

10 March 2016

The General Manager
Warringah Council
Civic Centre, 725 Pittwater Road
DEE WHY NSW 2099



Dear Sir/Madam,

RE: S96(1A) to DA 1997/63 – Extension to Trading Hours at Caltex at Lot 1 Warringah Road and deletion of requirement for a boom gate.
Our Ref: 16040

1 Introduction

KDC Pty Ltd (KDC) acts on behalf of its client Caltex Australia Limited in preparing this supporting Statement of Environmental Effects for the proposed s96(1A) modification to DA1997/63 (Consent No. 97/173). The original consent for the development refers to '*Refurbishment and upgrade of existing Service Station to include a Convenience Store*' which was approved by Warringah Council (Council) on the 27th of June 1997.

At the time of the original consent, the subject site was formally known as 176 Warringah Road, Beacon Hill and was legally identified as Lot 1 DP 417115.

The site is currently known as Lot 1, Warringah Road, Beacon Hill and is legally identified as Lot 1 DP 1072972.

2 Proposal

Modification 1: Hours of Operation

The proposed modification seeks to amend Condition 4 of the consent to extend trading hours of the operation to 24 hours 7 days a week. The proposed amendment is considered to have minimal environmental or social impact and will not adversely impact on the amenity of surrounding residential development.

The conditions currently states:

4. *The trading and / or operating hours of the services station and convenience store, or any part thereof, are to be confined to, 5.30am to 12.30am, 7 days.*

Proposed Modified Condition:

4. *The trading and / or operating hours of the service station and convenience store, or any part thereof, are permitted to occur 24 hours a day, 7 days per week.*

Justification

The proposed additional 5 hours of trading resulting from operating hours being extended to 24 hours is expected to cause minimal adverse impacts on the environment or the amenity of surrounding development. The proposal will provide a convenient location for those travelling late at night and early in the morning to refill fuel and purchase small goods. The site is located on small, triangular shaped block. A service station and a McDonald's are the only developments on the site, which is surrounded on all three sides by roads having six to three lanes. It is not expected that the proposal will increase the impacts already caused by this high flow traffic area.

A Noise Assessment has been carried out by Muller Acoustic Consulting, and is attached to this application. The assessment carried out quantified potential operational emissions pertaining to customer generated noise, truck deliveries, including consumables/waste/fuel deliveries and mechanical plant.

The results of this assessment found that the LAeq(15min) operational noise from the proposed extension of trading hours would satisfy the relevant criteria at all assessed receivers. The noise modelling identified that noise emissions are predicted to satisfy the relevant sleep disturbance levels.

Therefore, the proposed increase to operational hours will not increase noise impacts experienced within the immediate area and specifically at the assessed receivers.

It is considered that the proposed modification to condition 4 will not have an increased impact on the surrounding area. The proposal responds to the demand for a fuel refilling option within the Beacon Hill area during late night trading hours. New employment opportunities will also arise from the proposal, which bodes well from an economic perspective. Accordingly, the proposed modification is considered to be appropriate in the context, potential impacts mitigated and adequately justified.

Modification 2: Deletion of Condition 6

The proposed modification seeks to delete Condition 6 to remove the requirement for a boom gate at the easternmost exit crossing on Cornish Road.

The conditions currently states:

6. *The easternmost exit crossing in Cornish Road is to be closed to traffic between 10.00pm and 6.00am, 7 days by boomgate. Details to be provided with the Building Application.*

It is requested that this condition be deleted.

Justification

At the time the Building Application was issued for the service station the requirement for the boom gate was not enforced. As such the development was completed and has been operational for a number of years without the boom gate. During this time no complaints in regards to the use of the subject driveway have arisen. As such it is believed the requirement for the boom gate was an unnecessary mitigation measure and that the use of the site, and in particular the driveway, does not impact the existing amenity of the surrounding area.

3 Planning Assessment

Compliance with all legislative requirements under various Environmental Planning Instruments (EPI's) remains unchanged under this application. The proposed amendments do not change the overall design, function or impact of the development (as approved).

3.1 Environmental Planning and Assessment Act 1979 (EP&A Act 1979)

It is considered that the modification of the development consent proposed will result in minimal environmental impact and is substantially the same development as that for which the original consent was granted. Therefore, it is considered that a *s96 (1A) Modification involving minimal environmental impact* is the appropriate approval path under the EP&A Act 1979.

3.2 Warringah Local Environmental Plan (LEP) 2011

Under the provisions of the Warringah LEP 2011, the site is zoned R2 Low Density Residential. Under this zoning service stations are prohibited however the consent was granted in 1997, before the

commencement of the LEP 2011 which prohibits the use. As such the operation of a service station can continue on the site under existing use rights, as outlined in Part 4, Division 10 of the EP&A Act.

Part 5 Existing Uses of the Environmental Planning and Assessment Regulation 2000 (Regs) makes a provision for the alteration of uses operating under existing use rights. In accordance with the Regs the proposed modifications are considered minor in nature and will not involve a significant intensification of the use on the site, therefore the modification is permitted.

3.3 Warringah Development Control Plan (DCP) 2011

The proposed modification has been assessed against the Warringah DCP 2011 and found to be compliant with the relevant sections of the DCP. The overall design remains unchanged as a result of the proposed amendments and the operational arrangements on site in regards to waste management, deliveries, access and compliance with relevant legislation regarding service station operations will remain the same.

4 Conclusion

The proposed amendments are minor in nature and do not change the overall design or function of the approved service station development. It is considered that the proposed extension to trading hours will not result in any additional adverse impacts on the nearest residential noise receptors. The proposal will not result in any excess traffic being encountered on Warringah Road and the surrounding road network, or result in any other traffic issues. Additionally, the proposal will result in new employment opportunities in the area.

Given the merit of the proposal and the absence of any significant adverse impacts, the modifications are considered to be worthy of Council's support.

If you have any queries with any of the above, please don't hesitate to contact the undersigned on 4940 0442.

Yours sincerely,



Patrick Quinlan
Senior Planner
KDC Pty Ltd

Enclosures

- Acoustic Assessment – Muller Acoustic Consulting