



31 August 2017

General Manager
Planning and Development
725 Pittwater Road,
Dee Why, NSW 2099

Dear Sir/Madam,

RE: SECTION 96(1A) DA 2017/0730, 114 OLD PITTWATER ROAD, BROOKVALE

1. INTRODUCTION

We refer to the above development approval issued on the 23rd August 2017 for a change the operating hours for the approved warehouse at 114 Old Pittwater Road, Brookvale.

On behalf of Michael Rumble ('the Applicant') we are seeking Council's approval for a section 96(1A) modification to the development consent. This proposed modification seeks the amendment of approved '**Condition 5 - Delivery Hours**' to reflect a delivery window of 5am to 10pm for delivery vans.

This modification is being sought under the provisions of Section 96(1A) of the *Environmental Planning & Assessment Act 1979* (EP&A Act). We attach the following information in support of this request:

- A completed application form including owner's consent;
- The requisite fee (REF# EstP2014/0999);
- Acoustic Report prepared by Reverb Acoustics RA-L2 (August 2017) (**Appendix A**);
- Acoustic Statement prepared by Reverb Acoustics (August 2017) (**Appendix B**); and
- Acoustic Report prepared by Reverb Acoustics RA-R1 (July 2017) (**Appendix C**).

2. SUBJECT SITE

The subject site is located at 114 Old Pittwater Road (see **Figure 1**) on the western side of Old Pittwater Road, in Brookvale's established industrial precinct. The site is legally described as Lot 1 in DP 868761 and has an approximate area of 2.017 hectares. The property is an irregular shape with primary vehicle entry via an access handle from Old Pittwater Road. The site is an irregular shape with vehicle access via an access handle from Old Pittwater Road.

Development within the immediate vicinity of the site consists of a variety of light industrial uses; including office, warehouse and technical accommodation.

Figure 1 – Site Location



Source: SIXmaps

3. THE PROPOSAL

The proposed modification is required to allow the movement of delivery vans to and from the premises. These vans are non-articulated delivery vehicles and are necessary to meet the morning dispatch schedule required for the operation of the Woolworths Dedicated Online Store (DOS) distribution centre, which runs from 5am to 830am.

As a result of the above, it is proposed that Condition 5 be amended to read as follows:

5. Delivery Hours

*No deliveries, loading or unloading associated with the premises are to take place between the hours of 10pm and ~~6am~~ **5am** on any day.*

4. SECTION 96(1A) ASSESSMENT

Council may modify a development consent under the provisions of Section 96(1A) of the Act if it is satisfied that the amendment is of minimal environmental impact and the development remains substantially the same as originally approved.

4.1. ENVIRONMENTAL IMPACT

The Development Application Assessment Report provided by Council notes that the 10pm-6am restriction aims to:

To protect ensure the acoustic amenity of surrounding properties.

The Acoustic Report by Reverb Acoustics (**Appendix A**) has been prepared in support of this modification. This should be read in conjunction with the Reverb Acoustics Statement (August 2017) (**Appendix B**) and Report, dated July 2017 (**Appendix C**). These make the following conclusions regarding the acoustic impacts of the proposal:

- Comparisons of the similar residential acoustic environments surrounding the Brookvale industrial area and Manly Golf Course (directly south of the subject site) show a rise (38-40dB(A)) in background noise levels between 4am-5am;
- Calculations in the July report predict noise levels as low as 36dB(A) at the nearest receivers to the site, which is 4dB(A) below the adopted criterion and also the likely background noise levels in the receiver area from 5am-7am; and
- This is supported by Section 3.3 of the EPA's Industrial Noise Policy (INP). The INP supports the inclusion of early morning shoulder periods for proposed developments (i.e. 5am-7am) when existing background noise levels are steadily rising.

The report recommends that to ensure the amenity of surrounding sensitive receivers:

"Only trucks less than 10 tonne TARE should visit the site during the shoulder period from 5am-7am".

4.2. CONSISTENCY WITH THE CONSENT

The proposed design modifications are considered to result in substantially the same development as previously approved, as the proposed modification will only extend the dispatch schedule one hour to accommodate outbound van movements. This will not affect the approved 24-hour use of the site to accommodate the Woolworths 'Dedicated Online Store (DOS)' Distribution Centre.

The proposed modification will not affect the satisfaction of the remaining conditions of consent.



5. SECTION 79C ASSESSMENT

5.1. WARRINGAH LOCAL ENVIRONMENTAL PLAN 2011

The *Warringah Local Environmental Plan 2011* (WLEP 2011) is the relevant environmental planning instrument applying to the site. The proposal maintains compliance with the relevant provisions of WLEP as follows:

Permissibility

The proposed modification does not alter the approved use of the site, approved under a Complying Development Certificate Ref D2017.032.

Acoustics

As outlined above, an Acoustic Report and Statement have been prepared by Reverb Acoustics (**Appendices A and B**) in response to this proposed modification. These conclude that subject to the listed recommendations; the modification will have no additional impact on surrounding sensitive receivers.

5.2. WARRINGAH COUNCIL DEVELOPMENT CONTROL PLAN 2011 (WDCP 2011)

Given the limited nature of the proposal there are few applicable provisions of the WDCP 2011 that apply to this application. The relevant WDCP provisions have been summarised in **Table 1** below.

Table 1 – WDCP 2011 Compliance Table

Control	Assessment	Compliance
D3 Noise	A Noise Impact Report and Statement have been prepared by Reverb Acoustics and is attached at Appendix A and B . These conclude that the proposal will not diminish the amenity of the surrounding residential area.	Yes.

6. IMPACT ASSESSMENT

As discussed above, the impacts of the development are negligible given the nature of the proposal. Further, the Noise Impact Assessments provided at **Appendix A, B** and **C** have concluded that there will be no long-term excessive environmental noise to any surrounding residential properties.



7. CONCLUSION

The proposed modification to Condition 5 will be of minimal environmental impact and is substantially the same development as that approved under the original consent, satisfying the requirements of Section 96(1A) of the *Environmental Planning and Assessment Act 1979*.

The modification is proposed allow the movement of delivery vans to and from the premises, which is necessary to meet the morning dispatch schedule required for the operation of the Woolworths Dedicated Online Store (DOS) distribution centre, which runs from 5am to 830am.

As a result of the above, it is recommended that approval be granted to the modified proposal.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Katie Weaver".

Katie Weaver
Consultant



APPENDIX A – ACOUSTIC REPORT RA-L2 (AUGUST 2017)



APPENDIX B – ACOUSTIC STATEMENT (AUGUST 2017)



APPENDIX C – ACOUSTIC REPORT RA-R1 (JUNE 2017)