

ATTACHMENT B – RESPONSE TO SUBMISSIONS – DA2020/256

2-6 Pilgrim Avenue and 11-13 Albert Road, Strathfield

The following table includes a response to submissions received for DA2020/256. The public submission received from Viva Energy and proforma public submissions have been provided in full text for completeness. The Proponent's responses have been informed by input by the expert consultant team and should be read in conjunction with the covering letter and accompanying technical reports and plans.

Submission		Response
Viva Energy		
Executive Summary		
1A	Viva Energy objects to the Application from Convertia Pty Ltd ("Applicant") on the following basis:	Objection is noted.
1B	there are safety and environmental issues associated with the close proximity of the Proposed Development to the Service Station	Noted. The proposed development has been designed in close consultation with contamination and geotechnical consultants, to ensure that any safety and environmental issues associated with the close proximity to the Service Station are managed appropriately. Further detail is provided in this detailed Response to Submissions Table.
1C	the Application has not sufficiently considered any issues of safety associated with construction of a basement next to the Service Station.	The Additional Site Investigation completed by EI Australia has adequately considered all relevant contamination and safety concerns, and concluded that the site can be made suitable for the proposed development, subject to implementation of its recommendations.
1D	Viva Energy submits that at a minimum further details must be sought from the Applicant in relation to the Proposed Development, in order to demonstrate all risks are being considered and appropriately mitigated.	Further details are contained within the Additional Site Investigation completed by EI Australia. As detailed below, all relevant risks have been considered and appropriate recommendations have been provided by EI Australia.
Basement		
2A	According to the details provided in the Application, it appears that excavation work to approx. 13 meters depth is intended to be undertaken as part of the basement construction, and that heavy machinery and hydraulic hammering are to be used within close proximity to the Service Station boundary.	Noted.

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2B	It is not clear from the Application what type of basement is being constructed, and in particular whether the basement will be sealed. If it is not sealed, there is the potential that the Proposed Development may allow or cause for future vapour issues that would not otherwise exist. While groundwater is generally below the floor of the basement and flow is to the south west, the service station is known to have perched groundwater and localised shallow soil contamination in proximity to the boundary.	The basement will be sealed and tanked. As part of the Additional Site Investigation, groundwater sampling was completed at two monitoring wells (BH203M southwest of the Service Station and BH204M northwest of the Service Station). EI Australia found that contaminant concentrations in the representative groundwater samples were below the adopted criteria, with the exception of minor dissolved metals (chromium and zinc). The Additional Site Investigation states that the metal concentrations in the groundwater are considered to be consistent with natural (background) conditions commensurate with long standing, urban environments rather than site specific impacts. Therefore, EI Australia has concluded that the detected metal concentrations in the groundwater are not considered to be a cause of environmental concern for the proposed development.
2C	We submit that at a minimum the Applicant needs to consider and assess the potential for these sources of contamination and must carry out an approved construction environmental management plan. This should set out in detail both the design and the construction measures being put in place to prevent, or minimise as far as practicably possible, any risk of endangering human health, or exacerbating the current contamination issues which exist on the Service Station and at the Property.	The Additional Site Investigation undertaken by EI Australia has considered all relevant sources of potential contamination through soil and groundwater sampling and concludes that the site can be made suitable for the proposed development, subject to implementation of its recommendations. Preparation of a robust Construction Environmental Management Plan (CEMP) forms one of those recommendations, which requires the consideration of normal environmental issues such as dust, noise, odour, vibration safety and traffic, and also site-specific measures relating to waste management and classification of contaminated soils and implementation of unexpected finds protocols.
Proximity to Service Station Assets – Underground Petroleum Tanks		
3A	As set out on the Service Station's site plan, attached to this submission in Annexure 1, there is fuel infrastructure, including pipework, fill points and underground storage tanks in close proximity to the Proposed Development - located directly on the western property boundary. The Application does not make any reference to the proximity of these assets, it appears that the proposed excavation will abut the Property boundary - if so, measures will need to be put in place to ensure there are no health and safety, or asset integrity risks associated with the Proposed Development.	The CEMP, to be prepared post-determination, will contain provisions to mitigate any health and safety, or asset integrity risks associated as a result of the proposed development.
The Service Station Property		
4A	The Service Station operates 24 hours per day, 365 days of the year. The underground tanks are accordingly always stocked with hazardous goods, and deliveries and vehicle refuelling takes place at any time during the day or night. Operating a service station has its own unique and potentially hazardous situation in terms of:	The operational characteristics and risks associated with the Service Station are noted. All known contamination, as established in the Additional Site Investigation, will be managed and removed where appropriate and necessary, in accordance with EI Australia's recommendations.

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	• fire and/or explosion causing high risk to life (and property) if the underground tanks are exposed and tampered with; and • potentially significant environmental impact if the underground tanks are leaking, or known contamination is allowed to migrate through neighbouring development.	
4B	Viva Energy manages the risks associated with the Service Station through: • design, operational and regulatory controls that are aimed at minimising the likelihood of any impact; and • compliance with all applicable laws.	The management measures exercised by Viva Energy are noted. It is also noted that responsibility for the safe management of the Service Station and mitigation of any potential impacts also rests with Viva Energy as the owner and operator of the Service Station, and not the responsibility of the Applicant.
Safety Concerns		
5A	The proximity of the Proposed Development to the Property creates various safety issues that have not been sufficiently addressed in the Application. For example, the Applicant has not described how it proposes to preserve the integrity of the Service Station's assets and property during the construction process. Any damage to the Service Station during construction could lead to significant risk of harm and injury to persons in the vicinity, surrounding environment and residents. Nor has the Applicant sought to discuss these matters with Viva Energy.	The CEMP, to be prepared post-determination, will contain provisions to mitigate any asset integrity risks during the construction of the proposed development.
5B	The geotechnical report does not reference the use of temporary anchored walls are required. To clarify, with the proximity of the underground storage tank and the hazardous nature of the service station, these anchors will not be allowed within the service station property.	This is noted.
5C	Generally, for works near Service Stations such as the Proposed Development, Viva Energy would ordinarily require, at the Applicant's cost: (a) cooperation with Viva Energy; (b) the undertaking of, an industry standard practice, Safety Management Study of the proposed development to reveal the precise requirements needed to ensure that the maintenance and operation of the Service Station, integrity of the Service Station assets and property and safety to the surrounding environment and people are safeguarded;	The Applicant acknowledges that cooperation with Viva Energy is required. Detailed construction methodology is not required at the DA stage. Whilst this is the case a CEMP will be prepared for the site that will set out the construction management practices and procedures to ensure the safe and orderly development of the site. The requirement for the CEMP will be listed as a condition of the development consent and will need to be prepared and approved prior to a Construction Certificate being issued for the development. It is considered that this can occur post-determination.

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	(c) that the development works only occur after preliminary consultation with Viva Energy and be undertaken in consultation with Viva Energy to minimise the risk of damage and injury.	
5D	The above are examples of some of the safety issues that have not been addressed by the Application.	Noted.
5E	As safety considerations of works near the Service Station were not addressed in the Application, the Application in its current form poses an unacceptable risk to the integrity of Viva Energy's asset and the environment and the surrounding community. The Application should therefore be refused in its current form.	Further contamination investigations have been undertaken to address concerns about potential health and safety impacts associated with contamination. The protection of service station assets during construction will be appropriately addressed and managed as part of the CEMP that will be prepared and approved for the development prior to a construction certificate being issued.
Conclusion		
6A	Viva Energy submits that on the basis that the applicant has not considered the potential risks of excavating on a boundary in close proximity to fuel infrastructure the application should be refused.	As above, the potential risks of excavation near the boundary with the Service Station will be addressed in the CEMP post-determination. It is considered that an appropriate level of information and environmental assessment has been provided for the DA stage, as indicated by a complete response to all outstanding issues identified by the Consent Authority.
Public Proforma Submission from 5 Albert Road Strathfield		
9A	Amending the height development controls for these properties would lead to a number of high-rise buildings that will block our access to sunlight and lead to over-congestion in the area.	No development controls are being amended as part of this DA. It is not a planning proposal. The proposed development is fully compliant with the statutory planning controls.
9B	Our privacy will also be affected if there are tall buildings with new apartments facing us.	There are no privacy impacts to Regal Court at 5 Albert Road, Strathfield, as the proposed development does not contain principal windows on its eastern boundary. Moreover, the proposed development complies with the ADG building separation distances to 5 Albert Road, Strathfield.
9C	There would also be increased vehicular and foot traffic due to the part-commercial nature of the new proposed development.	It is expected that the foot traffic generated by the two commercial developments will benefit the locality and street activation of Albert Road. This is supported and specifically requested by Council. Regarding vehicular traffic, Varga Transport Planning have concluded that the proposed development will not result in any unacceptable traffic impacts. Refer to the Revised Traffic and Parking Report prepared by Varga Transport Planning for more detail.
9D	We urge you not to proceed with adding to the density of this part of Strathfield, as this part of Albert Road has been unchanged for decades.	As explained above, the proposed DA is entirely within the planning controls of the site, which were gazetted on 17 July 2020. The existing development on site is in a poor condition and has untapped development potential deemed appropriate by the gazettal of the corresponding planning proposal.