

**DECISION OF 3558th COUNCIL (ASSESSMENTS) MEETING
HELD ON 6 SEPTEMBER 2010**

557. PDS01: Planning Proposal – Caltex, 14-16 Military Road, Neutral Bay

Report of Ben Boyd, Senior Strategic Planner, 26 August 2010

Council has received a Planning Proposal for the site known as 14-16 Military Road, Neutral Bay. The owners of the site, Caltex Petroleum Pty Ltd, are seeking to expand the existing adjacent service station premises onto the subject site for the specific purposes of a driveway, car parking, acoustic treatment and landscaping only. The primary purpose of the Planning Proposal is to increase the on-site queuing capacity to avoid cars from queuing on Military Road during peak activity periods. There is no proposal to intensify the operations of the existing service station on the adjacent or proposed site. Accordingly, the Planning Proposal seeks to amend North Sydney Local Environmental Plan 2001 (NSLEP 2001), to allow the minor ancillary activities to a *service station* to be permitted on the subject site.

The subject site is currently zoned Residential B under NSLEP 2001, and service stations are not permissible in the Residential B zone. The subject site currently contains a vacant 2 storey dwelling house and vacant areas that formerly comprised part of the adjacent service station and is now subject of an unbuilt dwelling house pursuant to DA 470/05.

The Planning Proposal is supported as it will greatly assist in improving traffic efficiency and safety along Military Road. Furthermore, it will enable the visual enhancement of the site and provide improved acoustic treatment to neighbouring residential properties. Additional controls are recommended to be incorporated within North Sydney Development Control Plan 2002, to ensure that the ancillary works are incorporated with any redevelopment of the site.

Recommending:

- A. **THAT** Council resolve to forward the attached Planning Proposal to the Minister for Planning in order to receive a Gateway Determination in accordance with Section 56 of the Environmental Planning and Assessment Act, 1979.
- B. **THAT** Council resolve to prepare a Draft Development Control Plan to incorporate new provisions within Clause 7.6 to the Waters Character Statement within NSDCP 2002 and to adopt the draft amendments attached to this report, for public exhibition.
- C. **THAT** the Draft Development Control Plan be placed on public exhibition concurrently with the Planning Proposal and for a period of 28 days.
- D. **THAT** the Department of Planning, Sydney East Region, be informed of Council's decision with respect to the Draft Development Control Plan.

Mr Robb addressed the meeting.

RESOLVED:

THAT the report be adopted.

THAT the wording of the clause to be included within part 5 to NSLEP 2001 be expanded at part (3) only to further emphasise that the use of the site is only for services ancillary to the service station.

The Motion was moved by Councillor Carland and seconded by Councillor Zimmerman.

Voting was as follows:

Unanimous

Councillor	Yes	No	Councillor	Yes	No
McCaffery	Y		Zimmerman	Y	
Gibson	Y		Baker	Y	
Christie	Y		Robjohns	Y	
Reymond	Y		Carland	Y	
Marchandean	Y		Burke	Y	
Raymond	Y		Pearson	Y	
Barbour	Y				

**Report to General Manager**Attachments: Planning Proposal
Draft NSDCP 2002 Amendment**SUBJECT:** Planning Proposal – Caltex, 14-16 Military Road, Neutral Bay**AUTHOR:** Ben Boyd, Senior Strategic Planner, 26 August 2010**EXECUTIVE SUMMARY:**

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Signed _____

Endorsed by _____

MANAGER STRATEGIC PLANNING

ORIGINAL SIGNED

LINK TO DELIVERY PROGRAM

The relationship with the Delivery Program is as follows:

Direction: 2 – Our Built Environment

Goal: 2.2 – Improve mix of land use and quality development

SUSTAINABILITY STATEMENT

The following table provides a summary of the key sustainability implications which are addressed in full in this report:

QBL Pillar	Implications
Environment	• The Planning Proposal, if implemented, would greatly improve traffic flow along Military Road, therefore reducing the impact on the use of non-renewable resources and a reduction in greenhouse gas emissions. • The removal of on-street queuing will improve the efficiency of buses using the dedicated bus lane on Military Road, adjacent to the site.
Social	• The Proposal would enable a potential reduced conflict between pedestrians and vehicles entering the service station, by greatly reducing the potential for on-street queuing.
Economic	• No anticipated impacts.
Governance	• No anticipated impacts.

BACKGROUND

The Planning Proposal was initially lodged with Council on 30 June 2010. However, the assessment of the application only commenced on 8 August, 2010, once Council had received payment of the applicable fee for the application. On 17 August 2010, Council forwarded a letter to the applicant requesting further information, to enable Council to undertake a considered assessment of the application. In particular, Council sought additional information or clarification of the following:

- Property description;
- Description of how the adjacent service station relates to the subject site;
- Addressing of Section 117 Directions;
- The wording of the proposed clause to be incorporated within NSLEP 2001;
- Issues pertaining to intensification of the service station use; and
- Provision of an existing site plan.

On 24 August 2010, Council received a revised Planning Proposal from the applicant addressing the concerns in Council's letter dated 17 August 2010.

SITE DESCRIPTION

The subject site is legally defined as Lot 1 in DP 191827 and Lot F in DP 441071, otherwise known as 14-16 Military Road, Neutral Bay. The site is located on the northern side of Military Road between Merlin Street and Short Lane. The site is 505.9sqm in area with a frontage of approximately 20m to Military Road. The site currently contains a two storey cement rendered dwelling house located over the western portion of the site. The dwelling is currently unoccupied and in a poor state of repair. The south-eastern corner of the site is grassed with the remainder of the site bitumen paved.

The site is zoned Residential B under North Sydney Local Environmental Plan 2001 (NSLEP 2001) and is subject to an 8.5m height limit (clause 17) and a minimum landscaped area requirement of 52% (clause 20).

The site is bounded by a mixture of one and two storey dwelling houses to the north and south, a Caltex service station to the east and a part two and three storey residential flat building to the west.

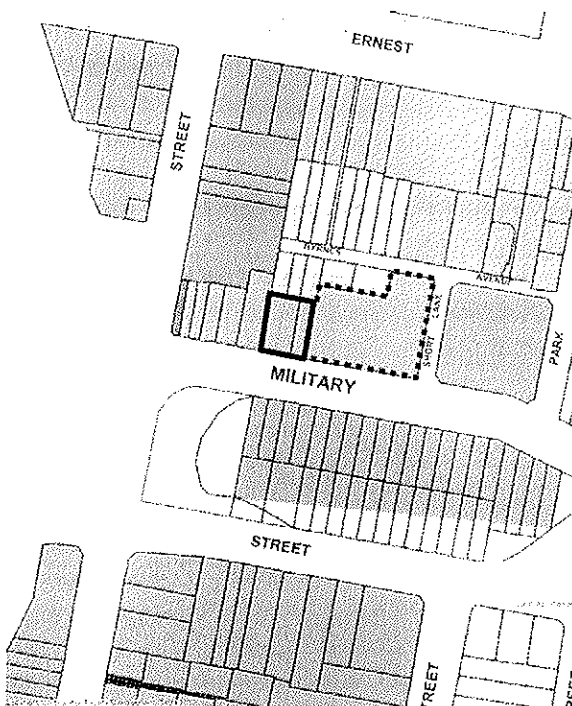


Figure 1:
Location Map



Figure 2:
Aerial Photograph

SITE HISTORY

No. 14 Military Road (Lot 1 in DP 191827) contains a two storey dwelling house, which has been vacant for a long period of time.

The south eastern portion of No. 14 Military Road (Lot 1 in DP 191827) and No.16 Military Road (Lot F in DP 441071) previously comprised part of the adjacent service station operations.

In particular, the south eastern portion of Lot 1 in DP 191827 and southern portion of Lot F in DP 441707 was used for vehicular parking to the original service station and the northern portion of Lot F was used for the storage of Liquefied Petroleum Gas (LPG).

On 14 February 2002, Council received a Development Application (DA 64/02) for the redevelopment of the existing service station site at 18-38 Military Road (Lot 21 in DP 538877).

Part of the proposed development also involved ceasing the existing service station operations on 14-16 Military Road and consolidating all operations onto the one allotment at 18-38 Military Road (Lot 21 in DP 539977). This application was approved by the Land and Environment Court on 20 February 2003. The service station was subsequently rebuilt in accordance with this approval.

On 21 October 2005, Council received a Development Application (DA 470/05) for the redevelopment of the subject site as follows:

- Consolidation of the two Torrens Title lots into one Torrens Title Lot;
- Demolition of the existing house at 14 Military Road;
- Removal of a LPG gas cylinder and associated structures at 16 Military Road;
- Erection of a new 2 storey 4-bedroom dwelling on the newly created lot; and
- Landscaping works.

The Development Application was approved by Council on 27 August 2007 subject to conditions. This application has not yet been proceeded with.

On 8 August 2008, Council received a Development Application (DA 351/08) for the relocation of the existing driveway entry to the adjoining service station (located on Lot 21 in DP 538877) such that vehicles would enter the service station across the front of 14-16 Military Road, whilst also retaining the existing development pursuant to DA 470/05. The primary purpose of this development application was to reduce/remove queues of cars using the service station off Military Road. The matter of vehicles queuing on Military Road has been the subject of numerous complaints to Council from residents and from the State Transit Authority (Sydney Buses) and it has been discussed on a number of occasions at the North Sydney Traffic Committee.

Council advised the applicant on 10 October 2008 by letter that Council was unable to support the approval of the Development Application, as the proposed development was prohibited in the zone and that existing use rights had not been established. The applicant subsequently withdrew the development application on 29 October 2008 as they were unable to establish existing use rights. However, the applicant advised that they were seeking to hold further discussion with Council to try and resolve the existing traffic queuing and noise issues.

PROPOSED AMENDMENT

The attached Planning Proposal, seeks to incorporate the following clause within Part 5 to NSLEP 2001:

- "
- #. 14-16 Military Road, Neutral Bay
 - (1) *Subject land*
This clause applies to lot 1 in DP 191827 and Lot F in DP 441071, 14-16 Military Road, Neutral Bay.
 - (2) *Objective*
The specific objective of this clause is to permit ancillary development to a service station, the activities of which are principally carried out on the adjoining allotment of land (Lot 21 in DP 538877) at 18-38 Military Road, Neutral Bay.
 - (3) *Despite the Table to Part 2, development for the purposes of a driveway, incorporating car parking, acoustic treatment and landscaping on the site which are ancillary to a service station is permitted with development consent on the land.*

The Planning Proposal is also accompanied by an indicative concept development proposal, showing how the site may be redeveloped, should the Planning Proposal proceed. However, the actual development of the site will be subject to the assessment of a future development application should the Planning Proposal proceed.

PLANNING APPRAISAL

Land Use

The subject site is currently zoned Residential B under NSLEP 2001. The objectives of the Residential B Zone are to:

- (a) *maintain lower scale mixed residential neighbourhoods, and*
- (b) *allow for residential development in a variety of housing forms, including detached dwellings, duplexes, attached dwellings and boarding houses, and*
- (c) *assist in the conservation of heritage, and*
- (d) *minimise the impact of non-residential uses and ensure these are in character with the zone.*

Development which may be carried out in the Residential B Zone includes:

- "
- apartment buildings revision; attached dwellings; boarding houses; child care centres; community notice signs; duplexes; dwelling-houses; educational establishments; established apartment buildings; home industries; home occupations; hospitals; housing for aged or disabled persons; open space; places of public worship; real estate signs; remediation; resident medical practices; telecommunications facilities; temporary signs; utility installations, other than gas holders or generating works.*

The Planning Proposal essentially seeks to permit a 'service station' to be undertaken on the subject site. Service stations are defined as follows:

- "
- service station means a building or place used for the fuelling of motor vehicles involving the sale by retail of petrol, oil and other petroleum products, whether or not the building or place is also used for any one or more of the following purposes:*
- (a) *the sale by retail of spare parts and accessories for motor vehicles,*
 - (b) *washing and greasing of motor vehicles,*
 - (c) *installation of accessories,*
 - (d) *repairing and servicing of motor vehicles involving the use of hand tools (other than repairing and servicing which involves top overhaul of motors, body building, panel beating, spray painting, or suspension, transmission or chassis restoration)."*

Despite not being a permissible use in the zone, the objectives of the zone enable some non-residential development to occur where it does not adversely impact the residential amenity or character of an area.

A service station in its own right could be considered unlikely to meet the amenity and character objective to the zone. However, the Planning Proposal seeks to limit the types of service station activities permitted on the subject site. In particular, the only service station activities proposed to be permitted on the site include a driveway, car parking, landscaping and acoustic treatments. It is considered that the combination of these ancillary works is unlikely to create adverse amenity impacts upon neighbouring residential properties and therefore would be consistent with the amenity objective to the zone.

It should also be noted that the intensity of the service station operations will not increase as a result of the Planning Proposal being approved. The intensity of operations is largely limited by the number of filling points provided on the site and any other supplementary activities occurring on the site, such as the car wash and sale of convenience goods.

The Planning Proposal does not propose to increase the capacity of these facilities. Conversely, it provides the opportunity to reconfigure the existing service station operations, to minimise the number of vehicles queuing on Military Road during peak activity periods and therefore greatly improving traffic efficiency and safety.

Traffic

The principle purpose of the Planning Proposal is to improve the efficiency and safety of Military Road, by increasing on-site queuing capacity to inhibit the overflow of vehicles onto Military Road during peak activity periods.

The Planning Proposal was considered by Council's Traffic Engineer who made the following comments:

" *There are currently significant safety concerns associated with the Caltex service station. Vehicles, particularly on cheap petrol days, queue onto Military Road. Military Road carries 77,000 vehicles per day. The service station is located just after a bend in the road. Therefore, there is a high likelihood that any queued vehicles on Military Road present a potential hazard for through vehicles to end up in a rear end accident. This is particularly of concern given that the kerbside lane is a bus lane, carrying thousands of passengers per hour.*

The other concern is that currently, bus drivers either have to travel around these queued vehicles or they avoid the designated bus lane altogether and travel in the second lane. This reduces the capacity of Military Road and slows public transport travel times."

The Planning Proposal will allow for the queuing of an additional 12 vehicles at the Caltex service station. In general, I support the proposal as it reduces the likelihood of vehicles queuing onto Military Road and creating potential safety issues."

However, concern was raised with respect to the interpretation and presenting of results relating to the potential service rates for vehicles visiting the service station within the accompanying Traffic Report prepared by Dobinson and Associates Pty Ltd. In particular, it was further stated:

" *It is unclear from the figures ... whether the applicant has included the time it takes for the person to fill the vehicle AND the time to walk to the shop to pay for the petrol. Further, as service stations now stock a*

number of grocery items, there may be further delays with motorists shopping in the store. That is, it is unclear how accurate the above service rate figures are.

Whilst the calculating of service rates themselves were not objected to, it was considered that a more detailed consideration needs to be given to the impacts arising from longer service rates, as the results do not appear to take into consideration customers undertaking other tasks on the site, such as purchasing goods other than petrol. It was stated that:

“ Clearly, as the service rate time increases, the probability of vehicles queuing onto Military Road increases.

Therefore, to adequately assess this development, it is essential that accurate service rate figures are calculated. This should be based on surveys undertaken on-site. If the service rate is such that it cannot accommodate the 98th percentile and vehicles would be queued onto Military Road in peak hours, then it is suggested that a certified traffic controller may be required at peak hours to manage the entrance to the service station. The traffic controller would direct any queued vehicles on Military Road to move on.

Council’s Traffic Engineer went on to recommend:

“ Should this planning proposal proceed to DA phase, it is recommended that the applicant be requested to provide accurate service rate figures for the Caltex service station. This should include the average time for motorists to pull up, fill up with fuel, pay for the fuel and to leave the bowser.

It is recommended that the following signs be added to the design drawings:

- Signage at the entrance to the site, “Do Not Queue Across Driveway - Penalties Apply for Vehicles Blocking the Footpath”. The sign dimensions are to be a minimum 1200mm x 900mm.*
- Signage at the exit from the site, “Stop – Give Way to Pedestrians” and “Left Turn Only”. The sign dimensions are to be a minimum of 600mm x 450mm.”*

Should Council deem the Planning Proposal worthy of approval, these recommendations should be considered in any future development application for the subject site.

Noise

A potential implication that may arise out the proposed use of the subject site for a service station relate to noise impacts. The Planning Proposal seeks to minimise potential acoustic impacts by allowing acoustic treatment works to be undertaken on the site. The concept development proposal accompanying the Planning Proposal indicates that the existing acoustic wall along the northern boundary of the service station site could be continued around the perimeter of the expanded site. Such a wall would also provide increased amenity to the residential properties located to the north of the subject site, by further limiting noise from vehicular traffic using Military Road.

However, the erection of an acoustic wall matching the same height as the wall over the remainder of the service station site along the western boundary of the subject site is likely to result in adverse amenity impacts on the dwellings within the residential flat building to the west of the subject site in terms of solar access and natural ventilation. This is due to the proximity of the wall to the residential flat building on the adjoining site. To ensure the amenity of the dwellings to the west of the subject site it is recommended that any acoustic wall be setback from the western boundary. It is suggested that the setback be a minimum of three metres from the residential flat building which is consistent with the separation requirements between commercial and residential buildings under NSDCP 2002 (refer to sections 6.3(h)(v) and

20.3(g)(v)). The setback between the western boundary and the acoustic wall should also be landscaped to further limit the visual impact of the wall.

It should be noted that these amenity impacts do not occur to the dwellings to the north of the site as they are well separated from the site and any overshadowing impacts would only affect the subject site.

The suggested requirements can be incorporated within the relevant Character Statement to NSDCP 2002. In particular, the following clause should be incorporated into Clause 7.6 to the Waters Character Statement:

bb. Noise

- i. Where 14-16 Military Road, Neutral Bay is to be used for non-residential purposes, an acoustic wall is to be erected, which:*
 - a. matches the height and design of the existing acoustic wall over 18-38 Military Road, Neutral Bay; and*
 - b. is provided along the entire length of the northern boundary; and*
 - c. is provided a minimum separation of 3m from the eastern alignment of the residential flat building on the adjoining allotment at 12 Military Road along the entire length of the western boundary.*

and

d. Visual Impact

- i. The setback between the western boundary of 14-16 Military Road, Neutral Bay and the acoustic wall required by bb(i) above must be landscaped with vegetation capable of growing to the height of the acoustic wall to ensure effective screening.*

Policy and Strategic Context

Draft Inner North Subregional Strategy

In July 2007, the State Government released the draft Inner North Subregional Strategy covering the North Sydney LGA. The Inner North Subregion is to provide capacity for 60,100 additional jobs by 2031. 15,000 of these are to be in the North Sydney LGA.

It is considered that the Planning Proposal has a negligible impact on these aims, given that the use of the site will not result in any change to the number of dwellings or jobs provided on the site. However, the Planning Proposal will greatly improve traffic efficiency and safety along one of Sydney's main public transport arteries.

North Sydney LEP 2001

It is considered that allowing ancillary works to a service station on the subject site are unlikely to conflict with the Residential B zone objectives.

Draft North Sydney LEP 2009

The subject site is proposed to be zoned R3 – Medium Density Residential. As service stations and their ancillary activities are not a permissible use in that zone, the additional permitted use would have to be carried over into the new plan, most likely by Parliamentary Counsel.

CONCLUSION

The Planning Proposal to allow ancillary works to a 'service station' as an additional permitted use on the subject site is considered to be satisfactory. Such a use is consistent with the site's previous use, and represents a low impact use of the land and will greatly improve the traffic efficiency and safety along Military Road, without increasing the intensity of the service station operations.

It is therefore recommended that Council forward the attached planning proposal to the DoP for Gateway Determination.
