Refuge within Chelmsford Road adjacent the Bunning Building pedestrian entry in accordance with the RMS Technical Direction TDT2011/01a. The refuge shall include all associated works including line marking, signage, pedestrian kerb ramps to both sides of Chelmsford Road.
- The construction of a concrete footpath 1.5 metres wide within the northern Chelmsford Road footway extending along the Pacific Highway linking the Chelmsford Road pedestrian refuge with the recently constructed pedestrian refuge across the Pacific Highway north of the Pacific Highway/Lakehaven Road roundabout. Note: All works located within the Pacific Highway will require a road occupancy licence issued from The RMS.
- Street lighting in accordance with AS/NZS 1158.
- Pavement marking & signage.
- Any associated works to ensure satisfactory transitions to existing infrastructure
- Detailed Design Road Safety Audit (RSA) prepared by a qualified Level 3 Road Safety Auditor shall be undertaken on the engineering design. The RSA is to be submitted to Council and all issues identified in the RSA shall be addressed to the satisfaction of Council as the Roads Authority prior to the release of the Roads Authority approval for works within roads and footpaths.
- Required design drawings are to be prepared in accordance with Council's Development Control Plan 2013 – Civil Works Design Guideline. The design must be submitted to and endorsed by the “Local Traffic Committee” prior to approval by Council as the Roads Authority prior to the issue of the Roads Authority approval for works within roads and footpaths
- Closure of the existing access to the Pacific Highway and remediation of the road verge by removing all hardstand areas, reinstating the kerb and gutter and returfing.

Required design drawings are to be prepared in accordance with Council's *Civil Works Design Guidelines* and must be approved by Council as the Roads Authority prior to the issue of a Construction Certificate.

- 13 The submission of a comprehensive road signage and pavement marking design drawings identifying parking restrictions, accesses and traffic management facilities to Council for approval by the Local Traffic Committee prior to issue of the Construction Certificate.

### Stormwater Drainage - Design Requirements

- 14 Stormwater drainage works external to the site and discharging into a public system or public land requires approval from Council under Section 68 of the *Local Government Act 1993*. Detailed design drawings prepared in accordance with Council's *Civil Works Design Guidelines* must be approved by Council prior to the issue of a Construction Certificate. All other stormwater management works must be approved by the Accredited Certifier.
- 15 The reconstruction of the existing stormwater drainage inlet and pipeline system within the Chelmsford Road and Callaghan Close carriageways to accommodate the proposed roundabout alignment. The re-aligned stormwater piped drainage system should include provision for the major system to be contained within the Chelmsford Road and Callaghan Close road reserves. Detailed design drawings prepared in accordance with Council's *Civil Works Design Guidelines* must be approved by Council prior to the issue of a Construction Certificate.
- 16 The submission to the Accredited Certifier/Council of a detailed stormwater management plan featuring:
- Construction of a stormwater drainage pipeline (100 year ARI capacity) to collect and discharge all generated stormwater flows from the catchment area within the upstream property Lot 1 DP787758 Pacific Highway to connection into the piped stormwater drainage system within Chelmsford Road.
  - Construction of a secondary flow path within the car parking area to contain the surcharge flows generated from the upstream catchment area applying a 50% blockage factor to the diversion 900 diameter pipeline. The flow path shall connect to a spillway weir and concrete catch drain or wall constructed along the southern boundary.
  - The provision of an onsite stormwater detention system. The detention system must be designed to attenuate post developed flow rates to predevelopment flow rates for a full range of storm durations for the 5, 20 and 100 year average reoccurrence interval (ARI) design storms. Note: The OSD tank shall be designed and certified as being structurally adequate for all anticipated loadings by a practising Structural Engineer.
  - An emergency overland flow path from the OSD system catering for the 100 year ARI design flows.
  - The provision of stormwater quality control facilities to treat stormwater in accordance with the Engineers Australia publication *Australian Runoff Quality – A Guide to Water Sensitive Urban Design* prior to entering Council's stormwater drainage system.

The plans must be prepared in accordance with *AS/NZS3500.3:2004* and Council's *Civil Works Design Guidelines*, and be approved by the Accredited Certifier prior to issue of the Construction Certificate.

**Structural Design Requirements**

- 17 Any excavation below the adjoining land level requires the retaining of that land and the preservation and protection of any improvements or buildings upon that land including public roads and utilities from damage. If necessary, the improvements or buildings are to be supported in a manner designed by a suitably qualified Registered Structural Engineer. Any design proposals prepared in order to comply with this condition are to include geotechnical investigations and are to be submitted for the approval of the Accredited Certifier and in the case where excavation impacts upon public infrastructure, Council, prior to issue of the Construction Certificate.
- 18 Prior to the issue of a Construction Certificate, suitable detailed design drawings for all retaining wall structures on the site are to be provided for the approval of the Accredited Certifier. Such design drawings are to be prepared by a suitably qualified Registered Structural Engineer in accordance with the requirements of AS 4678-2002 - *Earth Retaining Structures*. All retaining walls must be contained wholly within the property and designed so as to accommodate possible surcharge loading from vehicles or structural improvements within the adjoining property.

**Vehicle Access and Parking - Design Requirements**

- 19 The submission to the Accredited Certifier of a detailed car parking design. The design shall include:
- Pavement marking, appropriate signage and physical controls detailed for the carpark, access driveway and circulation roads.
  - Pavement design able to withstand anticipated vehicle loading.
  - Wheel stops provided for parking spaces where appropriate.
  - Provision of 10 car parking spaces for people with disabilities in accordance with AS 2890.6:2009.
  - The placement of clearance signage above the basement entry.
  - The roller shutter shall be relocated to provide continued pedestrian movements along the footpath and across the entry/exit vehicular ramp.
  - Detailed Design Road Safety Audit (RSA) prepared by a qualified Level 3 Road Safety Auditor shall be undertaken of the carpark design. The RSA is to be submitted to Council and all issues identified in the RSA shall be addressed to the satisfaction of Accredited Certifier prior to the release of the Construction Certificate.

The design drawings shall be prepared in accordance with the requirements of AS/NZS 2890 – Parts 1, 2 and 6, and be approved by the Accredited Certifier prior to the issue of a Construction Certificate.

- 20 The submission to the Accredited Certifier of lighting design drawings for the carpark and public places. The design shall be prepared in accordance with the requirements of AS/NZS 1158 and AS 4282-1997, including the provision of current best practice energy efficient lighting and be approved by the Accredited Certifier prior to issue of a Construction Certificate.

## Water and Sewer Services - Design Requirements

- 21 All water and sewer works or works impacting on water and sewer assets must be designed and constructed to the requirements of Council as the Water Supply Authority. The requirements are detailed in the Section 306 Notice of Requirements letter attached to this consent. Note: The Section 306 Notice contains requirements associated with the development that must be completed prior to the issue of the Construction Certificate.
- 22 The submission to Council as the Water Supply Authority of detailed structural design drawings and supporting information for structures within the zone of influence of the sewer main. The design shall indicate the proposed method of protecting the sewer main in accordance with Council's *Requirements for Building Over or Adjacent to Sewer Mains* policy. Design details must be approved by Council as the Water Supply Authority prior to the issue of a Construction Certificate.

## Prior to Commencement of Works:

***The following conditions must be satisfied prior to the commencement of site works, including any works relating to demolition, excavation or vegetation removal.***

### Demolition Requirements

- 23 Prior to the demolition of nominated structures on site, all existing site services are to be disconnected, sealed and made safe. With regard to any sewer and water, service is to be disconnected by a licensed plumber and drainer with a Start Work Docket submitted to Council's Plumbing and Drainage Inspector as the Water and Sewer Authority.
- Any demolition work carried out is to be carried out in accordance with the requirements of AS 2601-2001 – The Demolition of Structures.
- 24 Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work, must be undertaken by a person who carries on a business of such removal work in accordance with a licence issued under the provisions of Clause 318 of the *Occupational Health and Safety Regulation 2001*.
- The person having the benefit of the consent must provide the Principal Certifying Authority with a copy of a signed contract before any development pursuant to the consent commences.
  - Any such contract must indicate whether any bonded asbestos material or friable asbestos material will be removed and if so, must specify the landfill site (that may lawfully receive asbestos) to which the material is to be delivered for disposal. Upon completion of these works, the Council is to be supplied with disposal receipts within seven (7) days to verify that this requirement has been complied with.

### Ecology/Trees Requirements

- 25 Prior to works associated with the development commencing and for the duration of construction works, the following protocols are to be implemented to ensure tree and vegetation protection upon the development site:
- Trees and vegetation noted for retention are to be protected by the erection of 1.8 metre-high chain wire interlocking fencing as per the engaged Arborist and/or Ecologist's direction, AS 4970-2009 - *Protection of Trees on Development Sites*
  - Erection of tree protection measures is to be confirmed in writing to Council's Development Arborist prior to commencement of works, or alternatively Council must be notified to undertake an inspection of the works.

- All fenced tree protection areas and are to be clearly marked as "No Go Area" on the fencing itself.
- No clearing of vegetation or storage of vehicles or machinery, waste, fill or materials or unauthorised access is to occur within the fenced tree protection areas.
- The management protocols and requirements within these conditions relating to tree and vegetation retention, protection and rehabilitation are to be included in all contract documentation, plans and specifications used by each civil contractor and sub-contractors.

### Erosion and Sediment Control Requirements

- 26 Prior to the commencement of construction a Soil and Water Management Plan (SWMP) prepared in accordance with the latest edition of the Landcom Publication 'Soils and Constructions- Volume 1' (The Blue Book) shall be provided to the Principal Certifying Authority (PCA). The SWMP is to be prepared, reviewed and updated by persons suitably qualified to interpret "The Blue Book" or trained in the use of "The Blue Book" for preparation of Soil and Water Management Plans.

This SWMP shall be modified and updated during construction to reflect any changes to the on-ground/site conditions. A copy of any modifications or updates to the SWMP shall be approved by a suitably qualified person and provided to the PCA and provided to Council upon request. Further information and requirements in relation to works that Council's "Civil Construction Specification" apply, may be found in the appendix of that document.

Erosion and sediment controls shall be monitored, maintained and adapted in accordance with the most recent SWMP until the site is fully stabilised and landscaped. Failure to comply with this condition may result in fines under the provision of the *Protection of the Environment Operations Act*.

### Filling and Haulage Requirements

- 27 Prior to works associated with the development commencing, details for the disposal of any spoil gained from the site and/or details of the source of fill materials to be imported to the site, are to be provided and approved by the Principal Certifying Authority.

### Protection of Adjoining Property Requirements

- 28 Prior to works associated with the development commencing, the owner of the adjoining property affected by the proposed excavation and/or structural protective works, must be given written notice of the intention to commence works. The required notice must be accompanied by details of the proposed work at least seven (7) days prior to the commencement of proposed excavation and/or structural protective works.
- 29 Prior to works associated with the development commencing, the applicant must supply the Principal Certifying Authority with a dilapidation report for the adjoining properties, which documents and photographs the condition of buildings and other improvements. The report must be submitted to and approved by the Principal Certifying Authority prior to the commencement of any works. **Note:** The report is to be made available by the Principal Certifying Authority in any private dispute between neighbours regarding damage arising from construction works upon the development site.



## Roads - Preconstruction Requirements

- 30 Prior to commencing any works upon public roads the developer and their contractor will be required to:
- Obtain a copy of the Council approved Civil Works plans and pavement design (if applicable).
  - Obtain a copy of Council's *Civil Works Design Guidelines*. This is Council's Specification for Civil Works and is available on Council's web site.
  - Arrange a meeting on-site with Council's Principal Development Construction Engineer on (02) 4350 5555.
- 31 Prior to works associated with the development commencing, a Plan of Management is to be submitted to and approved by Council as the Roads Authority for any works or deliveries that impact on any public roads or public land as a result of the construction of the development. The plan must include a Traffic Control Plan prepared by a person holding Roads and Traffic Authority (RTA) accreditation for selecting and modifying traffic control plans. Fees and charges are applicable to the review and approval of the required management plan in accordance with Council's Plan of Management.
- 32 Prior to works associated with development commencing, a dilapidation report must be prepared and submitted to Council as the Roads Authority. The required dilapidation report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, water supply, sewer works, street trees, street signs or any other Council assets in the vicinity of the development. **Note:** The report will be used by Council to determine the extent of damage arising from site and construction works.

## Services/Utility Requirements

- 33 Other public authorities may have separate requirements and should be consulted prior to commencement of works in the following respects:
- Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments;
  - AGL Sydney Limited for any change or alteration to gas line infrastructure;
  - Ausgrid for any change or alteration to electricity infrastructure or encroachment within transmission line easements;
  - Telstra, Optus or other telecommunication carriers for access to their telecommunications infrastructure.

## Site Requirements

- 34 Prior to works associated with the development commencing, the Principal Contractor is to erect a suitable sign in a prominent position on the development site (not attached to any tree) identifying the name, address and telephone number of the Principal Certifying Authority (PCA) for the work, the name, address and telephone number (including a number for outside of business hours) of the Principal Contractor for the work and stating that unauthorised entry to the site is prohibited. The required sign is to be maintained for the duration of works associated with the development. Appropriate signs can be collected from Council's Customer Service Centre, where Council is the nominated Principal Certifying Authority with respect to the development.

- 35 Prior to works associated with the development commencing, suitable toilet facilities must be available or be provided upon the development site, with the required toilet facility(s) maintained until development works are completed at a ratio of one (1) toilet plus one (1) additional toilet for every twenty (20) persons employed at the site. Each toilet must:
- be a standard flushing toilet connected to a public sewer system; or
  - have an on-site effluent disposal system approved under the *Local Government Act 1993*, or be a temporary chemical closet approved under the *Local Government Act 1993*, supplied by a suitably licensed contractor.

- 36 A temporary hoarding or temporary construction site fence must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works if the works:
- could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic;
  - could cause damage to adjoining lands by falling objects; or
  - involve the enclosure of a public place or part of a public place.

These works are specified as exempt development pursuant to Clause 2.109 of the *State Environmental Planning Policy (Exempt & Complying Development Codes) 2008* where the development standards prescribed in Clause 2.110 of that instrument:

- enclose the work area;
- if it is a temporary construction site fence adjoining, or on, a public place—be covered in chain wire mesh that is designed, appropriately fixed and installed in accordance with AS 2423—2002, *Coated steel wire fencing products for terrestrial, aquatic and general use*; and
- be removed immediately after the work in relation to which it was erected has finished if no safety issue will arise from its removal.

**Note 1:** A structure on public land or on or over a public road requires the prior approval of the relevant authority under the *Local Government Act 1993* or the *Roads Act 1993*, respectively.

**Note 2:** The *Work Health and Safety Act 2011* and *Work Health and Safety Regulation 2011* contain provisions relating to scaffolds, hoardings and other temporary structures.

- 37 The submission of a Construction and Environment Management Plan (CEMP) to the Principal Certifying Authority for approval prior to the commencement of works. The plan must outline the sequence and construction methodology, and specify mitigating measures to ensure all works are carried out with minimal environmental impact in relation to project staging, waste management, traffic management and environmental management.

## **During Construction Works:**

*The following conditions must be satisfied during construction works.*

### **Dust Control Requirements**

- 38 Suitable dust suppression measures shall be implemented and maintained by the developer during demolition, excavation and construction works associated with the development. Such measures are required to minimise the emission of dust and other impurities into the surrounding environment.

### **Earthworks and Haulage - Construction Requirements**

- 39 All materials other than fill imported to the site for civil works, shall have a resource recovery exemption made under the Protection of the Environment Operations (Waste) Regulation 2005.
- 40 All site fill material shall be classified as Virgin Excavated Natural Material (VENM) or Excavated Natural Earth (ENM) in accordance with the Waste Classification Guidelines – Part 1: Classifying Waste published by the Department of Environment, Climate Change and Water NSW (now Office of Environment and Heritage). Site fill material shall be certified as VENM or ENM by a practising Geotechnical Engineer prior to haulage to site. Certification documentation shall be provided to the Principal Certifying Authority throughout the construction phase of the works.

### **Potentially Contaminated Land Requirements**

- 41 During the construction phase of the development, any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination and required remediation must be notified to Council immediately upon discovery.

### **Services/Utility Requirements**

- 42 The developer is solely responsible for any costs relating to alterations and extensions of existing roads, drainage, water and sewer infrastructure and other utilities for the proposed development.

### **Site Access Requirements**

- 43 All construction access and deliveries are to be via Chelmsford Road. No construction access or deliveries are to be permitted from The Pacific Highway.

### **Site Requirements**

- 44 Construction or demolition works involved with the development may only be carried out between the hours of 7.00 am and 5.00 pm Monday to Saturday with no construction or demolition works associated with the development permitted to be carried out at any time on a Sunday or a public holiday.
- 45 During the construction phase of the development, all building materials, plant and equipment must be placed on the site of the development in order to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure.
- 46 During the construction phase of the development, any excavation below the level of footings of buildings upon adjoining allotments requires the preservation and protection of the adjoining buildings from damage resulting from subsidence. Should it be necessary, the excavation is to be supported and the adjoining buildings underpinned in a manner certified by a suitably qualified Structural Engineer.

### **Waste Management Requirements**

- 47 During the construction phase of the development, all building materials must be re-used, recycled or disposed of in accordance with the Waste Management Plan submitted with the subject application.

## **Prior to Release of Occupation / Subdivision Certificate:**

***The following conditions must be satisfied prior to the release of an Occupation / Subdivision Certificate as applicable to the specific work required under each individual condition.***

### **Building Code of Australia – Compliance Requirements**

- 48 Prior to the issue of an Occupation Certificate, the building shall be completed in accordance with the relevant provisions and requirements of the Building Code of Australia.

### **Dilapidation Rectification Requirements**

- 49 Prior to the issue of an Occupation Certificate, any damage not shown in the Dilapidation Report submitted to and approved by the Principal Certifying Authority prior to site works commencing, will be assumed to have been caused as a result of the site works undertaken with respect to the development and must be rectified at the applicant's expense.

### **Disabled Access Requirements**

- 50 Prior to the issue of an Occupation Certificate, access to and throughout the buildings shall comply with AS 1428.1-2009 and the objectives of the *Disability Discrimination Act 1992* (Commonwealth).

### **Filling and Haulage- Completion Requirements**

- 51 Prior to the issue of an Occupation Certificate, the developer shall determine the reduced pavement life for the haulage route using the agreed methodology identified in the agreement with Council as the Roads Authority, and complete the agreed rectification actions.

### **Food Act Requirements**

- 52 No food handling, (as defined by the NSW Food Act 2003), is permitted in the food premises prior to the issue of the Occupation Certificate.
- 53 All liquid trade waste is required to pass through a basket arrestor with fixed screens, fitted to all floor wastes and sinks, before being discharged into the sewerage system.
- 54 Compliance with the requirements of the New South Wales Food Act 2003, the Food Regulation 2010, and AS4674–2004 – Design, Construction and Fitout of Food Premises, and AS1668, Part 11 – Mechanical Ventilation, for all food preparation and food storage areas, including liquor areas.
- 55 The installation of hand wash facilities with a minimum dimension of 500mm x 400mm providing warm running water through a common mixing spout with hands-free tap operation (consisting of elbow or wrist operated tap levers, foot or hip operated tap levers, or electronic sensor tap operation).

### Landscaping Requirements

- 56 Prior to the issue of an Occupation Certificate, to ensure landscaping works are properly completed, the landscape designer must provide certification to the Principal Certifying Authority certifying that landscaping has been implemented in accordance with the approved landscape plan as amended by any conditions of this consent.

### Lighting Requirements

- 57 Prior to the issue of an Occupation Certificate, suitable lighting to the car parking area, loading docks, truck turning area, access to rear of site shall be provided in accordance with the requirements of AS/NZS 1158 and AS/NZS 2890.1.

### Potentially Contaminated Land Requirements

- 58 A validation report by a suitably qualified professional confirming that the land is suitable for use is required to be submitted to Council's Environmental Protection Officer and Principal Certifying Authority prior to the issue of any Occupation Certificate.

### Public Health Premises

- 59 The premises must be inspected by Council's Environmental and Public Health Officer prior to any business activity being carried out.
- 60 The premises must be registered with Council's Health Services Section prior to commencing operations.
- 61 The premises must be provided with a separate hand basin solely for the purpose of washing hands. The hand basin must be provided with a continuous supply of hot and cold water delivered through a single mixing spout. A supply of antibacterial liquid soap and paper towels are to be provided in dispensers adjacent to this hand basin.
- 62 The premises must be provided with a separate equipment-washing sink for the purpose of washing equipment used with the business activities. This sink must be provided with a continuous supply of hot and cold water delivered through a single mixing spout.
- 63 Where a basin or a sink is situated against any wall that wall is to be constructed of, or covered with, material that is durable, smooth, impervious to moisture and capable of being cleaned. This surface is to be as follows:
- from floor level to a height of 450mm above the top of the basin or sink; and
  - from the centre of the basin and sink to a distance of 150mm beyond each side of this fitting.

### Roads – Compliance Requirements

- 64 All road signage and pavement marking works must be completed in accordance with the plans approved by the Local Traffic Committee and approved by Council as the Roads Authority prior to the issue of any Occupation Certificate.
- 65 The provision of any additional civil works required to ensure satisfactory transitions to existing work as a result of work conditioned for the development works are to be approved by Council as the Roads Authority prior to issue of the Occupation Certificate.
- 66 All works within the public road must be completed in accordance with the approved Civil Works design drawings and Council's *Civil Works Construction Specification* and be approved by Council as the Roads Authority prior to the issue of any Occupation Certificate.

- 67 The submission to the Council as the Roads Authority of a 'pre-opening stage' Road Safety Audit for all the roadwork's within Chelmsford Road prepared by a Level 3 Road Safety Auditor recognised on the NSW Register of Road Safety Auditors. Any deficiencies identified within the audit must be resolved in consultation with Council prior to the approval of the works.
- 68 Prior to the issue of the Occupation Certification, the existing access to the Pacific Highway shall be closed and all rectification works has been undertaken.

### Statutory Certificate Requirements

- 69 Prior to the Issue of an Occupation Certificate, a Final Fire Safety Certificate, as required by Clause 153 of the Environmental Planning and Assessment Regulation, 2000, certifying that all the Fire Safety Measures within the building have been designed and installed in accordance with the relevant standard of performance as nominated by the Fire Safety Schedule issued with the Construction Certificate, is to be supplied for the approval of the Principal Certifying Authority. Such Final Fire Safety Certificate is also to be displayed within a prominent location within the building such as the main entry.

### Stormwater – Compliance Requirements

- 70 The construction of the stormwater management system in accordance with the approved Stormwater Management Plan and AS/NZS 3500.3-2004. Certification of the construction by a suitably qualified consultant shall be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate. Note: The OSD tank shall be certified by a practising Structural Engineer as being constructed in accordance with the approved design and to be structurally adequate for all anticipated loadings.
- 71 The construction of stormwater drainage works external to the site and discharging into a public system or public land in accordance with the approved Stormwater Management Plan and Council's *Civil Works Construction Specification*. All works must be approved by Council under Section 68 of the Local Government Act 1993 prior to issue of the Occupation Certificate. All other stormwater management works must be approved by the Principal Certifying Authority.

### Subdivision– Compliance Requirements

- 72 The consolidation of Lot 2 DP 24696 and Lots 5 & 6 DP 738274 into one lot by a registered subdivision prior to the issue of an Occupation Certificate. Documentary evidence of the Consolidation Plan registration with the Land and Property Management Authority must be submitted to the Accredited Certifier prior to the issue of the Occupation Certificate.
- 73 The dedication of land as road widening the roundabout leg extending to the building alignment of the entry/exit access road servicing the car parking area. The road widening must be shown on a plan of subdivision and approved by Council with the issue of the Subdivision Certificate.
- 74 The plan of subdivision and Section 88B instrument shall establish the following title encumbrances with Council being nominated as the sole authority to release, vary or modify each encumbrance unless specifically noted otherwise. Wherever possible the extent of the land affected shall be defined by bearings and distances shown on the plan of subdivision:
- 'Restriction on the Use of Land' containing an overland stormwater drainage flow path, prohibiting the erection of any structure or alteration to the flow path without the express written consent of Council.
  - 'Restriction on the Use of Land' prohibiting any alteration to the on-site stormwater detention system. The terms of the restriction are to be prepared to Council's standard

requirements.

- 'Positive Covenant' requiring the registered proprietor to ensure on-going maintenance is completed for the on-site stormwater detention system. The terms of the covenant are to be prepared to Council's standard requirements.
- The creation of a 'Rights of Access' over the footpath which crosses the main vehicle entry/exit ramp to benefit the public.
- The creation of an 'Easement to Drain Water' burdening the subject site and benefitting the upstream property Lot 1 DP787758 Pacific Highway.

The encumbrances must be shown on the final plan of subdivision and Section 88B instrument, and be approved by Council with the Subdivision Certificate.

- 75 The provision of Works as Executed information as identified in *Council's Civil Works Construction Specification* prior to issue of the Occupation Certificate. The information is to be submitted in hard copy and in electronic format in accordance with Council's 'CADCHECK' requirements. This information is to be approved by Council prior to issue of the Occupation Certificate.

### **Water and Sewer Services/Infrastructure – Compliance Requirements**

- 76 The obtaining of a satisfactory final plumbing & drainage inspection advice or Section 307 Certificate of Compliance under the *Water Management Act 2000* for water and sewer requirements for the development from Wyong Shire Council as the Water Supply Authority, prior to issue of the Occupation Certificate. All works for the development must be approved by Council prior to the issue of a Certificate of Compliance.

## **Ongoing Operation:**

***The following conditions must be satisfied during use / occupation of the development.***

### **Advertising Sign Requirements**

- 77 The proposed advertising sign/s erected shall be in accordance with the approved plans and shall not be altered or modified without the prior separate consent of Council.
- 78 The approved advertising sign/s must be constructed and maintained in a presentable and satisfactory state of repair for the life of the development.
- 79 No additional advertising signs, including flags, banners, bunting, streamers, sandwich-boards, windvanes or other devices considered to be used as advertising media shall be erected on the site without the prior separate consent of Council.
- 80 The advertising signs shall meet the criteria contained in Section 3.2.5 of the Department of Transport Corridor Outdoor Advertising and Signage Guidelines (July 2007) – Illumination and reflectance. Any proposed advertising sign must not have/use: -
- Flashing lights or messages;
  - Electronically changeable messages, unless in accordance with the Department of Transport's Guidelines;
  - Animated display, moving parts or simulated movement;
  - No iridescent or fluorescent colours or materials;
  - Complex displays that hold a drivers' attention beyond "glance appreciation";
  - Displays resembling traffic signs or signals, or giving instruction to traffic by using words such as 'halt' or 'stop';
  - A method of illumination that distracts or dazzles; and
  - Shall not result in any adverse impact on the amenity of the surrounding area.

**Industrial/Commercial Operational Requirements**

- 81 Loading and unloading of vehicles and delivery goods and merchandise and the like to and from the premises must be carried out within the loading area as it is shown on the endorsed plan and be conducted as to cause minimum interference with other vehicular traffic and to minimise dust and noise.
- 82 The loading bay area and truck turning area shall be kept unobstructed when not in use.
- 83 Maintenance of all buildings, surrounds and parking areas within the site shall be carried out in such a manner to render the site to be neat, tidy and clean at all times.
- 84 The hours of operation of the activity to which this development consent relates are: -  
Monday – Friday 7am to 9pm;  
Saturday 7am to 7pm  
Sunday and Public Holidays 7am to 6pm.
- 85 All delivery activities including loading and unloading shall be restricted to the hours between: -  
Monday to Friday - 7am to 7pm; and  
Saturday, Sunday and Public Holidays 8am to 5pm.

**Road Widening Acquisition**

- 86 Upon the road widening along the Pacific Highway being acquired, the pylon sign is to be removed at no cost to the Roads and Maritime Services or Council.

**Site Appearance, Maintenance and Security Requirements**

- 87 The owner/operator(s) of the site must maintain the external finishes of the building(s), structures, walls and fences for the life of the development and any graffiti must be removed in a timely manner. **Note:** amend “owner/operator(s)” and “building(s), structures, walls and fences” to suit the application to which you are applying the condition.
- 88 All site landscaping is to be maintained for the life of the development in accordance with the approved landscape plan, as amended by the conditions of this consent, and with the approved maintenance schedule.

**Vehicle Access and Parking – Ongoing Requirements**

- 89 All on-site vehicle parking areas, markings, driveways and manoeuvring areas are to be maintained for the life of the development.

**Waste Management – Compliance Requirements**

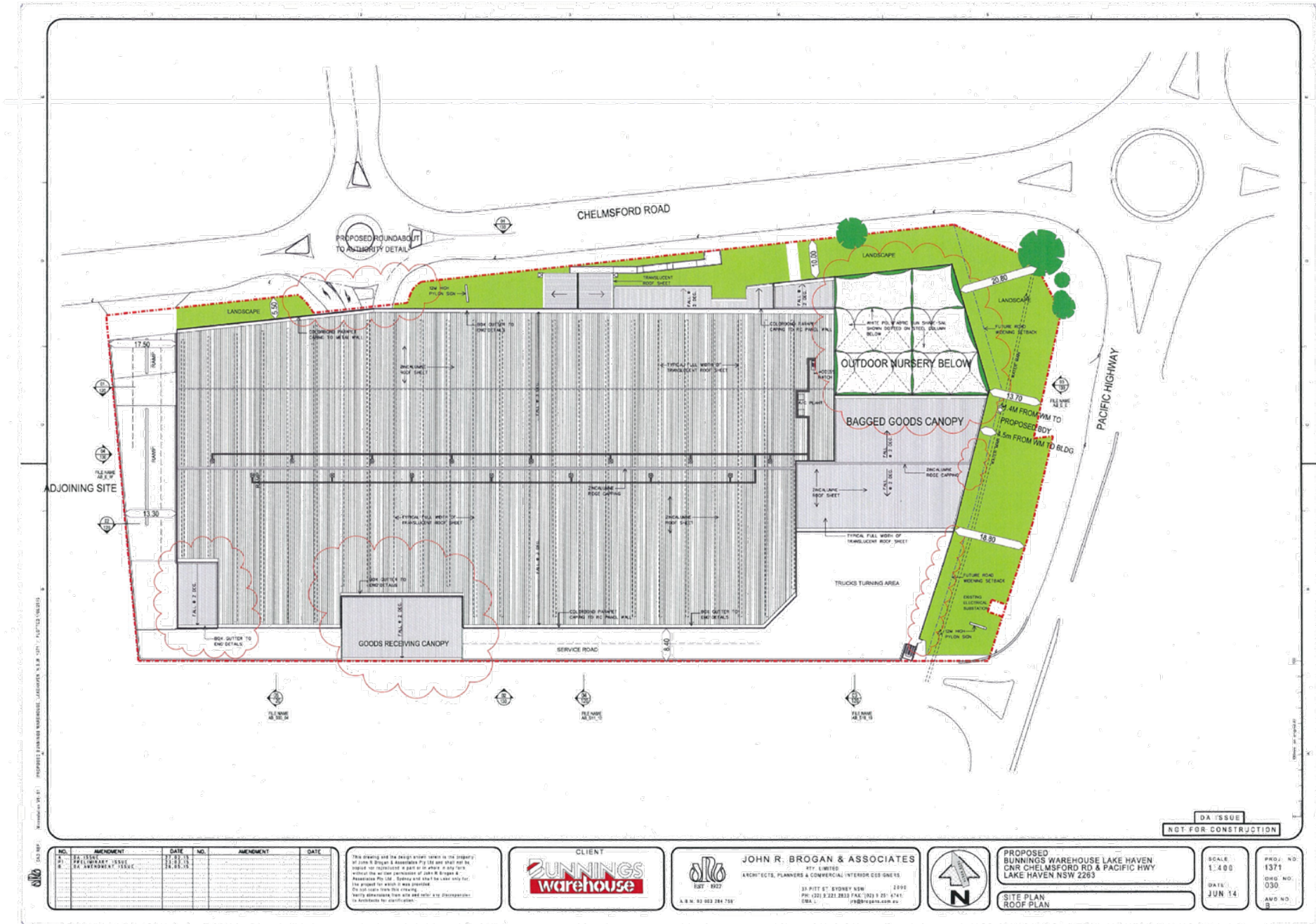
- 90 All waste generated on the premises shall be stored in a manner so that it does not pollute the environment.
- 91 All waste generated on the premises shall be transported to a facility which is licensed to receive that material in accordance with an approved waste management plan.



## **SCHEDULE OF CONTRIBUTIONS**

Section 94A Levy

\$241,500.00



DA ISSUE  
NOT FOR CONSTRUCTION

| NO. | AMENDMENT              | DATE       | NO. | AMENDMENT | DATE |
|-----|------------------------|------------|-----|-----------|------|
| 1   | ISSUE FOR PERMIT       | 15/06/2023 |     |           |      |
| 2   | ISSUE FOR CONSTRUCTION | 15/06/2023 |     |           |      |

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CLIENT

JOHN R. BROGAN & ASSOCIATES  
ARCHITECTS, PLANNERS & COMMERCIAL INTERIOR DESIGNERS

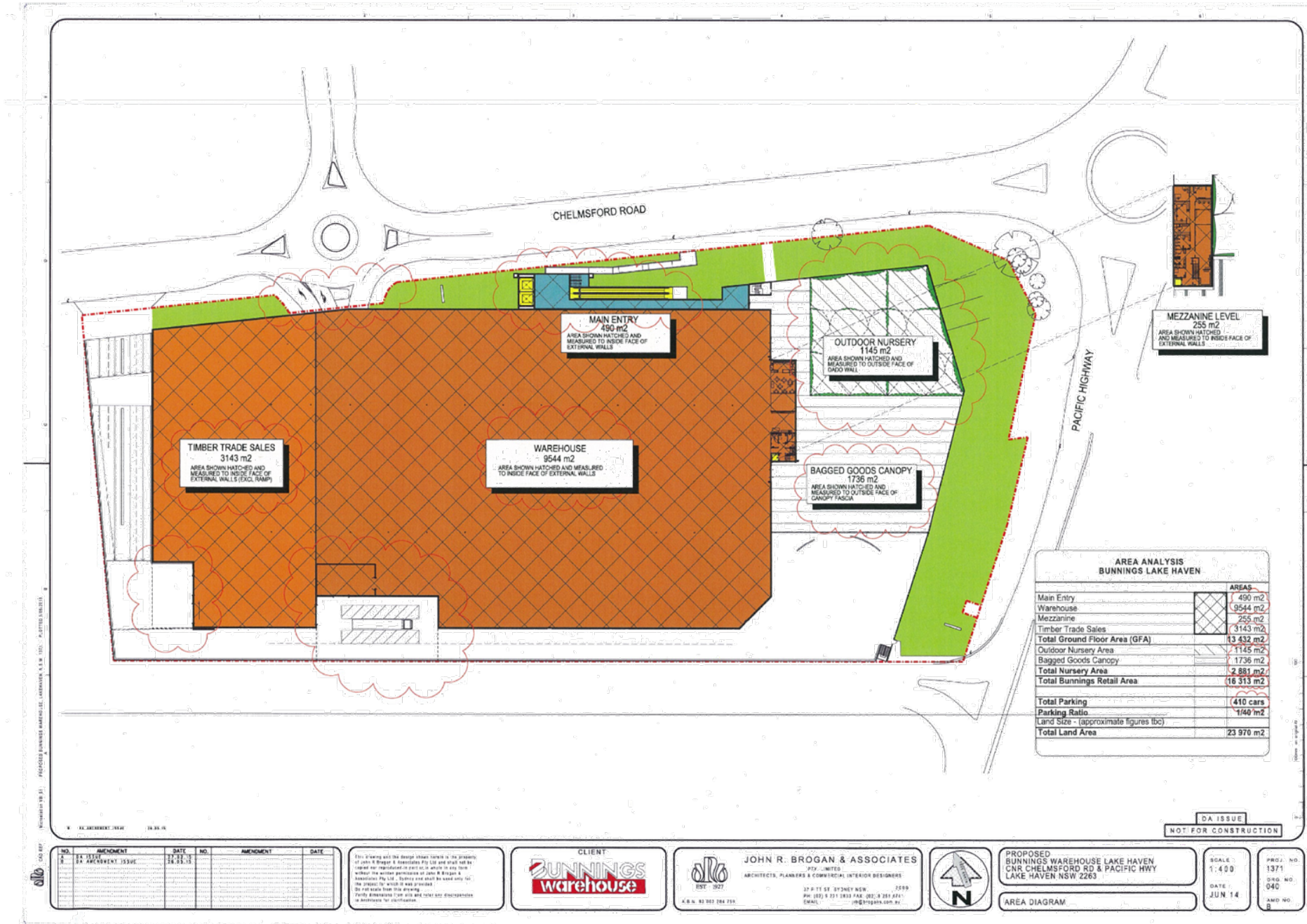
35 PITT ST. SYDNEY NSW 2000  
PH: (02) 9 221 2833 FAX: (02) 9 251 6741  
SMA 1 1988494666



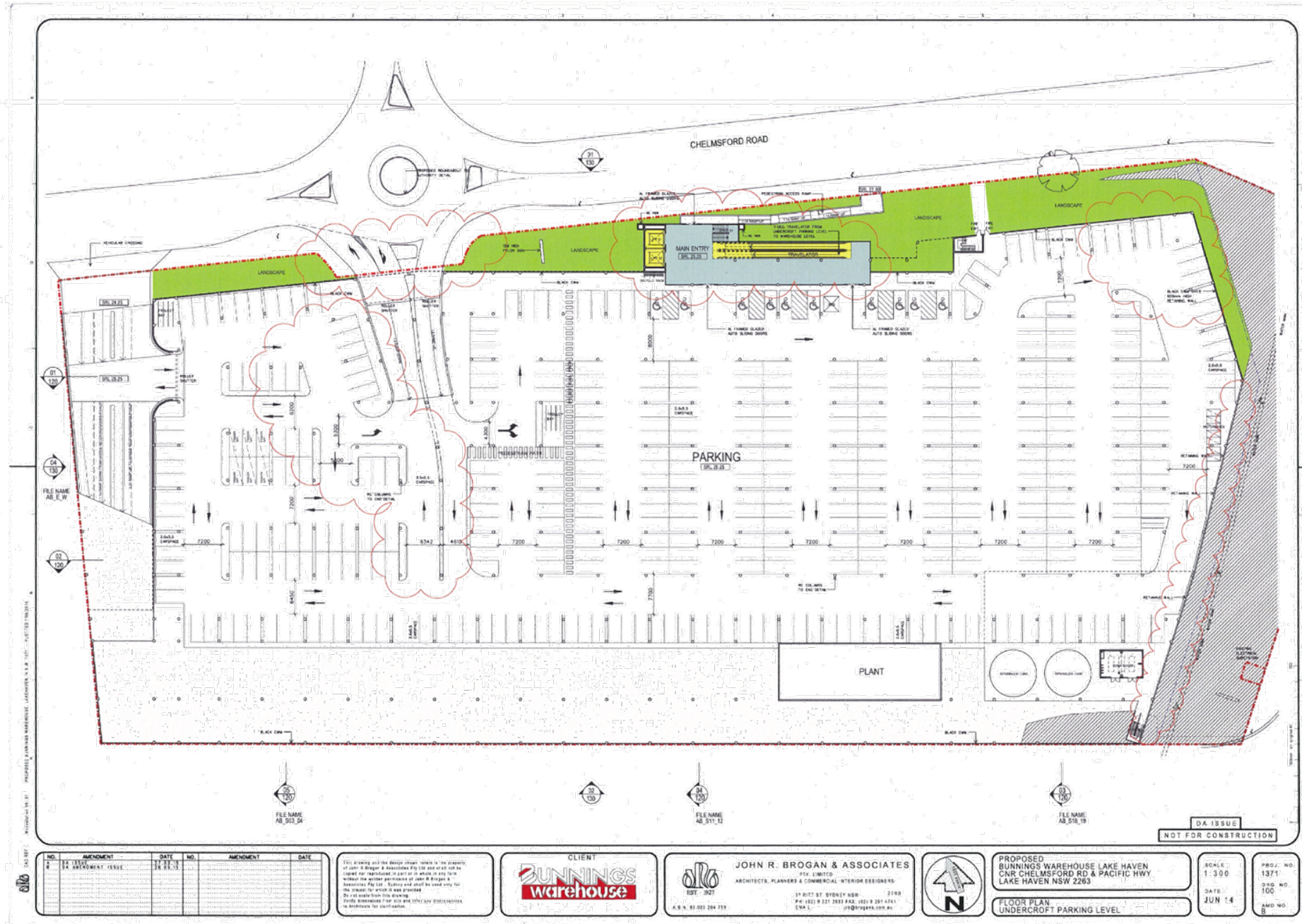
PROPOSED  
BUNNINGS WAREHOUSE LAKE HAVEN  
CNR CHELMSFORD RD & PACIFIC HWY  
LAKE HAVEN NSW 2263

SITE PLAN  
ROOF PLAN

SCALE: 1:400  
DATE: JUN 14  
PROJ. NO: 1374  
DWG. NO: 030  
AMD. NO: B







| NO. | AMENDMENT | DATE     | NO. | AMENDMENT | DATE |
|-----|-----------|----------|-----|-----------|------|
| 14  | ISSUE     | 14.01.14 |     |           |      |
| 15  | AMENDMENT | 14.01.14 |     |           |      |
| 16  | AMENDMENT | 14.01.14 |     |           |      |
| 17  | AMENDMENT | 14.01.14 |     |           |      |
| 18  | AMENDMENT | 14.01.14 |     |           |      |
| 19  | AMENDMENT | 14.01.14 |     |           |      |
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| 50  | AMENDMENT | 14.01.14 |     |           |      |

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CLIENT

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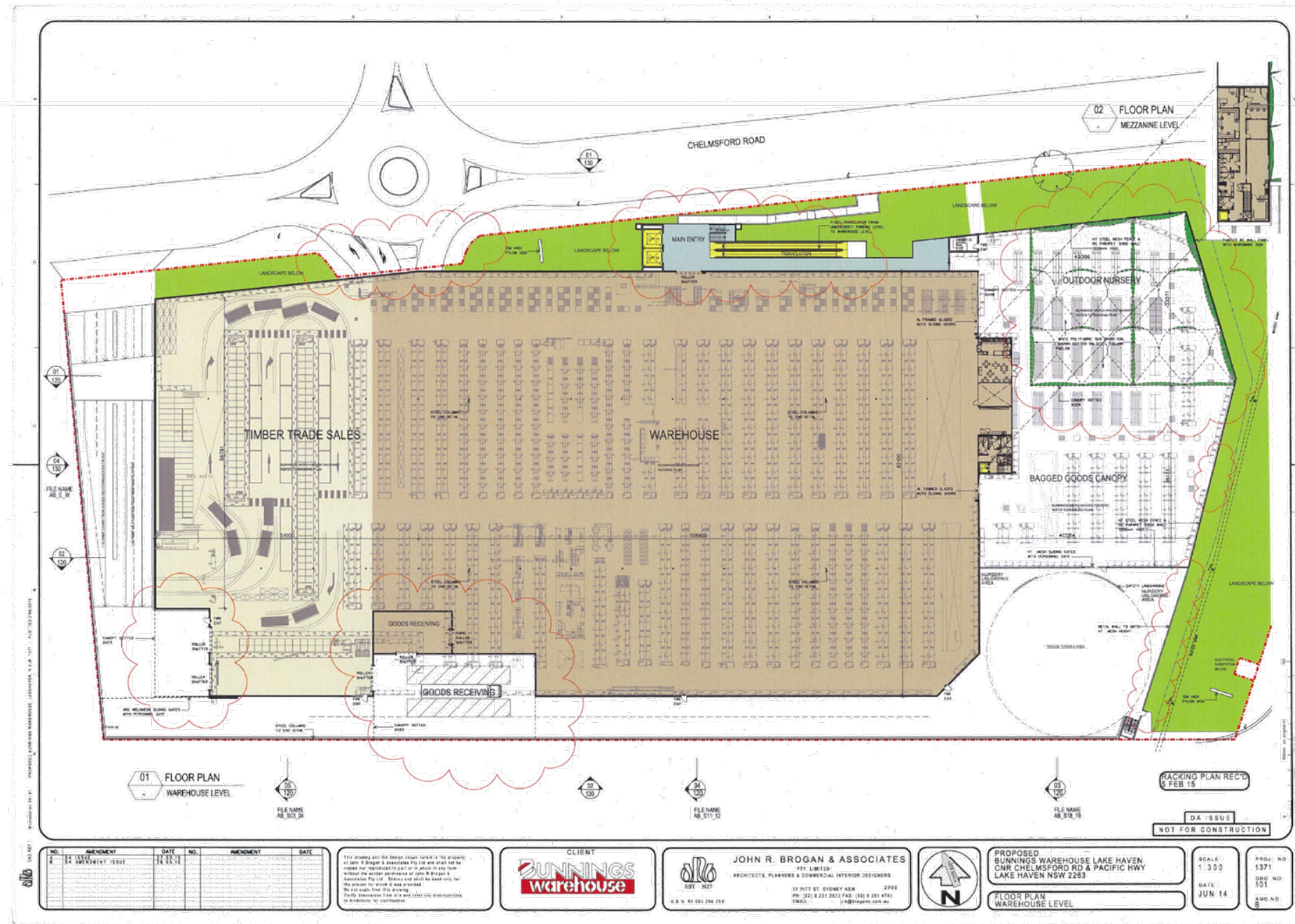
PROPOSED  
 BUNNINGS WAREHOUSE LAKE HAVEN  
 CNR CHELMSFORD RD & PACIFIC HWY  
 LAKE HAVEN NSW 2263

FLOOR PLAN  
 UNDERCROFT PARKING LEVEL

SCALE: 1:300  
 DATE: JUN '14  
 PROJ. NO: 1371  
 Dwg NO: 100  
 ASD NO: B

DA ISSUE  
 NOT FOR CONSTRUCTION





| NO. | AMENDMENT | DATE     | NO. | AMENDMENT | DATE |
|-----|-----------|----------|-----|-----------|------|
| 01  | ISSUE     | 14/02/14 |     |           |      |
| 02  | ISSUE     | 14/02/14 |     |           |      |
| 03  | ISSUE     | 14/02/14 |     |           |      |
| 04  | ISSUE     | 14/02/14 |     |           |      |
| 05  | ISSUE     | 14/02/14 |     |           |      |
| 06  | ISSUE     | 14/02/14 |     |           |      |
| 07  | ISSUE     | 14/02/14 |     |           |      |
| 08  | ISSUE     | 14/02/14 |     |           |      |
| 09  | ISSUE     | 14/02/14 |     |           |      |
| 10  | ISSUE     | 14/02/14 |     |           |      |
| 11  | ISSUE     | 14/02/14 |     |           |      |
| 12  | ISSUE     | 14/02/14 |     |           |      |
| 13  | ISSUE     | 14/02/14 |     |           |      |
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| 15  | ISSUE     | 14/02/14 |     |           |      |
| 16  | ISSUE     | 14/02/14 |     |           |      |
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| 18  | ISSUE     | 14/02/14 |     |           |      |
| 19  | ISSUE     | 14/02/14 |     |           |      |
| 20  | ISSUE     | 14/02/14 |     |           |      |
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| 22  | ISSUE     | 14/02/14 |     |           |      |
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| 24  | ISSUE     | 14/02/14 |     |           |      |
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| 98  | ISSUE     | 14/02/14 |     |           |      |
| 99  | ISSUE     | 14/02/14 |     |           |      |
| 100 | ISSUE     | 14/02/14 |     |           |      |

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PROPOSED  
 BUNNINGS WAREHOUSE LAKE HAVEN  
 CNR CHELMSFORD RD & PACIFIC HWY  
 LAKE HAVEN NSW 2253

FLOOR PLAN  
 WAREHOUSE LEVEL

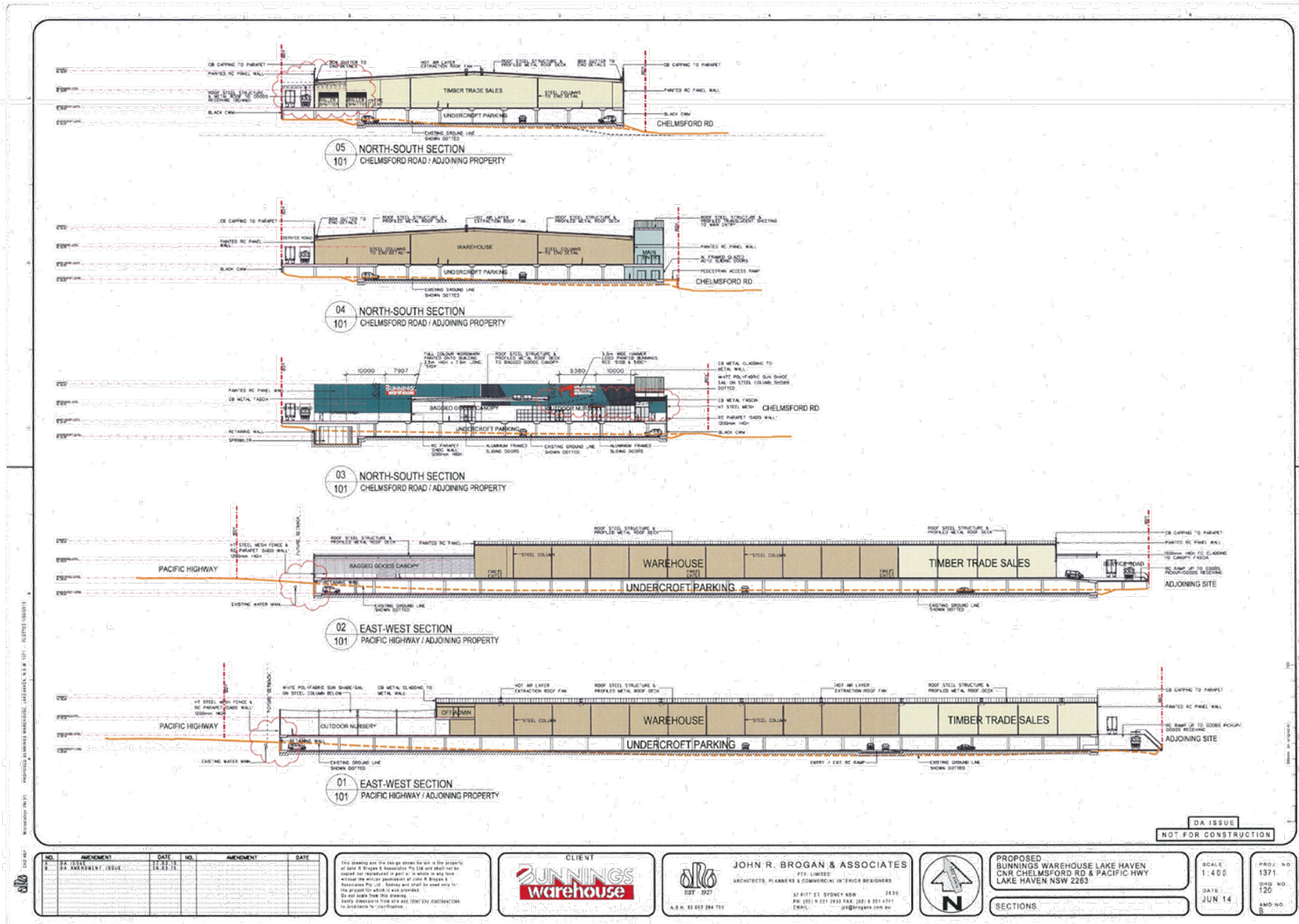
SCALE: 1:300  
 DATE: JUN 14  
 PROJ. NO: 1371  
 DES. NO: 101  
 AWC. NO: 6

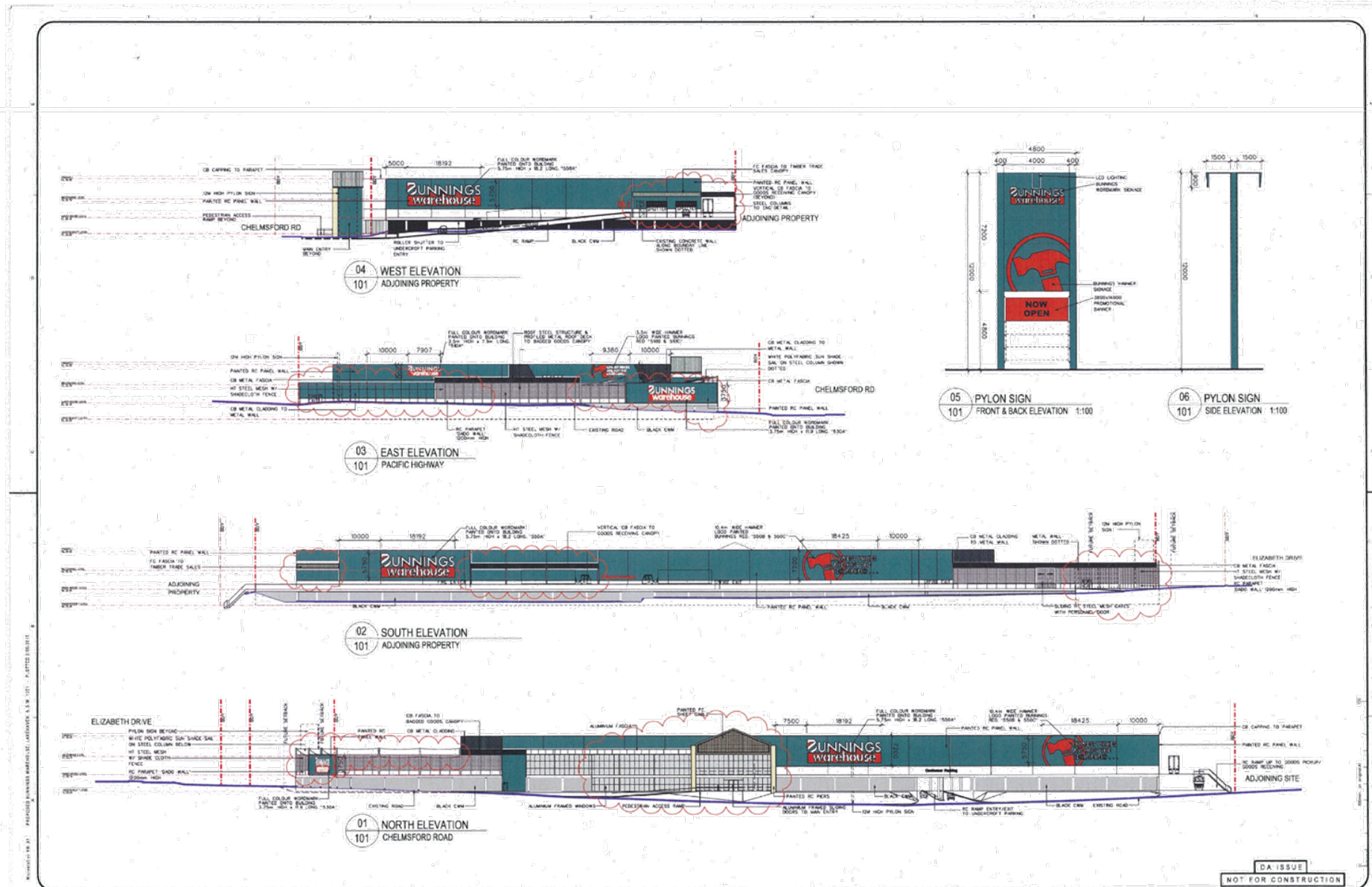
RACKING PLAN REC'D  
 5 FEB 15

DA ISSUE

NOT FOR CONSTRUCTION







REVISIONS: 01 - 17/05/2017 - PROPOSED BUNNINGS WAREHOUSE, LAKE HAVEN, N.S.W. - 1501 - PLATTED SUBMIT  
 02 - 18/05/2017 -

| NO. | AMENDMENT | DATE     | NO. | AMENDMENT | DATE |
|-----|-----------|----------|-----|-----------|------|
| 1   | ISSUE     | 14/05/17 |     |           |      |
| 2   | AMENDMENT | 14/05/17 |     |           |      |
| 3   |           |          |     |           |      |
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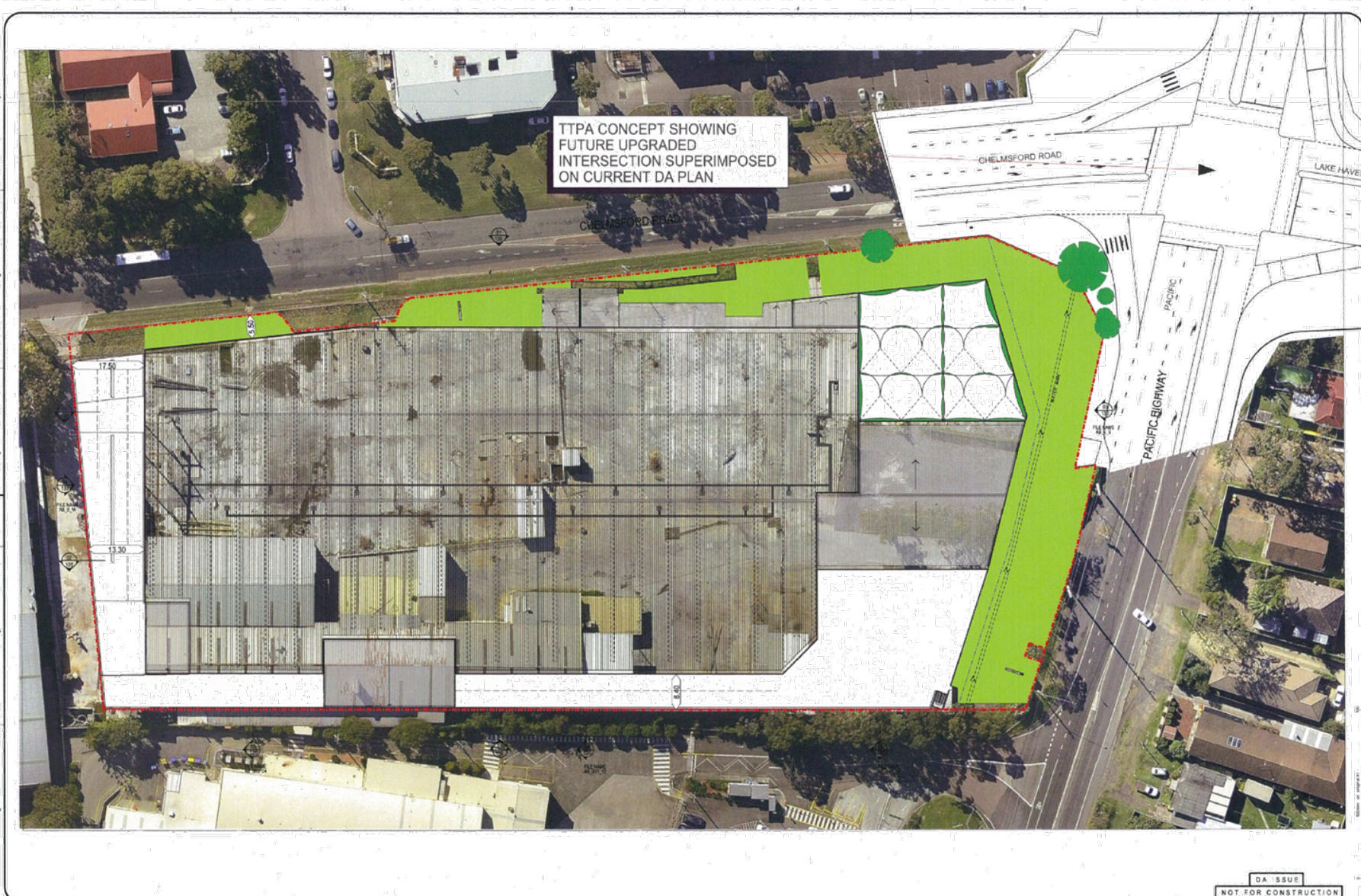
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**PROPOSED**  
**BUNNINGS WAREHOUSE LAKE HAVEN**  
**CAR CHELMSFORD RD & PACIFIC HWY**  
**LAKE HAVEN NSW 2263**  
**ELEVATIONS**

**DA ISSUE**  
**NOT FOR CONSTRUCTION**  
 SCALE: 1:400  
 DATE: JUN 14  
 PROJ. NO: 1371  
 DRG. NO: 130  
 AMD. NO: 8





DA ISSUE  
NOT FOR CONSTRUCTION

| NO. | AMENDMENT / ISSUE | DATE     | NO. | AMENDMENT | DATE |
|-----|-------------------|----------|-----|-----------|------|
| 1   | ISSUE             | 17.05.14 |     |           |      |
| 2   | AMENDMENT         | 13.30    |     |           |      |
| 3   | AMENDMENT         | 17.05.14 |     |           |      |

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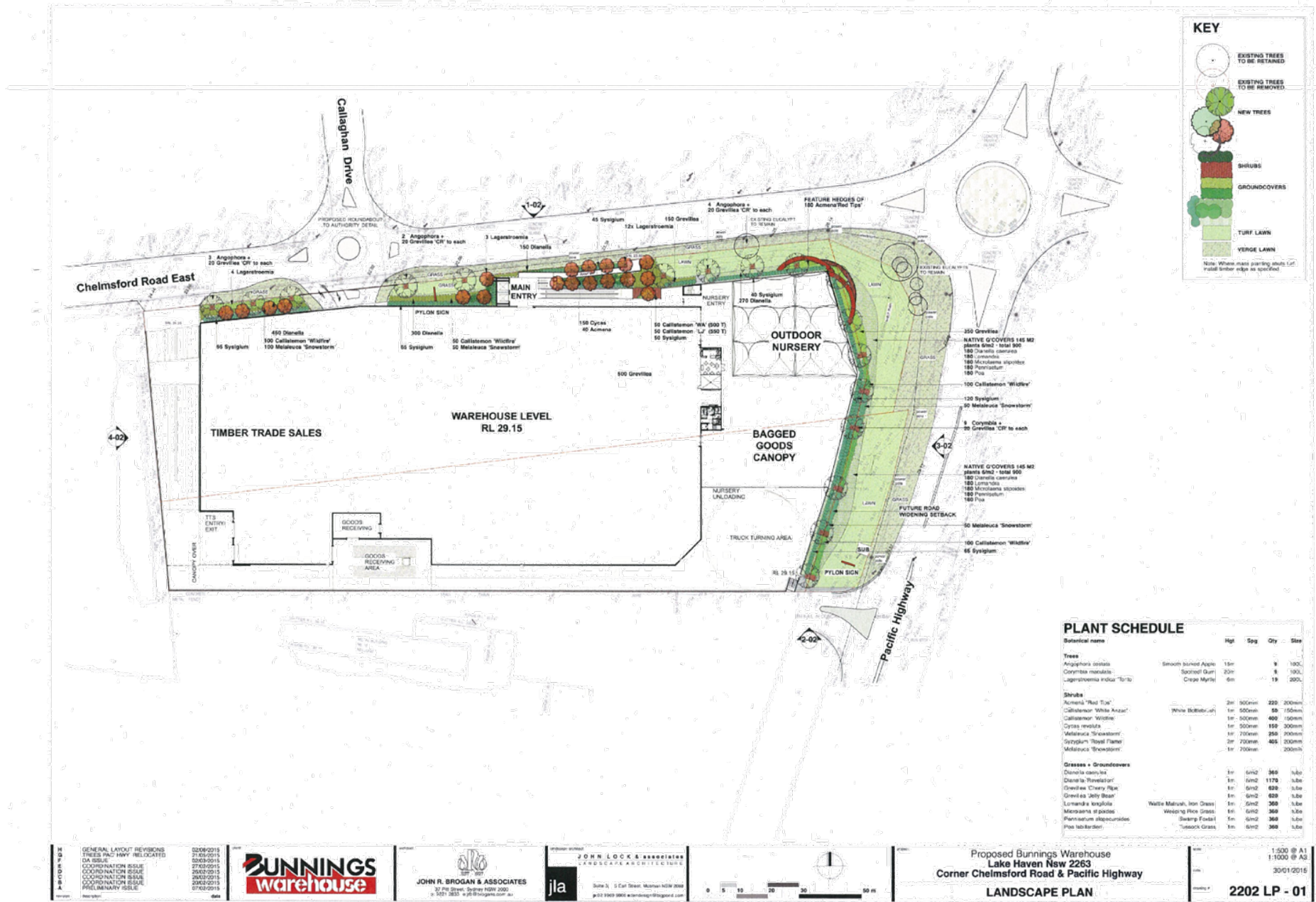
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PROPOSED  
 BUNNINGS WAREHOUSE LAKE HAVEN  
 CNR CHELMSFORD RD & PACIFIC HWY  
 LAKE HAVEN NSW 2263  
 AERIAL OVERLAY  
 CONCEPT INTERSECTION

SCALE: 1:400  
 DATE: JUN 14  
 PROJ. NO: 1371  
 Dwg. NO: 020  
 AMD. NO: A







4 WEST ELEVATION - Adjoining Property  
1:250

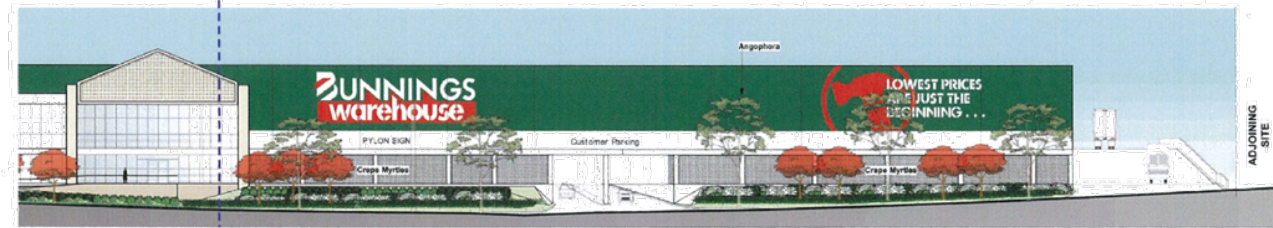


2 SOUTH ELEVATION - part  
1:250

3 EAST ELEVATION - Pacific Highway  
1:250



1 NORTH ELEVATION - Chelmsford Road  
1:250



1 PART NORTH ELEVATION - Chelmsford Road  
1:250

|   |                          |            |
|---|--------------------------|------------|
| H | GENERAL LAYOUT REVISIONS | 09/06/2015 |
| D | TREES FACTORY RELOCATED  | 21/06/2015 |
| F | ISA ISSUE                | 05/08/2015 |
| D | COORDINATION ISSUE       | 27/02/2015 |
| D | COORDINATION ISSUE       | 26/02/2015 |
| D | COORDINATION ISSUE       | 26/02/2015 |
| A | PRELIMINARY ISSUE        | 07/02/2015 |



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Proposed Bunnings Warehouse  
 Lake Haven NSW 2263  
 Corner Chelmsford Road & Pacific Highway  
**LANDSCAPE ELEVATIONS**

1:500 @ A1  
 1:1000 @ A3  
 30/01/2015  
**2202 LP - 02**





VIEW FROM HIGHWAY LOOKING NORTH TOWARDS CHELMSFORD RD ROUNDABOUT



VIEW LOOKING SOUTH AT HIGHWAY & CHELMSFORD RD ROUNDABOUT