

DA 96/2017 – Comments by Developer in relation to draft Recommended Conditions of Consent

The draft recommended conditions of consent were sent to the nominated representative for the applicant (Mr David Rose, WSP) on 11 April 2019. A response was provided on 12 April 2019 and 15 April 2019. The following significant issues (in bold) were raised (this does not include issues related to minor misdescriptions):

Point 3 (Condition No. 3)- Hours of Operation - While the project is proposed as a staged development we believe the hours of operation for the whole facility should be coordinated and as such it is important for the bottle shop to open for the same hours as the service station of 6am to 10pm.

Response: In the Statement of Environmental the applicant nominated a range of different operating times for the different retail premises (Butchers – 7am to 6pm; Chemist – 7.30am to 8pm; Supermarket – 6am to 10pm; Café – 7am to 9pm; Bottleshop – 9am to 9pm, Stage 2 Retail building – 9am to 6pm; Stage 3 Retail building – 9am to 6pm and highway service centre being 24 hours). These times were originally adopted in the draft recommended conditions of consent. However having consistent hours of operation for the all the retail premises and highway service centre is supported. Condition No. 3 has been amended accordingly.

Point 4 - Hours of Operation for the service station - The service station hours are 6am to 10pm. We believe these hours need to coordinate with the whole facility including supermarket, cafe, and bottle shop.

Response: Agreed. This was a separate condition, however it has been now included in Condition No. 3 that provides for consistent hours of operation.

Point 8 (Condition 7) Independent Review - Why is there an independent review clause when noise impacts have been assessed, in addition to 2 public exhibition periods. While we appreciate that the noise test already undertaken is on a predicted modeling basis, the applicant would want some safeguard against neighbours not necessarily being genuine and raising unfounded concerns. We would, therefore, seek a change to the condition which indicates that "following a council inspection and after its determination that the complaint has veracity a noise test should be undertaken."

Response: The Independent Review condition is considered necessary given that the acoustic assessment is based on modelling predicted noise levels. However the condition would only be triggered in circumstances where a person (the owner of privately-owned land) considers the noise assessment criteria set in Condition 5 are being exceeded. Neighbouring residents cannot initiate the independent review. The condition requires that the Consent Authority must be "satisfied that an independent review is warranted". It is considered that the existing condition has sufficient safeguards to prevent neighbours from raising unfounded concerns.

Point 22. (Condition 23) Noise Attenuation Measures to Perth Street Residences - We seek a change in the wording so that the requests for "measures" for the noise attenuation are determined as reasonable and fair and limited to landscaping and fencing as "appropriate measures".

Response: A range of noise attenuation measures may be appropriate (eg double glazed windows, insulation). It is considered important to ensure there is sufficient scope to implement appropriate noise attenuation measures. Landscaping and fencing may not be sufficient or appropriate measures.

Point 23. (Condition 24) Noise Attenuation Measures to Jean O'Bryan Close Residences - We seek a change in the wording so that the requests for "measures" for the noise attenuation are determined as reasonable and fair and limited to landscaping and fencing as "appropriate measures".

Response: As above.

Point 24. (Condition 25) Headlight Sweep - We seek a change in the wording so that the requests for "treatments" from the 5 different households are determined as reasonable and fair and limited to landscaping as "appropriate treatments".

Response: These mitigation measures need to be appropriate to address the impact of headlight sweep. They may include landscaping or the installation of screenings for windows and doors. However the treatment can only be as far as to mitigate the impacts of headlight sweep.

Point 43 (Condition 45) - Heavy Vehicle Access onto Perth Street - Following inputs from RMS and their support for this development as a key stop-over facility for large carrier vehicles along the New England Highway, the condition indicates that the gate is going to be locked from 10pm until 7am. However, the service station is open from 6am and we anticipate trucks will re-fuel and leave the site as soon as the service station is open. Waiting until 7am is not practical for large haulage vehicles. The applicant, therefore, seeks an amendment to the condition to open the gate at 6am every day, including public holidays, and the gate to be locked from 10pm until 6am

Response: The Addendum Acoustic Report identifies noise from vehicles exiting the site into Perth Street will exceed the noise criteria for the residents (No 46 Perth Street as the modelled receiver). Of particular concern the night time noise criteria will be exceeded. The NSW Noise Policy for Industry establishes night as being from 10pm to 7am. In this regard the noise exceedances prior to 7pm have the potential to cause sleep disturbance for the residents in Perth Street. While waiting until 7pm may not be practical for the large heavy vehicles it affords appropriate night time amenity to the residents in Perth Street. It may be possible that once the noise attenuation measures will reduce the impact to below the noise criteria, however this information was not provided in the acoustic documentation. There may be opportunity to modify the development consent at a later date once the acoustic impacts are better understood.

Point 53. (Condition 55) Macqueen Street-Perth Street Intersection - The wording "consultation" is a concern as significant consultation over 2 consultation period has already been undertaken as part of the Development application process. We understand that the applicant will need to advise in writing the households in question. We therefore seek a change of the wording from "consultation" to "advise".

Response: It is agreed that it is not consultation that is required. The word has been changed to "notify".

Point 62. (Condition 64) Australian Rail Track Corporation (ARTC): Stormwater - The stormwater issues stated here are addressed in Point 1. The applicant agreed to the easement on the southern boundary to relieve the eastern boundary of stormwater issues. We seek this item to be removed or to refer to Point 1 as the proposed condition solution.

Response: The ARTC is concerned about the development resulting in increased stormwater being directed towards the rail corridor and requested that the following condition be imposed *Prior to a Construction Certificate being issued, the applicant must submit details of stormwater disposal to Council for approval. The flow of stormwater toward the rail corridor must not be increased by the proposed development. All approved details for the disposal of stormwater and drainage are to be implemented in the development.*” Given the requirements imposed in the Schedule A conditions (Condition 1 and 2) and Condition 22 (Schedule B) the condition has been changed to “The flow of stormwater toward the rail corridor must not be increased by the proposed development. All approved details for the disposal of stormwater and drainage are to be implemented in the development.” This should satisfy the ARTC requirements.