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02<sup>nd</sup> December, 2016

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

Dear Sir/Madam,

**RE S96(2) APPLICATION for MODIFICATION OF MINOR CHANGE TO  
PREVIOUSLY APPROVED DA CONSENT FOR PROPOSED  
REDEVELOPMENT OF EXISTING SERVICE STATION**

**AT LOT 1 DP 545812  
43 BOORALIE ROAD, TERREY HILLS NSW 2084**

**FOR S.H.A PREMIER CONSTRUCTIONS PTY LTD**

**YOUR REF DA2016/0523**

We request Council to amend Conditions 36 & 37 of the above approved DA as noted below:

Existing DA Consent Condition 36. – Hours of Operation:

*The hours of operation are to be restricted to*

- *Monday to Friday – 6am to 10pm (inclusive)*
- *Weekends & Public Holidays – 7am to 9pm (inclusive)*

*Upon expiration of the permitted hours, all services to customers shall immediately cease, no patrons shall be permitted to entry and all customers on the premises shall be required to leave within the following 10 minutes. Once customers have vacated the site, the external lighting is to be extinguished except that required for security purposes.*

*Reason: Information to ensure that amenity of the surrounding locality is maintained. (DACPLG08)*

Existing DA Consent Condition 37. – Hours of Illumination:

*Illumination of signage at the subject premises shall cease at the closing time 10pm (Monday to Friday) and 9pm (Saturday, Sunday, and Public Holidays).*

*Signs must not flash, move or be constructed of neon materials.*

*Reason: To ensure residential premises are not affected by inappropriate or excessive illumination. (DACPLG11)*

**Proposed DA Consent Condition 36. – Hours of Operation:**

**The hours of operation are to be restricted to**

- **Monday to Friday – 6am to 12am midnight (inclusive)**
- **Weekends & Public Holidays – 6am to 12am midnight (inclusive)**

**Upon expiration of the permitted hours, all services to customers shall immediately cease, no patrons shall be permitted to entry and all customers on the premises shall be required to leave within the following 10 minutes. Once customers have vacated the site, the external lighting is to be extinguished except that required for security purposes.**

**Proposed DA Consent Condition 37. – Hours of Illumination:**

**Illumination of signage at the subject premises shall cease at the closing time 12am midnight (Monday to Friday) and 12am midnight (Saturday, Sunday, and Public Holidays).**

**Signs must not flash, move or be constructed of neon materials.**

In support of the revision to Condition 36 - Hours of Operation are the following points:

- Currently under Existing Use Rights the site has unrestricted trading hours and is entitled to trade 24 hours. The proposed trading hours of 6am to 12am midnight 7 days a week proposed on the original DA submittal are greatly scaled back from the hours that the site can currently trade. If the current permitted use of the site were to continue trading in its current form trading could be carried out 24 hours, 7 days/week. United Petroleum conceded shorter trading hours upfront to adopt a conciliatory approach to the submission and it appears United are now being penalised for this approach.
- The approved reduced trading hours proposed by Council will potentially result in a site that may not be commercially viable and this is neither good for United Petroleum nor the public that the Service Station is to service. Our client will be spending in excess of \$2.0 million redeveloping this site to a modern standard, which will benefit the local community greatly. Council imposing much reduced trading hours than have been justified is unreasonable and a restriction of trade.
- Major modernisation and visual improvement of an ageing facility are proposed to be undertaken that may not occur if commercially viable trading hours are not obtained and the site could potentially continue to trade in its current form, layout & appearance.
- The objections that were initially received during the notification period of the DA demonstrate that the public generally supports the Service Station, however if the Service Station is not commercially viable and the life of the operation is short lived, then the infrastructure required by the community will again not be present and both the Public and United Petroleum will experience a loss.
- The Acoustic Report prepared by Rodney Stevens Acoustics submitted with the original Development Application justifies the operation of the site from 6am – 12am midnight 7 days a week, based on a “worst case scenario” noise assessment. The assessment was prepared in accordance with “NSW Industrial Noise Policy 2000” and all Acoustic measures required to comply with this policy will be implemented. Recommendations for Acoustic measures of boundary fencing & A/C plant screening are incorporated into the design as per the following extract from the Acoustic Report:

## 15 OPERATIONAL NOISE IMPACT

### 15.1 Service Station Noise Emission

- The service station will operate from 6:00 am to Midnight, 7 days
  - The model has been based on the combination of all activities when the facility is generating most noise (worst case scenario).
  - The following assessment considers the worst-case scenarios for day and night periods over a 15-minute assessment were the service station is operating at full capacity during the day and at 50% capacity during the night.
  - A 1.5 meter solid colorbond barrier is to be installed around the perimeter of the proposed service station (Refer to Appendix E)
  - A 1.2 meter solid colorbond barrier is to be installed around the air conditioning unit on the rooftop of the proposed service station (Refer to Appendix E).
- In accordance with the testing results from the nearest sensitive receivers used for the Acoustic Assessment, compliance is confirmed for all periods of the day during the proposed operating hours of 6am to 12am midnight as follows:

#### 15.1.1 Modelling Results

Calculations of the expected noise levels at the nearest sensitive receivers are presented in the table below. (Refer to Figure 6-1 for receiver locations).

Table 15-1 Daytime Calculated Noise Level Results

| Receiver | Period      | Criteria                                           |         |               |            |
|----------|-------------|----------------------------------------------------|---------|---------------|------------|
|          |             | Calculated Noise Level<br>L <sub>Aeq</sub> – dB(A) | Amenity | Intrusiveness | Compliance |
| R1       | Day         | 36                                                 | 54      | 43            | Yes        |
|          | Evening     | 36                                                 | 43      | 39            | Yes        |
|          | Night       | 33                                                 | 34      | 35            | Yes        |
| R2       | Day         | 38                                                 | 54      | 43            | Yes        |
|          | Evening     | 38                                                 | 43      | 39            | Yes        |
|          | Night       | 34                                                 | 34      | 35            | Yes        |
| C1       | When in Use | 39                                                 | 65      | 65            | Yes        |
| C2       | When in Use | 40                                                 | 65      | 65            | Yes        |

In support of the revision to Condition 37 - Hours of Illumination are the following points:

- Illumination of the site will need be in unity with the proposed closing time of the site, which we are proposing to be 12am midnight 7 days a week.
- This revision in line with the existing approved DA consent conditions 36 & 37 which states illumination of signage shall cease at the closing time of the site.

Should Council require additional information, please contact the undersigned.

Yours Faithfully

**MCHP Architects Pty Ltd**

A handwritten signature in black ink, reading "C. Ridgewell". The signature is written in a cursive, flowing style. The first letter "C" is large and loops around the first dot of the first name. The last letter "l" is also large and loops around the end of the signature.

Craig Ridgewell