



NSLPP MEETING HELD ON 05/04/2023

Attachments:

1. Site Plan
2. Operational Noise Assessment

ADDRESS/WARD: 40A McDougall Street, Kirribilli

APPLICATION No: DA 312/22

PROPOSAL: Extend trading hours of existing convenience store 7am - 11pm – 7 days

OWNER: North Sydney Council

APPLICANT: Pierre Younes (Ezy MP Pty Ltd)

AUTHOR: John McFadden, Consultant

DATE OF REPORT: 16 March 2023

DATE LODGED: 13 October 2022

RECOMMENDATION: Approval

EXECUTIVE SUMMARY

This development application seeks approval to extend the trading hours of the existing convenience store from 7am - 11pm, 7 days per week and **is reported to North Sydney Local Planning Panel for determination as the property is owned by Council and concerns have been raised from local residents and the Milson Precinct.**

Notification of the proposal attracted five (5) submissions, four (4) from residents and one (1) from the Milson Precinct raising particular concerns about noise, litter, lack of adherence to existing hours, 'anti-social' activities, and safety. The assessment has considered these concerns as well as the performance of the application against Council's planning requirements.

Council's Environmental Health Officer has reviewed the Operational Noise Emission Assessment Report submitted as part of the application and raised the issue of noise disturbance if the hours of operation are permitted to extend past 10pm, as, according to the EPA guidelines, night time (which is considered sleeping hours) commences at 10pm.

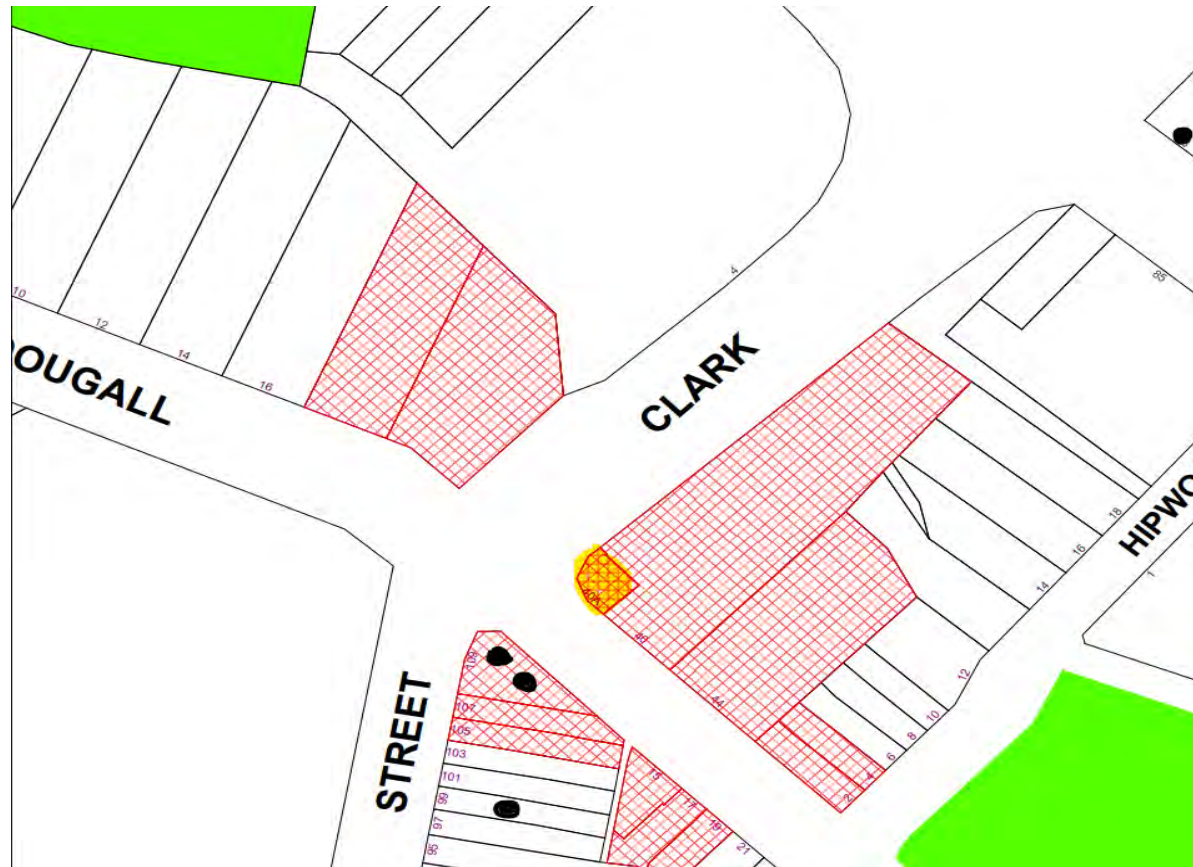
Taking into consideration the Environmental Health Officer comments, submissions from adjoining owners and the Milson Precinct, it is considered that the applicant's initial request for 11pm closing 7 days is not supported. However, a 10pm closing time is more suitable compromise for the development, taking into consideration neighbours' concerns and North Sydney DCP 2013 requirements.

A number of other conditions have also been included to maintain the amenity of the neighbourhood.

Following this assessment, the development application is considered to be reasonable in the circumstances and is recommended for **approval** subject to conditions.

LOCATION MAP

† Property/Applicant ● Submitters - Properties Notified – Red hatched



DESCRIPTION OF PROPOSAL

The development does not propose any physical changes to the existing convenience store or building and merely seeks formal approval for extended hours of operation between 7am and 11pm, 7 days per week.

There does, however, appear to be confusion regarding the existing hours of operation of the convenience store.

A previous consent to 'Install Goods on footpath' associated with the convenience store (DA 224/06) was approved on 30/06/2006 with apparently no reference to hours of operation.

In that Development Application, the applicant stated that the 'approved hours' for the convenience store were 7am-9pm weekdays and 8am-8:30pm on weekends. This information however was supplied by the applicant and not from Council. Council has no condition specifying 'approved hours of operation' in its recent development records.

On the development application form lodged with the current application, the applicant stated that the existing hours of operation that they wish to extend were from 9am-6pm 7 days to 7am to 11pm 7 days.

STATUTORY CONTROLS

North Sydney LEP 2013

- Zoning – B1- Neighbourhood Centre.
- Item of Heritage - No
- In Vicinity of Item of Heritage - Yes
- Conservation Area - No
- Foreshore Building Line - No
- S7.11 Contributions Plan – N/A
- Environmental Planning & Assessment Act 1979
- Environmental Planning & Assessment Regulation 2021
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Industry and Employment) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- Local Development

POLICY CONTROLS

North Sydney Development Control Plan 2013 (DCP 2013)

DESCRIPTION OF LOCALITY

The subject site is located on the southeast side of the roundabout/intersection of McDougall Street, Broughton Street and Clark Road. The shop has residential flats to the east and north (across Clark Road), dwelling houses and terrace houses are located to the southwest (and on the opposite side of McDougall Street), whilst to the north west and across the roundabout intersection, the heritage listed 'Greenway Flats'.

The site is occupied by a corner shop (convenience store) located on the corner of McDougall Street and Clarke Road.

RELEVANT HISTORY

Previous applications

Date	Action
30/06/2006	DA 224/2006 – Approval to 'Install Goods on footpath'

Current Application

Date	Action
13 October 2022	Development Application No. DA312/2022 lodged
29 October 2022	Proposal notified to adjoining owners

INTERNAL REFERRALS

Environmental Health Comments

As discussed, the acoustic report advises that there will be negative impact on surrounding residents if the shop is permitted to trade between 10pm and 11pm.

However, it is noted in the report that there is potential for disturbance to residents on McDougall Street from car doors slamming during this period. This is discounted in the report for the following given reasons: -

1. *The period where this might occur is a 1-hour period between 10pm and 11pm;*
2. *Parking spaces at this location are generally unavailable after 10:00pm; and*
3. *Local patrons will typically arrive at the facility on foot and are unlikely to drive and park outside the premises.*
 - i. *It should be noted that according to the EPA guidelines, night time, which is considered sleeping hours, commences at 10pm.*
 - ii. *I am told that there is a no stopping zone in close proximity to the shop where cars, bikes etc pull up. In addition to noise from the car doors and engines, objectors report noise from loud music in the cars also, as well as cars lingering there stationary.*
 - iii. *There are objections lodged due to the noise from vehicles pulling up at this location later in the evening/night. This contradicts the assumption that people will walk to the shop only. It needs to be considered that late night activity at the shop may be from uber eats/door dash and the like. While some of these customers may be on e-bikes, many others may be on mopeds, in cars etc. The objectors report frequent noise from car doors, engines and music from the late evening time on, associated with this shop.*

It is also stated in the acoustic report that the single fan air condenser located above the shop awning cannot be used after 10pm (or before 8am on Saturdays and Sundays) due to noise emissions.

There is a Woolworths metro store not too far away in Kirribilli in the mixed use area. Given the objections from residents currently impacted by activities at the subject store, the Panel may wish to consider how necessary is it to have a store open until 11pm in this location.

SUBMISSIONS

On 29 October 2022, Council notified adjoining properties and the Milson Precinct of the proposed development seeking comment between 29 October 2022 and 11 November 2022. Council received five (5) submissions.

Basis of Submissions

- Noise
- Litter
- Lack of adherence to existing hours
- 'Anti-social' activities, and:
- Safety.

The above issues are summarised and addressed later in this report.

The original submissions may be viewed by way of DA tracking on Council's website https://www.northsydney.nsw.gov.au/Building_Development/Current_DAs and are available for review by NSLPP members.

CONSIDERATION

The relevant matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, are assessed under the following headings:

Environmental Planning and Assessment Regulation 2021

The Development Application provides information which is consistent with Council's DA requirements together with clause 24 of the EPA Regulation.

NORTH SYDNEY LOCAL ENVIRONMENTAL PLAN 2013 (NSLEP 2013)

1. Permissibility

The proposed application for hours of operation can be defined as ancillary to the Convenience Store which is permissible in the B1- Neighbourhood centre zone with development consent.

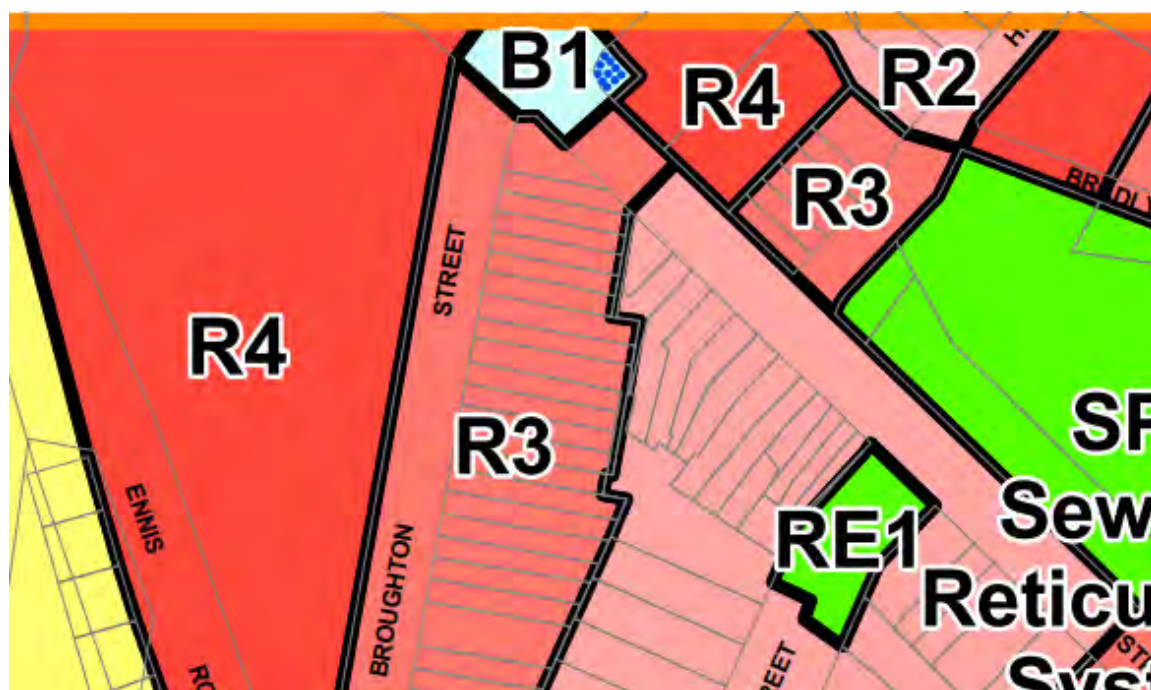


Figure 1 – Zoning map – Subject site dotted blue in pale blue shaded B1 zone

2. Objectives of the zone

The objectives for a B1- Neighbourhood centre zone are stated below:

- To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.
- To encourage active street life while maintaining high levels of residential amenity.
- To encourage development for the purpose of shop top housing.

The proposal is generally consistent with the relevant objectives of the zone however the 11pm closing as requested may have impacts on residential amenity.

Part 4 – Principal Development Standards

Principal Development Standards – North Sydney Local Environmental Plan 2013			
Site Area -	Proposed	Control	Complies
Clause 4.1 – Subdivision lot size	N/A		
Clause 4.3 – Heights of Building	N/A		
Clause 4.4 – Floor Space Ratio	N/A		
Clause 4.4a – Non-residential FSR	N/A		
Clause 6.6 Dual Occupancy:	N/A		

Part 5 – Miscellaneous Provisions

3. Heritage Conservation

The subject site is in the vicinity of listed Heritage Item (No. I0187) ‘Greenway Flats’, however, the alteration in hours of operation would not impact this or the nearby Conservation Area No. 10 to the southeast.

NORTH SYDNEY DEVELOPMENT CONTROL PLAN 2013

The proposal has been assessment under the following heading within NSDCP 2013:

DEVELOPMENT CONTROL PLAN 2013 – SECTION 7 LATE NIGHT TRADING HOURS		
	<i>Complies</i>	<i>Comments</i>
7.3.1 Trading Hours		
<p>P.1 The maximum trading hours that will be granted for a premises within each zone are outlined within Table B-7.1 below. These hours will be granted only where an application satisfies the matters for consideration in Section 7.2 and all other relevant sections outlined within this Section of the DCP.</p>	<p>No</p>	<p>The applicants SEE claims that the hours of operation applicable is for ‘Properties within Kirribilli Village, other than those identified in Figure B-7.1.’ however whilst the property is within the Kirribilli suburb, it is not considered to be within the ‘Village’ per se, and is considered in the ‘all other locations’ category. The Area Character Statements of the DCP classify the property as within the ‘<i>Kirribilli Neighbourhood</i>’ area on the ‘<i>Kirribilli Planning Area Map</i>’.</p> <p>As such, the ‘maximum trading hours that will be granted for a premises’ is:- 7am to 10pm (7 Days) and in view of the submissions received, this is considered appropriate.</p> <p>It is considered that an 11pm closing time in this location, which is surrounded by a residential neighbourhood would excessively impact the amenity of adjoining residences, and the DCP maximum hours should be observed.</p>

TABLE B-7.1 Maximum Trading Hours		
Zone B1 Neighbourhood Centre	Trading hours	
	Indoor	Outdoor
Properties in Kirribilli Village where small bars are permitted and as identified in Figure B-7.1	7am-11pm (Mon -Wed) 7am-12pm (Thurs-Sat) 7am to 10pm (Sun)	7am to 10pm
1) Properties within Kirribilli Village, other than those identified in Figure B-7.1. 2) Properties with a frontage to Miller St, Cammeray 3) Blues Point Road, McMahons Point	7am-10pm (Sun-Wed) 7am-11pm (Thurs – Sat)	7am to 9pm
All other locations	7am to 10pm	8am to 8pm

Relevant Planning Area – Part C of NSDCP 2013

Section 8 – Kirribilli Planning Area

The site is located within the 'Kirribilli Neighbourhood' however there is no mention of corner shops or planning guidance relating to them in that subsection.

The overall Kirribilli Planning Area does state that the function of development should be:-

- *a limited number of non-residential uses coexist peacefully with residential uses without adverse impacts on amenity.*
- *local shops provide basic needs (groceries, newsagents, hairdressing) for the local community and recreation opportunities (galleries, cafés) without adverse effects.*

Amenity is therefore a priority in the area and would appear to support a conservative approach to hours of operation.

SECTION 7.11 CONTRIBUTIONS PLAN

N/A

ALL LIKELY IMPACTS OF THE DEVELOPMENT

All likely impacts of the proposed development have been considered within the context of this report.

ENVIRONMENTAL APPRAISAL	CONSIDERED
1. Statutory Controls	Yes
2. Policy Controls	Yes
3. Design in relation to existing building and natural environment	N/A
4. Landscaping/Open Space Provision	N/A
5. Traffic generation and Carparking provision	Yes
6. Loading and Servicing facilities	Yes
7. Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8. Site Management Issues	Yes
9. All relevant S4.15 considerations of Environmental Planning and Assessment Act 1979	Yes

SUBMITTERS CONCERNS

The application was notified to adjoining properties and the Milson Precinct. Council received five (5) submissions where the following matters were raised:-

The matters raised in the submissions are listed below:

Basis of Submission and Planning Comment

1. The store does not adhere to existing hours and remains open well past closing;

Planning Comment: There is no current Council condition approved for the site regarding 'hours of operation', the current proposal will clarify this issue.

2. There is already significant litter issues which will be compounded;

Planning Comment: The extension of hours is unlikely to make a significant increase in littering if it is already occurring. Council Rangers may be of assistance to monitor this situation.

3. Noise of shoppers, typically on the way home from pubs/parties will be significant;

Planning Comment: Persons leaving pubs/parties are unlikely to leave in time enough to reach the shop before 11pm (even if Council was to approve this closing time). The closest pub, the Kirribilli Hotel, closes at midnight Mon- Sat and only on Sundays at 10pm. Noise from shop patrons is however a likely to cause nuisance.

4. The store already generates anti-social activities, including selling 'nangs' to young people who then drive under the influence of these appalling drug/psychosis implements;

Planning Comment: The selling of Nitrous Oxide bulbs ('nangs') for kitchen use (ie; for cream whippers) is legal in NSW, however, a media search found an ABC news report stating:-

'NSW laws state that it is an offence for someone to supply or sell nitrous oxide to another knowing it is to be used for human consumption. The maximum penalty is two years imprisonment.'

Convenience stores are mentioned specifically in the media as being at the forefront of this problem where a legal product is increasingly being misused.

From media accounts NSW may soon follow other states such as SA and WA in further restricting the sale of this product.

5. Safety - the store has already been held up once, later hours will make it more vulnerable to criminal activities. I would support a firm closing time of 9pm latest for these reasons with stronger conditions of compliance on this store.

Planning Comment: Whilst it is unfortunate that the store may have been the subject of a robbery, some level of street activation by shops trading during the evening usually contributes to safety in a locality via surveillance.

ZONE LOCATION

- **The application fails to acknowledge its position in a Residential Zone.**

Planning Comment: The shop is not in a residential zone, but is specifically zoned B1- Neighbourhood Centre, one of the zones objectives is:-

“To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.” (NSLEP)

However, it is acknowledged that surrounding the site is residentially zoned land.

- **At 40a McDougall Street Kirribilli, EZY Mart faces the roundabout of McDougall, Broughton and Clark Roads. It is surrounded by 37 bedrooms and its noise disturbance, after 9pm and before 7am, affects 42 residents.**

Planning Comment: At present, no Council required condition regarding hours of operation are on record. The current application will resolve this uncertainty and permit enforcement if required.

TRADING HOURS

- **The application seeks an extension of trading hours from 7am - 11pm.**
- **Presently, without approval, the EZY Mart is already trading daily 7am - 11pm.**
- **This is outside the North Sydney Council’s parameters: 7am - 9pm on weekdays and 8:30am - 8:30pm on weekends.**
- **Historically, the hours listed at EZY Mart’s door and website have been: Sunday to Thursday 7am - midnight, Friday and Saturday 7am - 1am. This displays a flouting of Council guidelines.**

Planning Comment: As mentioned, there is no consent condition that specifies hours of operation for the shop. This application will formalise the hours of operation for the convenience store and so if the conditions are not observed, Council can take action to remedy the situation.

ACOUSTIC DYNAMIC (Application support document) 4.3 Sleep Disturbance

- **Samples used to support the application, under “Operational Noise Emission Assessment”**
On page 7, are inaccurate for EZY Mart’s real performance being taken on the quietest trading days of the week (Tuesday 10-11pm, Wednesday 6:30-7am)
- **Samples only consider car door slamming.**
- **Samples are taken on Clark Road and Broughton Street. There are no samples for McDougall Street, where EZY Mart is flanked by high brick walls that increase noise levels for residents.**

Planning Comment: The noise report claims the noise reading were taken on Tuesday and Wednesday between 6.30-7am and 10-11pm to establish the lowest background noise levels.

Council's Environmental Health Officer has reviewed the Operational Noise Emission Assessment Report and raised the issue of noise disturbance if the hours of operation extend past 10pm.

NOISE DISTURBANCE by EZY Mart, experienced at 109 Broughton Street Kirribilli

- **Newspaper delivery.... daily at 4:30 am**
- **Refrigerator truck deliveries often before 7am, including on Saturdays**
- **Obnoxious noise from customers on shop apron, including drug taking and urination from 7pm until EZY Mart closes**
- **Cars left running and music blaring 1. while drivers shop and 2. regularly for long periods after the car occupants return all day and night until EZY Mart closes.**
- **Horn blasting by cars blocked from accessing McDougall Street by vehicles, associated with EZY Mart, having parked in the NO STOPPING zone, beside the shop all day and night, until EZY Mart closes**

Planning Comment: Some of the noise nuisances mentioned could be mitigated somewhat by conditions. Whilst newspaper deliveries usually occur before hours, larger food deliveries and refrigerator truck could be required to occur after 7am.

Other nuisances caused by cars parking in the no stopping zone could be referred to either Council Rangers for daytime surveillance and enforcement and NSW Local Police for night time patrols.

1 Noise Disturbance

Both the Acoustic Report and the proposed management plan acknowledge the potential noise issues. The major noise concerns are created by vehicles and patrons during the trading hours after 9pm.

Planning Comment: Noted see above discussion.

1.1 Acoustic Report

Page 11 of Acoustic Report contains a list of assumptions. Assumption at point 4 states that patrons arriving by car will use available street parking. Current experience is that patrons arriving by car at night use the "NO STOPPING" zones on the northern and southern sides of McDougall. Both of these locations are directly below our bedroom windows. The noise caused by car doors closing is bad enough but drivers often leave loud music on and the car engines running which causes noise and air pollution issues which mean I am forced to close my windows.

Page 14 of the Acoustic Report states that the noise of car doors closing is not in compliance with requirements to prevent sleep disturbance. The report indicates that cars would park in the available parking spots directly outside the shop.

The report makes no mention of the effect on the "sensitive receivers" in Broughton and McDougall Streets and takes no account of what actually happens. What actually happens is drivers approaching from the north cannot determine if the shop is open until they reach the McDougall St intersection where they can see the door of the shop, the drivers then turn left into McDougall and park as close as possible to the shop ... often the "NO STOPPING" zone! Sometimes making a three-point turn outside my window to park in the "NO STOPPING" zone on the southern side of McDougall!

The extract, above, from the Acoustic Dynamics report lists three reasons why the non-compliance is unlikely to occur...

Reason 1 is incorrect. My current experience is that the noise caused as patrons arrive by car is an issue from much earlier in the evening. The slamming of car doors and engines and music left on become an unwanted disturbance after 9pm.

Reason 2 is a nonsense ... the lack of a parking space has not been a barrier to patrons arriving by car. The patrons simply stop in the NO STOPPING zones in McDougall Street!

Reason 3 is basically correct ... local patrons (within a few hundred metres) will arrive on foot but the problem is the number that arrive by car. In the late evening more patrons arrive by car than by foot!

Planning Comment: The use of the No Stopping zone for parking by clients of the Convenience Store, and associated noise nuisance has been addressed above and some mitigation can be achieved via policing by both Council Rangers and the police.

Both the objectors from 109 Broughton Street live in a property which overlooks the Convenience Store and so are the most affected by any noise and other nuisance.

1.2 Proposed Management Plan

The proposed Plan of Management acknowledges the possibility of noise issues associated with the arrival and departure of patrons.

Points 8 and 9 indicate that signage will be displayed asking patrons to be considerate of neighbours. These signs will not be read until the patrons enter the shop but by that time the noise disturbance has already occurred and any sleep has definitely been disturbed!

Point 22 indicates that the applicant is fully aware of the potential noise issues and the possible conflicts that could arise. These noise issues and potential conflicts are easily avoided by closing the shop earlier in the evening.

Planning Comment: NSW Noise laws for residential areas such as domestic noise from amplified music etc state 12 midnight on Fridays and Saturdays with 10pm on other days as the time when these noise sources should cease. This may be used as a guide for an appropriate time for a Convenience Store to also close. 10pm is also specified in Council's DCP.

2. Litter and Anti-Social Behaviour

Late night trading has the potential to increase anti-social behaviour. Noise disturbances are not the only types of anti-social behaviour.

In the past there have been instances of inappropriate use of nitrous oxide canisters (nangs) purchased from the Ezy Mart.

I have had to clean up the used nitrous oxide canisters and associated litter left in the gutter and on the footpath outside my home.

Litter such as ice cream wrappers and empty drink cans are often left in the garden of the nature strip outside our home.

Planning Comment: The behaviour of patrons of the shop when they are outside the shop is difficult for the proprietors to 'police'. The sale of Nitrous Oxide cylinders appears to be exacerbating anti-social behaviour according to the objector. As previously mentioned, Council should convey to the shop that the irresponsible sales of the cylinders to persons can be a crime and they should rethink their policy on sales.

3 Light Pollution

The lighting of the shop and the signs on the awning are very bright and disturbing late at night. The lighting of the awning sign must be turned off when the shop closes for the day. The photo below shows the lighting of the shop while open for trading and the second photo shows the lighting after the shop closes. Both photos were taken on Friday 3/11/2022.

Planning Comment: It is reasonable for the external lighting to be turned off at the same time the shop closes and a condition could be imposed.

4. Other Shops in Area

There is no perceived need in the community for this shop to remain open late in the evening, Kirribilli is already well served by a Woolworths Metro Supermarket which is approximately 300 metres south of the site of the Ezy Mart. The Woolworths Metro is open from 7am to 10pm seven days per week and is sited in the commercial area of Kirribilli.

Planning Comment: This property was specifically zoned B1- Neighbourhood Centre under the LEP 2013 to permit this type of use. If Council had not seen a need for this use it would have zoned the site residential in 2013 and in time the 'existing use' would revert to residential. For the business to survive it is obviously fulfilling a need in the local area which contains many dwellings and flats and is convenient for those residents.

5. Failure to Comply with Existing Trading Hours

Ezy Mart management has proved to be unconcerned by its failure to comply with the existing, approved trading hours.

Planning Comment: As mentioned, no existing Council approved condition relating to hours of operation exists, so this application will clarify this matter.

- **There is no benefit to the community in having this store open beyond 9pm.**

Planning Comment: Economics would suggest if there was no demand for the store being open extended hours the shop would not be applying for such.

- **In addition, the store create a huge amount of litter which is left in and around the store and this particularly appears to relate to late night store purchases. This store has totally ignored its permitted opening hours to date.**

Planning Comment: Litter has previously been mentioned. Council Rangers could be asked to patrol near the shop more frequently.

- **There is no point changing permitted hours if they are going to continue to ignore them.**

Planning Comment: As mentioned there are no Council approved hours on available records.

- **Will Council make a commitment to enforce them?**

Planning Comment: It is possible for Council to step up patrols by Rangers in the area.

Milson Precinct objects to the proposed extension of trading hours, and suggests the current approved hours of 7am-9pm (M-F) and 8am-8:30pm (S-S) are appropriate. Milson Precinct objects for the following reasons:

1. Late night traffic and speeding

Planning Comment: Speeding and late night traffic issues (presumably parking) is a NSW Police Force issue.

2. Parking pressures

Planning Comment: North Sydney Rangers can look into this issue during the day with NSW Police attending to complaints at night.

3. Noise impacting immediate residents

Planning Comment: The residents of 109 Broughton Street appear the most impacted (as they look down onto the shop) Restricting the hours of operation to 10pm and lighting would be a reasonable compromise.

4. The prevalence of litter and anti- social litter

Planning Comment: Already addressed above

5. Finally, criminal activity which has recently been associated with this convenience store.

Planning Comment: This issue has already been addressed.

Milson Precinct Note: Subsequent investigation concluded that the DA is incorrect, and approved hours are currently 7am-9pm (Monday-Friday) and 8am-8:30pm (Saturday-Sunday). These approved hours are in line with suggestion from Milson Precinct, thus Milson Precinct requests these hours remain and enforced.

Planning Comment: Issue already addressed within this report.

PUBLIC INTEREST

The proposal for an extension of trading till 11pm is not considered to be in the public interest for the reasons stated throughout this report, however, an extension to 10pm could be entertained.

SUITABILITY OF THE SITE

The proposal would be located in a B1- Neighbourhood Centre zone where Convenience Stores are a permissible form of development. Consequently, the proposal is considered to be suitable for the site (subject to restricted hours of operation) having regard to the merits of the proposal as described in the above report.

HOW WERE THE COMMUNITY VIEWS TAKEN INTO CONSIDERATION?

The subject application was notified to adjoining properties and the Milson Precinct for 14 days where a number of issues were raised that have been addressed in this report where appropriate conditions of consent have been recommended to maintain the amenity of adjoining properties.

CONCLUSION + REASONS

The proposal was considered under the relevant Environmental Planning Instruments and policies including NSLEP 2013 and NSDCP 2013 and in general is found to be satisfactory.

The application proposes an extension to hours of operation for a development that is a permissible form of development in the B1- Neighbourhood Centre zone.

Council received five (5) submissions that raised concerns about amenity issues that have been discussed in this report and/or addressed with appropriate conditions of consent.

Further, Council's Environmental Health Officer has reviewed the Operational Noise Emission Assessment Report submitted as part of the application and raised the issue of noise disturbance if the hours of operation are permitted to extend past 10pm, as, according to the EPA guidelines, night time (which is considered sleeping hours) commences at 10pm.

Taking into consideration the above comments from the Environmental Health Officer and submissions from adjoining owners and the Milson Precinct it is considered the applicants initial request for 11pm closing 7 days is not supported. However, a 10pm closing time is more suitable for the development and in line with North Sydney DCP 2013 requirements.

Having regard to the merits of the proposal, the application is recommended for approval subject to attached standard and site specific conditions.

RECOMMENDATION

PURSUANT TO SECTION 4.16 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

THAT the North Sydney Local Planning Panel exercising the functions of Council as the consent authority grant consent to Development Application No. 312/2022 to Extend trading hours of existing convenience store to 7am to 10pm - 7 days per week on land at 40A McDougall Street, Kirribilli subject to the attached standard conditions.

NORTH SYDNEY COUNCIL
CONDITIONS OF DEVELOPMENT APPROVAL
40A MCDOUGALL STREET, KIRRIBILLI
DEVELOPMENT APPLICATION NO. 312/22

C. *Prior to the Issue of a Construction Certificate (and ongoing, where indicated)*

Compliance with Acoustic Report

- C1. The recommendations contained in the acoustic report prepared by Acoustic Dynamics P/L, dated 31 August 2022 must be implemented during use of the development (as amended where references to an 11pm closing is mentioned, which is to be amended to 10pm – 7 days).

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

Outdoor Lighting

- C2. All outdoor lighting must comply with, where relevant AS/NZ1158.3:1999 Pedestrian Area (Category P) Lighting and AS4282:1997 Control of the Obtrusive Effects of Outdoor lighting.

(Reason: To maintain the amenity of adjoining land uses)

I. *Ongoing/Operational Conditions*

Hours of Operation

- I1. The hours of operation are restricted to:

7am to 10pm – 7 days per week

(Reason: To ensure that amenity of the surrounding locality is maintained, and hours of operation are consistent with those in surrounding locality)

Deliveries

- I2. Deliveries to the shop (with the exception of newspapers) are not to occur before 7am and after 9pm – 7 days.

(Reason: To maintain the amenity of the neighbourhood)

**40A MCDOUGALL STREET, KIRRIBILLI
DEVELOPMENT APPLICATION NO. 312/22**

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External Lighting

13. External lighting, awning signs and the like are to be turned off between the hours of 10pm and 7am – 7 days.

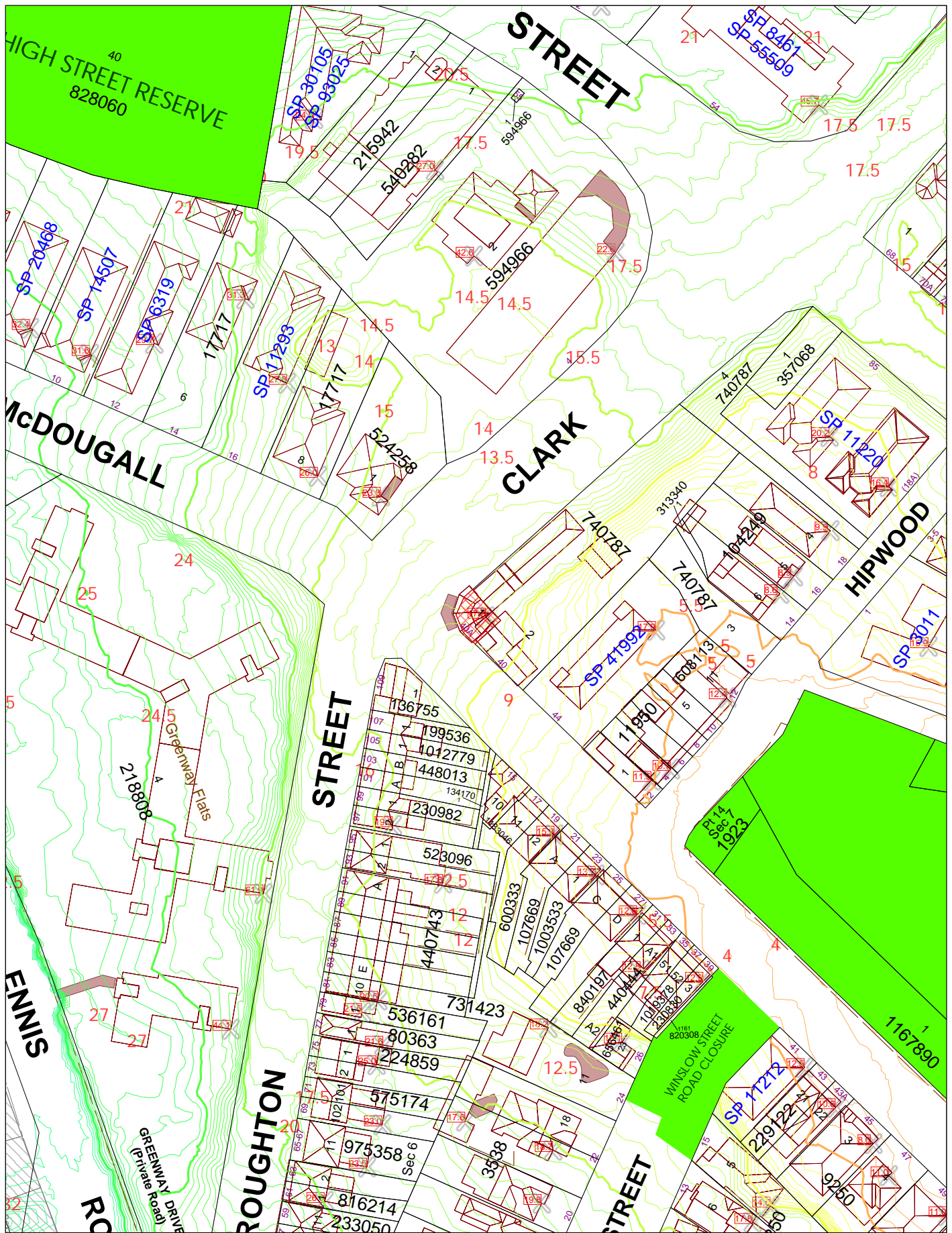
(Reason: To maintain the amenity of the neighbourhood)

Patron Behaviour

14. The proprietors/management of the premises must take all steps necessary to ensure that no noise nuisance occurs from persons entering or leaving the premises. The proprietors/management must ensure that:

- (a) A sign is placed in clearly visible position adjacent to the entry/exit of the premises requesting patrons upon leaving the premises to do so quickly and quietly, having regard to maintaining the amenity of the area.
- (b) The operator must ensure that the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the neighbourhood.
- (c) The operator must be responsible for the control of noise and litter generated by patrons of the premises and must ensure that patrons leave the vicinity of the premises in an orderly manner to the satisfaction of Council.
- (d) The premises are to be operated in accordance with the **Plan of Management** prepared by David Carey (Town Planning and Development), dated September 2022 **and as amended where references to 11pm in the hours of operation in Conditions 13, 19 and 24 are amended to read 10pm).**

(Reason: To ensure patrons do not interfere with the acoustic amenity of residents in the immediate locality)



North Sydney Council

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Further details can be obtained by calling (02) 9936 8100 or e-mail mapping@northsydney.nsw.gov.au.



Operational Noise Emission Assessment

Proposed Extension of Operating Hours

40A McDougall Street, Kirribilli, NSW



Client:
Ezy Mp Pty Ltd
C/o- David Carey Town Planning
and Development

31 August 2022

**Sydney Head Office**

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GLOSSARY

NOISE

Noise is produced through rapid variations in air pressure at audible frequencies (20 Hz – 20 kHz). Most noise sources vary with time. The measurement of a variable noise source requires the ability to describe the sound over a particular duration of time. A series of industry standard statistical descriptors have been developed to describe variable noise, as outlined in **Section 2** below.

NOISE DESCRIPTORS

L_{eq} – The sound pressure level averaged over the measurement period. It can be considered as the equivalent continuous steady-state sound pressure level, which would have the same total acoustic energy as the real fluctuating noise over the same time period.

L_{Aeq(15min)} – The A-weighted average equivalent sound level over a 15-minute period.

L_{A90} – The A-weighted noise level that has been exceeded for 90% of the measurement duration. This descriptor is used to describe the background noise level.

RBL – Rating Background Level. The overall single-figure background level representing each assessment period (day/evening/night) over the whole monitoring period (as opposed to over each 24hr period used for assessment background level) This is the level used for assessment purposes.

dB – Decibels. The fundamental unit of sound, a Bell is defined as the logarithm of the ratio of the sound pressure squared over the reference pressure squared. A Decibel is one-tenth of a Bell. Probably the most common usage of the Decibel in reference to sound loudness is dB sound pressure level (SPL), referenced to the nominal threshold of human hearing. For sound in air and other gases, dB(SPL) is relative to 20 micropascals (μPa) = 2×10^{-5} Pa, the quietest sound a human can hear.

A-WEIGHTING

"A-weighting" refers to a prescribed amplitude versus frequency curve used to "weight" noise measurements in order to represent the frequency response of the human ear. Simply, the human ear is less sensitive to noise at some frequencies and more sensitive to noise at other frequencies. The A-weighting is a method to present a measurement or calculation result with a number representing how humans subjectively hear different frequencies at different levels.

NOISE CHARACTER, NOISE LEVEL AND ANNOYANCE

The perception of a given sound to be deemed annoying or acceptable is greatly influenced by the character of the sound and how it contrasts with the character of the background noise. A noise source may be measured to have only a marginal difference to the background noise level but may be perceived as annoying due to the character of the noise.

Acoustic Dynamics' analysis of noise considers both the noise level and sound character in the assessment of annoyance and impact on amenity.



1 INTRODUCTION

1.1 EXECUTIVE SUMMARY

Acoustic Dynamics is engaged by **David Carey Town Planning and Development** on behalf of **Ezy Mp Pty Ltd** to conduct an acoustic assessment of operational noise emission associated with the proposed extension of operating hours to the Ezy Mart located at 40 McDougall Street, Kirribilli, NSW.

This document provides an assessment of noise emission resulting from various noise sources associated with the operation of the development at the potentially most affected sensitive receiver locations.

This assessment is prepared in accordance with the various acoustic requirements of:

- (a) North Sydney Council;
- (b) NSW Environment Protection Authority; and
- (c) Australian Standards.

1.2 DESCRIPTION OF PROPOSAL

The development site is located at 40A McDougall Street, Kirribilli, situated within a Neighbourhood Centre (B1) land zone within the North Sydney Council area of NSW. The subject development has road frontage direct to McDougall Street and Clark Road and shares a boundary with residential units.

The proposal is seeking approval for an extension of operating hours from 7am until 11pm, seven days per week. Various noise sources and operations associated with the proposal are predicted to include:

- Mechanical plant and equipment;
- Vehicle movements; and
- Staff and patron movements.

The subject site, adjacent receivers and surrounding area is shown in the Location Map, and Aerial Image presented within **Appendix A**.

1.3 SCOPE

Acoustic Dynamics has been engaged to provide an acoustic assessment suitable for submission to the relevant authorities.

The scope of the assessment is to include the following:

- Review of local council planning and development control instruments, state guidelines, federal legislation and international standards relevant to noise emission at the subject site;



- Conduct short-term, operator-attended measurements at the site to determine the existing ambient noise environment and establish relevant noise emission criteria;
- Perform relevant calculations and noise modelling associated with the operations of the development to determine noise emission at nearby receiver locations; and
- Provide recommendations for design measures to be incorporated to achieve compliance with the relevant criteria and reduce potential noise impacts at nearby receiver locations.

2 ASSESSMENT CRITERIA AND STANDARDS

Acoustic Dynamics has conducted a review of the local council, state government and federal legislation that is applicable to noise emission assessment from the subject site. The relevant sections of the legislation are presented below. The most stringent criteria which have been used in this assessment of the subject development are summarised below.

2.1 LOCAL COUNCIL CRITERIA

Acoustic Dynamics has conducted a review of the relevant North Sydney Council's planning and development control instruments including the following documents:

- *North Sydney Local Environmental Plan (LEP) 2013*; and
- *North Sydney Development Control Plan (DCP) 2013*.

Acoustic Dynamics' review of the *North Sydney LEP 2013* did not yield specific acoustic criteria or information relevant to this assessment.

Acoustic Dynamics' review of the *North Sydney DCP 2013* indicated the following information relevant to this assessment:

"PART B DEVELOPMENT CONTROLS

SECTION 2 COMMERCIAL & MIXED USE DEVELOPMENT

2.3 ENVIRONMENTAL CRITERIA

2.3.2 Noise

Objectives

O1 To ensure reasonable levels of acoustic amenity to nearby residents.

Provisions

P1 Noise emission associated with the operation of non-residential premises or non-residential components of a building must not exceed the maximum 1 hour noise levels (LAeq 1 Hour) specified in Table B-2.3.



TABLE B-2.3 – Noise Emission Limits			
Time Period			Max 1 hour noise level (LAeq 1 Hour)
Day	Week	Time	
Weekday	Day	7am-6pm	60 dB(A)
	Evening	6pm-10pm	50 dB(A)
	Night	10pm-7am	45 dB(A)
Weekend	Day	8am-7pm	60 dB(A)
	Evening	7pm-10pm	50 dB(A)
	Night	10pm-8am	45 dB(A)

Notes: LAeq (1hour) readings are to be measured during the noisiest 1 hour period between Day – 7/8am to 6/7pm, Evening – 6/7pm – 10pm and Night – 10pm to 7/8am.

P2 In terms of determining the maximum noise levels as required by P1 above, the measurement is to be taken at the property boundary of the nearest residential premises. Within a mixed use development, the boundary is taken to be nearest floor ceiling or wall to a residential dwelling on the site.

P3 Despite P1 above, the noise emission associated with the operation of non-residential premises or non-residential components of a building must not exceed 5 dBA above the background maximum 1 hour noise level (LAeq 1 Hour) during the day and evening and not exceeding the background level at night when measured at the boundary of the property.

P4 Council may require the submission of an Acoustic Report to ensure compliance with P1 above.

P5 Plant and machinery should incorporate noise reduction measures to minimise their impacts.

P6 Developments should be designed and / or incorporate features that reduce noise transmission.

P7 Where practical, development should incorporate adequate measures for tonal, low frequency, impulsive, or intermittent noise.

P8 Developments must comply with EPA Noise Policy for Industry 2017 in particular the modification required for acceptable noise level (ANL)."

2.2 NSW ENVIRONMENT PROTECTION AUTHORITY

2.2.1 NSW EPA'S NOISE POLICY FOR INDUSTRY (NPFI) 2017

The NSW EPA, in its *Noise Policy for Industry (NPFI) 2017* document, outlines and establishes noise criteria for industrial or other noise sources in various zoning areas.

Acoustic Dynamics advise that the following criteria have been applied for the assessment of noise emission associated with the use and operation of the proposed development.



Project Intrusiveness Noise Level

The intrusiveness noise level is determined as follows:

$$L_{Aeq, 15min} = \text{rating background noise level} + 5 \text{ dB}$$

where:

$L_{Aeq, 15min}$ represents the equivalent continuous (energy average) A-weighted sound pressure level of the source over 15 minutes.

and

Rating background noise level represents the background level to be used for assessment purposes, as determined by the method outlined in Fact Sheets A and B.

To establish the acoustic environment at the subject site in accordance with the guidelines of the NSW EPA's NPfl, operator-attended noise monitoring was conducted between 10:00pm and 11:00pm on Tuesday 16 August 2022, and between 6:30am and 7:00am on Wednesday 17 August 2022.

Acoustic Dynamics advises that compliance during the quietest operating periods (early morning shoulder and late evening shoulder periods) will ensure compliance during all operating periods, when background noise levels are expected to be higher.

Acoustic Dynamics advises the measurement locations are representative of the existing noise environment of the nearest sensitive receivers. The measurement location is shown within **Appendix A**.

Following the general procedures outlined in the EPA's NPfl, a summary of the established noise environment is presented in **Table 2.1**.

Table 2.1 Measured External Noise Levels and Project Noise Objectives – Residential Receivers

Location	Assessment Period	L_{A90} Rating Background Noise Level (RBL) [dB]	Measured L_{Aeq} Noise Level [dB]	Project Intrusiveness Noise Level $L_{Aeq, 15min}$ [dB]
Nearest Residential Receivers	Early Morning Shoulder (6am to 8am)	48	52	53
	Late Evening Shoulder (10pm to 12am)	40	43	45

Note: 1) 8:00am on Sundays and public holidays.

Acoustic Dynamics advises that achieving compliance with the NPfl's noise emission objectives applicable at the boundaries of the nearest sensitive receivers will adequately protect the acoustic amenity of all nearby receivers.



2.2.2 NSW EPA'S ROAD NOISE POLICY (RNP) 2011

The NSW EPA presents guidelines for assessment of road traffic noise in its *Road Noise Policy (RNP) 2011*. The document provides road traffic noise criteria for proposed roads as well as other developments with the potential to have an impact in relation to traffic noise generation.

The noise criteria applicable to the subject site is presented below.

Table 2.2 Road Traffic Noise Assessment Criteria for Residential Land Uses

Road category	Type of project / land use	Assessment Criteria [dB]	
		Day (7am – 10pm)	Night (10pm – 7am)
Local roads	6. Existing residences affected by additional traffic on existing local roads generated by land use developments	$L_{Aeq, (1 \text{ hour})}$ 55 (external)	$L_{Aeq, (1 \text{ hour})}$ 50 (external)

2.2.3 NSW EPA'S SLEEP DISTURBANCE CRITERION

Acoustic Dynamics advises that sleep disturbance is a complex issue, and the potential for sleep disturbance to occur depends on both the level of noise at a residential receiver, and the number of events that occur.

The NSW EPA has investigated overseas and Australian research on sleep disturbance. The assessment of noise for sleep disturbance relies on the application of a screening that indicates the potential for this to occur. The EPA's *Noise Guide for Local Government (NGLG) 2013* provides the following guidance for such a screening test:

“Currently, there is no definitive guideline to indicate a noise level that causes sleep disturbance and more research is needed to better define this relationship. Where likely disturbance to sleep is being assessed, a screening test can be applied that indicates the potential for this to occur. For example, this could be where the subject noise exceeds the background noise level by more than 15 dB(A). The most appropriate descriptors for a source relating to sleep disturbance would be $L_{A1(1 \text{ minute})}$ (the level exceeded for 1% of the specified time period of 1 minute) or L_{Amax} (the maximum level during the specified time period) with measurement outside the bedroom window.”

Additionally, the guidelines of the NSW EPA's NPfI provide the following additional information:

“Where the subject development/premises night-time noise levels at a residential location exceed:

- $L_{Aeq, 15min}$ 40 dB(A) or the prevailing RBL plus 5 dB, whichever is the greater; and/or
- L_{AFmax} 52 dB(A) or the prevailing RBL plus 15 dB, whichever is greater”.



Further to the above information, the following summarizes the sleep disturbance criterion:

$$L_{Aeq,15min} \leq 40 \text{ dB or } L_{Aeq,15min} \leq (\text{RBL} + 5 \text{ dB}), \text{ whichever is greater}$$

AND

$$L_{Amax} \text{ or } L_{A1(1 \text{ minute})} \leq L_{A90} + 15 \text{ dB or } 52 \text{ dB(A)}, \text{ whichever is greater}$$

In addition to the above, the EPA has previously published the following additional information relating to findings of significant research carried out for sleep disturbance:

“Maximum internal noise levels below 50-55 dBA are unlikely to cause awakening reactions... One or more noise events per night, with maximum internal noise levels of 65-70 dBA, are not likely to affect health and wellbeing significantly.”

In accordance with the NGLG and NPfl guidelines detailed above, the following sleep disturbance screening criterion has been applied for this project:

Sleep Disturbance Criteria:

$$L_{Aeq,15min} \leq 55 \text{ dB}$$

AND

$$L_{Amax} \text{ or } L_{A1(1 \text{ minute})} \leq 45 \text{ dB}$$

2.3 NSW PROTECTION OF THE ENVIRONMENT OPERATIONS LEGISLATION

2.3.1 PROTECTION OF THE ENVIRONMENT OPERATIONS (POEO) ACT 1997

Noise emission from any items of mechanical plant must comply with the requirements of the *Protection of the Environment Operations (POEO) Act 1997*. The POEO Act 1997 requires that the subject mechanical equipment must not generate “*offensive noise*”.

“*Offensive noise*” is defined as follows:

“**“offensive noise”** means noise:

- (a) that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:
 - (i) is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or
 - (ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted, or
- (b) that is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulations.”



2.3.2 POEO (NOISE CONTROL) REGULATION 2017

In addition to the POEO Act 1997, the *POEO (Noise Control) Regulation 2017* has prescribed further noise conditions for the use of air conditioners on residential premises, as follows:

“45 Use of air conditioners on residential premises

A person is guilty of an offence if:

- (a) the person causes or permits an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within any room in any other residential premises (that is not a garage, storage area, bathroom, laundry, toilet or pantry) whether or not any door or window to that room is open:

 - (i) before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or*
 - (ii) before 7 am or after 10 pm on any other day, and**
- (b) within 7 days of doing so, the person is warned by an authorised officer or enforcement officer not to cause or permit an air conditioner to be used on residential premises in that manner, and*
- (c) the person again causes or permits an air conditioner to be used on residential premises in the manner referred to in paragraph (a) within 28 days after the warning has been given.*

Maximum penalty: 100 penalty units in the case of a corporation or 50 penalty units in the case of an individual.”

Council can enforce the above planning controls under the *Environmental Planning and Assessment Act of 1979*.

3 NOISE MEASUREMENT EQUIPMENT & STANDARDS

All measurements were conducted in general accordance with Australian Standard 1055.1-1997, “*Acoustics - Description and Measurement of Environmental Noise Part 1: General Procedures*”. Acoustic Dynamics’ sound measurements were carried out using precision sound level meters conforming to the requirements of IEC 61672-2002 “*Electroacoustics: Sound Level Meters – Part 1: Specifications*”. The survey instrumentation used during the survey is set out in **Table 3.1**.

Table 3.1 Noise Survey Instrumentation

Type	Serial Number	Instrument Description
2250	2679541	Brüel & Kjaer Modular Precision Sound Level Meter
4189	2670479	Brüel & Kjaer 12.5 mm Prepolarised Condenser Microphone
4230	1234136	Brüel & Kjaer Acoustic Calibrator

The reference sound pressure level was checked prior to and after the measurements using the acoustic calibrator and remained within acceptable limits.



4 OPERATIONAL NOISE EMISSION ASSESSMENT

The following section provides an assessment of the maximum mechanical noise emission associated with the use of the installed mechanical equipment. The assessment location for **external noise emission** is defined as the most affected point on or within any sensitive receiver property boundary. Examples of this location may be:

- 1.5m above ground level;
- On a balcony at 1.5m above floor level; and
- Outside a window on the ground or higher floors, at a height of 300mm below the head of the window.

The assessment location for **internal noise emission** is defined as the most affected point within the nearest habitable room of any sensitive residential receiver, with windows open.

Acoustic Dynamics has conducted short-term operator-attended acoustic measurements at various locations between 10:00pm and 11:00pm on Tuesday 16 August 2022 to determine noise emission levels resulting from use and operation of the premises and associated mechanical equipment. The prevailing weather conditions during all noise measurements were generally calm and did not influence the noise measurements taken.

Acoustic Dynamics provides the following assumptions regarding the operations of the facility, which are guided by the measurements conducted, information provided by the proponent, and operator-attended measurements of other similar facilities and operations:

1. Internal reverberant sound pressure level of **55 dB(A)**, resulting from operation of the fridges, re-stocking the fridges and shelves, ingress of patrons and purchasing of goods;
2. Small, single fan air condenser unit, located on the awning of the premises with a sound power level of **65 dB(A)**;
3. A conservative estimated maximum of 20 patrons will enter or exist the premises within any 15-minute period during the morning shoulder or late evening period (patron ingress/egress is expected to be much lower);
4. Of the assumed maximum number of 20 patrons, Acoustic Dynamics assumes no more than 10 patrons will arrive and leave by car, utilising available street parking within the vicinity of the premises, and the remaining 10 patrons will arrive by foot or public transport; and
5. Delivery of goods a maximum of once per day between the hours of 7am and 6pm via a small delivery van, utilising available parking directly outside the premises.

Modelling and calculations were undertaken to determine the **maximum** $L_{Aeq,15min}$ noise emission levels at the nearest receiver locations during the **quietest** background noise level operating period.



The cumulative noise impact has been assessed to the potentially most affected point at the following adjacent sensitive receiver properties.

Table 4.1 Nearest Sensitive Receiver Locations

Source	Location	Direction
Residential Receivers		
R ₁	40 McDougall Street, Kirribilli	North/Adjacent
R ₂	109 Broughton Street, Kirribilli	South
R ₃	20 McDougall Street, Kirribilli	West

Acoustic Dynamics advises that by achieving compliance with the nearest sensitive receiver locations, compliance will also be achieved at all other sensitive receiver locations further away.

The calculated maximum noise emission levels at the nearest receiver locations against the relevant criteria are presented below. It is advised that by achieving compliance with the nearest sensitive receiver locations, compliance will also be achieved at all other receiver locations.

The assessment location for **external noise emission** is defined as the most affected point on or within any sensitive receiver property boundary. Examples of this location may be:

- 1.5m above ground level;
- On a balcony at 1.5m above floor level; and
- Outside a window on the ground or higher floors, at a height of 300mm below the head of the window.

The assessment location for **internal noise emission** is defined as the most affected point within the nearest room of any sensitive receiver property, assuming windows are closed.

Within our calculations and acoustic modelling, noise emission contributions from the development have been considered taking the following factors into account:

- Airborne noise losses due to distance and ground topography;
- Losses due to direction and diffraction;
- Increases due to reflections; and
- Acoustic shielding.



4.1 EXTERNAL NOISE EMISSION

The calculated maximum **external** noise emission levels at the nearest receiver locations are presented against the relevant noise emission criteria below.

Table 4.2 Calculated External Noise Emission Levels & Relevant Noise Criteria

Receiver	Assessment Period ¹	Maximum $L_{Aeq(1hr/15min)}$ Noise Emission Level [dB] ^{2,3}	Noise Emission L_{Aeq} Criterion [dB]	Complies?
R ₁	Early Morning Shoulder (7:00am to 8:00am)	41	53	Yes
	Late Evening Shoulder (10:00pm to 11:00pm)	41	45	Yes
R ₂	Early Morning Shoulder (7:00am to 8:00am)	36	53	Yes
	Late Evening Shoulder (10:00pm to 11:00pm)	31	45	Yes
R ₃	Early Morning Shoulder (7:00am to 8:00am)	31	53	Yes
	Late Evening Shoulder (10:00pm to 11:00pm)	28	45	Yes

Note: 1) Acoustic Dynamics advises compliance during the most stringent, quietest shoulder periods will ensure compliance is achieved during the daytime and evening periods, when background noise levels are expected to be higher.
2) Acoustic Dynamics assumes noise sources will operate continuously over the assessment period.
3) Includes the benefits of recommendations outlined in **Section 7**.

Acoustic Dynamics advises the calculated **external** noise emission levels are conservatively based on **maximum capacity** operations at the development. Acoustic Dynamics advises that such a scenario is unlikely to occur and noise levels are likely to be below those calculated for the majority of the time.

4.2 ROAD TRAFFIC NOISE

Acoustic Dynamics understands that patrons and staff who drive will access the development via surrounding local roads. Vehicles utilising local roads are assessed in consideration of the NSW EPA's RNP criteria outlined in **Section 2**.



The calculated maximum noise emission levels at the nearest residential receivers, due to the vehicles utilising surrounding local roads, are presented below. Acoustic Dynamics advises that by achieving compliance with the nearest sensitive receiver locations, compliance will also be achieved at all other sensitive receiver locations further away.

Table 4.3 Calculated Road Traffic Noise Emission Levels & Relevant Noise Criteria

Sensitive Receiver	Predicted Maximum $L_{eq,1hr}$ Sound Pressure Level [dB] ¹	Relevant $L_{Aeq,1hr}$ Criterion [dB] ^{2,3}	Complies?
Residential receivers along McDougall Street	43	50	Yes

Note: 1) Predicted L_{Aeq} noise level is the maximum noise level measured within a 1-hour period.
 2) Measured noise level within a 1-hour period during the night-time assessment period (10:00pm until 7:00am on weekdays, or 8:00am on weekends and public holidays).
 3) Compliance with this most sensitive assessment period criterion ensures compliance during all other less stringent assessment periods.

4.3 SLEEP DISTURBANCE

Acoustic Dynamics has determined the potential maximum $L_{A1(60\text{ Sec})}$ **external** noise emission level from the development resulting from the slamming of car doors from the available parking spots directly outside the premises, when measured at the nearest residential receivers during the night-time assessment period.

Table 4.4 Calculated Maximum Instantaneous External Noise Levels & Relevant Noise Criteria

Sensitive Receiver	Source	Predicted Maximum $L_{A1(60\text{ Sec})}$ Sound Pressure Level [dB] ¹	$L_{A1(60\text{ Sec})}$ Sleep Disturbance Criterion [dB] ²	Complies?
Residential Receivers along Clark Road	Car door slams	59	55	No

Note: 1) Predicted $L_{A1(60\text{ Sec})}$ noise level is the maximum noise level measured within a 60-second period.
 2) Maximum instantaneous noise level measured during the night-time assessment period (10:00pm until 7:00am on weekdays, or 8:00am on weekends and public holidays).

Acoustic Dynamics advises that the calculated maximum instantaneous external noise events are predicted to **marginally** exceed the applicable sleep disturbance criterion at the nearest sensitive receivers along Clark Road, as a result of patrons slamming their car door.

Whilst the maximum noise emission resulting from this event is predicted to exceed the applicable sleep disturbance criterion, Acoustic Dynamics advises that such an event is unlikely to occur, for the following reasons:

1. The period where this might occur is a 1-hour period between 10pm and 11pm;
2. Parking spaces at this location are generally unavailable after 10:00pm; and
3. Local patrons will typically arrive at the facility on foot and are unlikely to drive and park outside the premises.



As such, Acoustic Dynamics advises that instantaneous noise events that exceed the external sleep disturbance criterion at the nearest residential receivers are unlikely to occur, or cause awakening reactions, following incorporation of the recommendations provided in **Section 7**.

5 DISCUSSION

The calculated noise emission levels associated with the operations of the proposed development indicate the following:

1. Noise emission resulting from the use and operations of the proposed development is **predicted to comply** with the relevant noise emission criteria of North Sydney Council, the NSW EPA and federal legislation during the proposed hours of operation when assessed at the nearest sensitive receivers;
2. Noise emission associated with additional traffic on surrounding local roads is **predicted to comply** with the NSW EPA's *Road Noise Policy (RNP) 2011* when assessed at the nearest sensitive receivers;
3. Maximum instantaneous external noise events directly associated with the operation of the premises are **predicted to comply** with the NSW EPA's guidelines on sleep disturbance when assessed at the nearest sensitive receivers, following the implementation of a noise management plan;
4. There is **low risk** of acoustic disturbance to the nearest sensitive residential receivers during the proposed hours of operation;
5. To ensure the assessment is conducted in a conservative manner, noise emission has been assessed as a **worst-case** scenario (i.e. all noise generating activities and noise sources occurring simultaneously and at maximum capacity). Generally, noise emission associated with the operation of the facility is **predicted to be lower** than the calculations presented; and
6. The noise calculations and operational assumptions should not be considered prescriptive. They are modelling assumptions that have been used to demonstrate typical noise sources and operations associated with the facility **can be designed to achieve compliance** with the relevant criteria.



6 RECOMMENDATIONS AND ADVICE

The following recommendations are provided to ensure noise emission associated with development operations is adequately managed and minimised during operation.

6.1 NOISE MANAGEMENT PLAN

Acoustic Dynamics recommends the adoption of a management plan incorporating best management practice procedures to protect the acoustic amenity of the surrounding area. Such a management plan should outline policies and procedures to ensure noise emission from the development are kept to a minimum, including:

1. Noise and vibration induction of all site staff, including the explanation of noise and vibration control and a discussion of project specific reduction strategies;
2. Deliveries must be received during day-time operational hours only, between Monday and Friday;
3. Delivery van engines should be switched off for the duration;
4. Ensure doors are closed at sensitive times to contain noise within the development;
5. Appropriate signage must be displayed and visible to patrons at the entry/exit point to the premises, advising patrons to be considerate of the amenity of the neighbourhood, and to avoid making noise that would unreasonably disturb nearby residents;
6. Appropriate signage must also be displayed and visible to patrons arriving and parking by vehicle in the available parking spaces directly outside the premises, advising patrons to be considerate of nearby residences, and to avoid making loud noises such as slamming car doors;
7. The single-fan air condenser unit situated on the awning of the premises must not operate after 10:00pm on any day, or prior to 8:00am on Saturday and Sunday mornings;
8. Mechanical equipment should be regularly maintained and serviced to maintain low mechanical noise emission levels;
9. At the cessation of trade, ensure staff and patrons leave the premises quietly and respectfully to minimise any potential impacts on the surrounding amenity, including signage reminding staff and patrons to be aware of their neighbours and to leave in a respectful manner; and
10. Implementation of an appropriate community liaison procedure, including a noise and vibration complaint procedure and means of ongoing communication with nearby potentially affected receivers once development operations begin.



7 CONCLUSION

Acoustic Dynamics has conducted an acoustic assessment of operational noise emission associated with the proposed development located at 40A McDougall Street, Kirribilli.

A review of the applicable local council, state government, federal legislation and international standards was conducted. Noise levels were assessed in accordance with the requirements of:

- (a) North Sydney Council;
- (b) NSW Environment Protection Authority (EPA); and
- (c) Australian Standards.

The assessment predicted noise impacts at nearby sensitive receiver locations. Noise modelling was conducted using assumed **worst-case** operational scenarios in **Section 5**. Recommendations are provided in **Section 7** detailing best management practices and design strategies minimise the impacts on the surrounding acoustic environment.

Acoustic Opinion

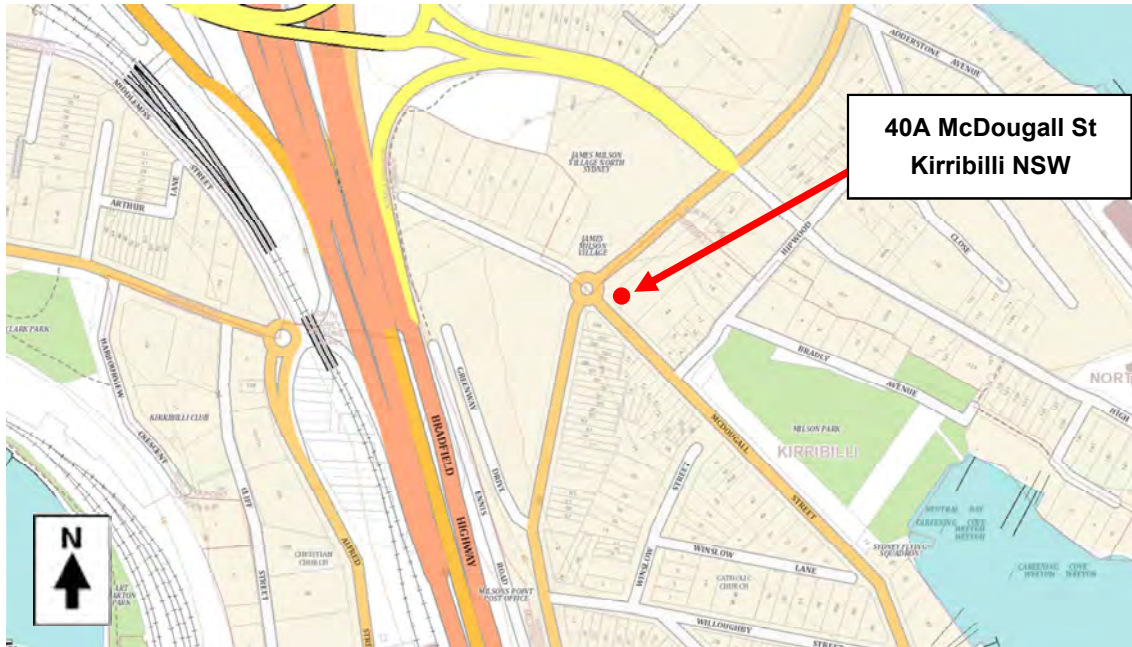
Further to our site survey, noise monitoring and measurements, our review of the relevant acoustic criteria and requirements, and our calculations, Acoustic Dynamics advises that the management measures during the proposed hours of operation can be implemented to comply with the relevant acoustic criteria of North Sydney Council, the NSW POEO Act 1997 and the NSW EPA, with the incorporation of our recommendations detailed within Section 7 above.

It is our opinion that the acoustic risks associated with the proposal can be adequately controlled and the amenity of neighbouring properties and residents can be satisfactorily protected.

We trust that the above information meets with your present requirements and expectations. Please do not hesitate to contact us on 02 9908 1270 should you require more information.

APPENDIX A – LOCATION MAP AND AERIAL IMAGE

A.1 LOCATION MAP



A.2 AERIAL IMAGE (COURTESY OF SIX MAPS)



David Carey
Town Planning and Development

Plan of Management

Supporting a development application for:

Approval for extension in hours of operation for
existing convenience store

At

Lot 1 DP 740787
40A McDougall Street Kirribilli

September 2022

Plan of Management
40A McDougall Street Kirribilli

Introduction

The primary purpose of this plan is to ensure the proposed extension in hours of operation for the convenience store at 40A McDougall Street Kirribilli maintains a high level of amenity for neighbouring properties and the surrounding area.

Plan of Management

1. The proposed use shall operate in accordance with the terms of this Plan as well as all conditions of development consent DA No _____ and any subsequent modifications.
2. A copy of this plan is to be retained on Council's Development Application, Construction Certificate and Property File.
3. Hours of operation shall be strictly in accordance with the conditions of approval.
4. All access to the property shall be via the approved entry points.
5. Deliveries must be received during day-time operational hours only, between Monday and Friday.
6. Delivery van engines shall be switched off for the duration of loading/unloading.
7. The entry door shall remain closed after 10pm all days and prior to 8am on weekends.
8. Appropriate signage must be displayed and be visible to patrons at the entry/exit point to the premises, advising patrons to be considerate of the amenity of the neighbourhood, and to avoid making noise that would unreasonably disturb nearby residents;
9. Appropriate signage must also be displayed and visible to patrons arriving and parking by vehicle in the available parking spaces directly outside the premises, advising patrons to be considerate of nearby residences, and to avoid making loud noises such as slamming car doors;
10. The single-fan air condenser unit situated on the awning of the premises must not operate after 10:00pm on any day, or prior to 8:00am on Saturday and Sunday mornings;
11. Mechanical equipment shall be regularly maintained and serviced to maintain low mechanical noise emission levels;
12. At the cessation of trade, staff and patrons shall leave the premises quietly and respectfully to minimise any potential impacts on the surrounding amenity, including signage reminding staff and patrons to be aware of their neighbours and to leave in a respectful manner.
13. No music shall be played within the premises outside of the approved hours of operation (7am-11pm). No loud music that is audible outdoors shall be played at any time.
14. No alcohol shall be consumed at the premises. No parties are to take place within the premises.
15. A hard copy of this plan is to be retained by the manager at the premises and all new staff/contractors shall be given an induction in the policy.

Plan of Management
40A McDougall Street Kirribilli

16. The manager shall be aware of his/her responsibilities under the conditions of approval and relevant legislation including the *Environmental Planning and Assessment Act 1979*.
17. One person shall be dedicated as a noise officer within the operating hours. The noise officer must be over 18 years of age. The noise officer, where the manager is not present, shall be responsible for implementing the provisions of this plan within the operating hours.
18. The manager/noise officer is responsible for recording any complaints in a complaints register which is to be available to surrounding neighbours and Council upon request. The register shall detail how and when any complaints are dealt with.
19. The manager/noise officer will be available during operating hours, being 7am-11pm. The manager/noise officer is to deal with any complaints as to the operation and management of the premises. An after-hours number is to be provided, with such phone number being publicly available. There will be a register of all complaints. The register will contain –
- a. Complaint date and time
 - b. Name of person/police/council making the complaint
 - c. Contact details
 - d. Nature of the complaint
 - e. Action taken (by whom and when)
 - f. Outcome and/or further action required

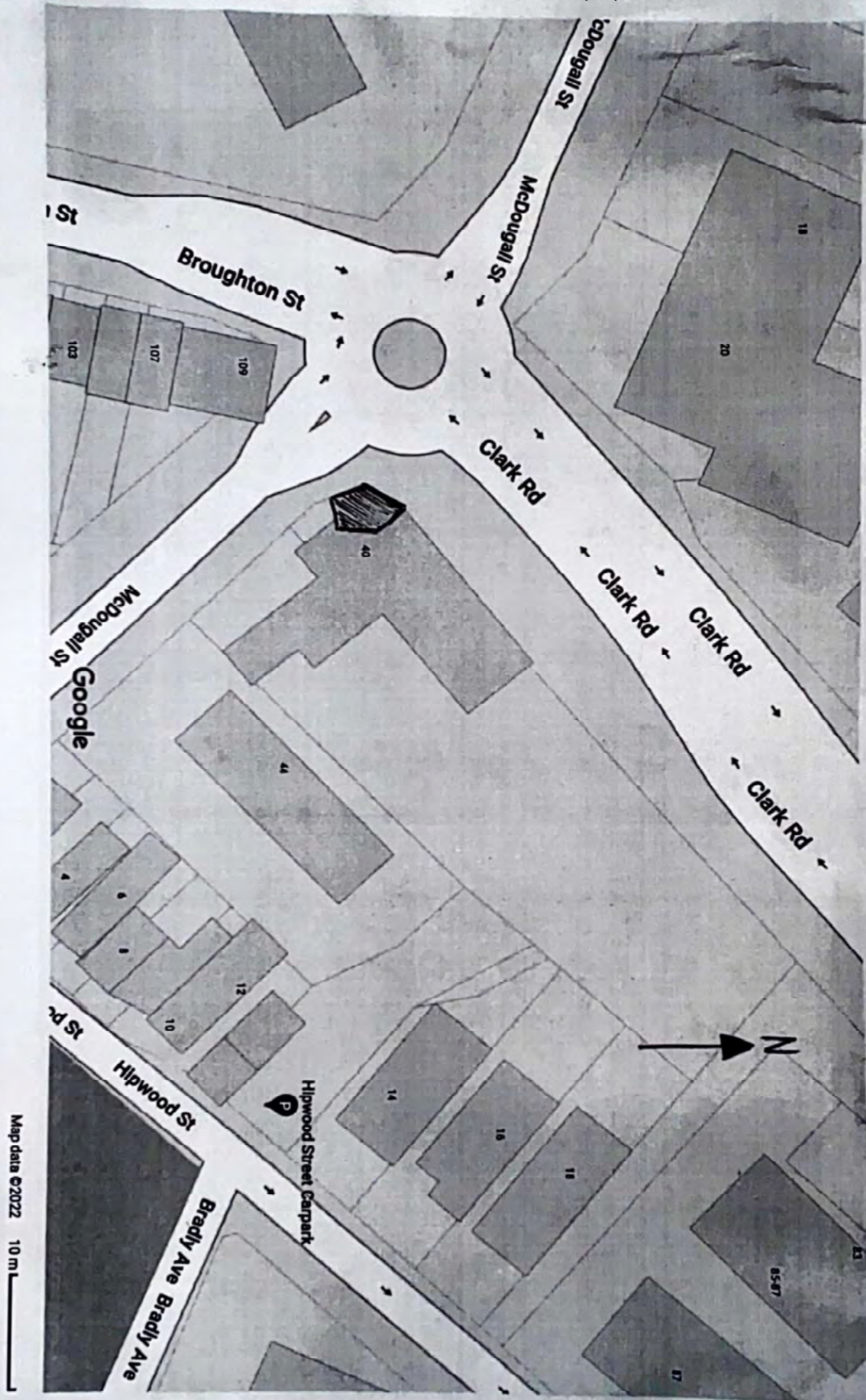
All complaints shall be dealt with by management within 24 hours of notification. The Complaints Register is to be made available to Police and Council upon request.

Any complaints regarding noise can also be made to:

Pierre Younes Ph: 0414744556
email address: pierro8181@gmail.com

20. No smoking signs are to be erected within the premises.
21. The external presentation of the premises is to be maintained to a high standard with all external surfaces to be cleaned and painted as necessary.
22. Any customer failing to observe the rules and respect neighbours by limiting noise will be dealt with by the noise officer/manager who may require a customer to leave the premises. If the customer refuses to obey a direction by the manager/noise officer, the noise officer/manager shall call the Police in such instance.
23. The manager shall be responsible for maintaining CCTV and other security measures within the site.
24. All staff/contractors shall have left the premises no later than 15 minutes after the approved closing time (ie. 11:15pm).
25. This plan of management shall be reviewed according to any time frame specified by Council.

Pierre Younes, 40A McDougall St Kirribilli 2061
LOT 1 DP 740787



David Carey
Town Planning and Development

Statement of Environmental Effects

Accompanying a development application for

Approval for extension in hours of operation for
existing convenience store

At

Lot 1 DP 740787
40A McDougall Street Kirribilli

September 2022

Statement of Environmental Effects
40A McDougall Street Kirribilli

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Statement of Environmental Effects
40A McDougall Street Kirribilli

1. Introduction

This statement of environmental effects has been prepared by David Carey Town Planning and Development to accompany a development application for extension in the approved hours of operation for a convenience store at 40A McDougall Street Kirribilli. The statement has been prepared on behalf of Ezy Mp Pty Ltd.

The proposal has been designed to achieve the relevant provisions and objectives of North Sydney LEP 2013 and Clause 4.15 of the Environmental Planning and Assessment Act 1979 (as amended).

The proposed hours of operation are suitable for the existing site. The impacts of the development are minor and they will not have an adverse impact on the surrounding area. Overall, the development will have a net positive impact on the North Sydney LGA.

The statement has been prepared based on the following information:

- Operational noise emission assessment prepared by Acoustic Dynamics

Statement of Environmental Effects
40A McDougall Street Kirribilli

2. Site description and analysis

2.1 Location and property description

The site consists of one torrens title lot, with a legal property description of Lot 1 DP 740787. The street address of the site is 40A McDougall Street Kirribilli.



Figure 1 – Aerial view of site (Six Maps)

2.2 Site characteristics

The site currently consists of an existing commercial convenience store. It has been operating on the site since prior to 2006.

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40A McDougall Street Kirribilli



Figure 2 – View of site from McDougall Street (Google Maps)

All services are available to the property and it does not have any off-street car parking spaces.

2.3 Surrounding development

The site is located within a predominantly residential area located approximately 300m from Milsons Point station.

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3. Details of proposal

3.1 Proposed development

The proposed development is as follows:

- The application seeks approval for a change in the approved hours of operation to 7am to 11pm, seven days per week

No written record of existing approved hours of operation could be found for the site. A Development Application made in 2006 for display of goods on the footpath made reference to approved hours of operation of the existing corner store being 7am-9pm weekdays and 8am-830pm on weekends. This information was from the applicant and not from Council.

An existing copy of the consent for the corner store could not be obtained from Council. Hence, this extension in the approved hours of operation is made as a new application rather than a modification application.

The proposed hours of operation will provide additional flexibility in the operation of the business and meet demand from residents of the immediately surrounding area. They will particularly be beneficial in providing services such as sale of newspapers and conveniences to residents of the James Milson retirement village on the opposite side of Clark Road.

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4 Clause 4.15 -Matters for consideration

The following provides an assessment of the proposal against the provisions of Clause 4.15 of the Environmental Planning and Assessment Act (as amended).

(a) the provisions of:

(b) (i) any environmental planning instrument

North Sydney Local Environmental Plan 2013

The subject site is zoned B1 Neighbourhood Centre. The objectives of the zone are as follows:

- *To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*

The development is consistent with the above objectives as it provides a small scale retail use that serves the needs of people who live and work in the surrounding neighbourhood.

(iii) any development control plan

North Sydney Development Control Plan 2013

North Sydney Development Control Plan 2013 is applicable to the development. The following table addresses compliance with the DCP.

Clause	Requirement	Proposed	Complies?
7.3.1 Trading hours	Indoor 7am to 10pm (Sun-Wed) 7am – 11pm (Thurs – Sat) Outdoor 7am to 9pm	Proposed trading hours are 7am-11pm, seven days per week. All activities are indoor	No
7.3.2 Trial periods	P1 Prior to granting consent for the maximum or extended trading hours, Council may impose a one year trial period for a premises that, in the opinion of Council, may have the potential to generate adverse impacts on the amenity of the surrounding area. P2 A Section 4.55 application must be lodged prior to the expiration of a trial period should the applicant seek to apply to formalise these hours. In most instances, a condition of consent will clarify that the extended trading hours will stand in place until such time as the modification application is determined. P3 Following the trial period, the trial hours will be	For note. Council may impose a one year trial period, although this should not be necessary based on the small scale of the shop and minor variation to the hours of operation.	For note

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	<p>granted on a permanent basis only if Council is satisfied that the premises has demonstrated good management performance and compliance with a Plan of Management (if applicable), other than for premises within the North Sydney CBD as set out within P4.</p> <p>P4 Trial periods within the North Sydney Centre shall be on-going and a maximum trial period of up to 5 years shall be granted. A Section 4.55 application must be lodged every 5 years should the applicant seek to renew these trading hours.</p>		
7.3.3 Acoustic impacts	<p>P1 The premises must comply with the following relevant noise criteria:</p> <p>(a) the noise emission limits set out in Section 2.3.2 – Noise to Part B of the DCP for development located in the:</p> <p>(i) B1 Neighbourhood Centre zone; (</p> <p>ii) B3 Commercial Core zone; and</p> <p>(iii) B4 Mixed Use zone.</p> <p>(b) the noise emission limits set out in Section 3.2.5 – Noise to Part B of the DCP for development located in all other zones.</p> <p>(c) All relevant noise criteria required by the NSW Office of Liquor, Gaming and Racing Authority (OLGR) for licensed premises.</p> <p>P2 An Acoustic Report prepared by an appropriately qualified Acoustic Consultant which predicts the likely level of compliance with the criteria outlined in P1 as relevant must be submitted with a development application for any of the following late night trading premises or activities:</p> <p>(a) pubs,</p> <p>(b) small bars,</p> <p>(c) outdoor dining,</p> <p>(d) smoking areas, and</p> <p>(e) any use proposed to operate beyond the maximum trading hours.</p> <p>P3 Where relevant, an</p>	<p>Proposed development to comply with relevant noise criteria</p> <p>Proposed development to comply with relevant noise criteria</p> <p>Not applicable</p> <p>An acoustic report has been prepared in this regard by Acoustic Dynamics and submitted as part of the application.</p> <p>Considered as part of</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p>

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	<p>Acoustic Report should take into account any mechanical plant associated with the use of the site.</p> <p>P4 The recommendations of any Acoustic Report must form part of the Plan of Management where relevant and shall be adhered to at all times.</p> <p>P5 The applicant may be required to undertake on-going acoustic monitoring and this will be required as part of a condition of consent.</p>	<p>acoustic report</p> <p>Addressed as part of plan of management</p> <p>For note</p>	<p>Yes</p> <p>For note</p>
7.4 Premises management checklists and plans of management	<p>P1 A Premises Management Checklist addressing all criteria set out in Section 7.4.1 of this Section of the DCP, must be submitted for any for development application proposing to operate between 8pm and 7am unless a Plan of Management is required.</p> <p>P2 A Plan of Management addressing all criteria set out in Section 7.4.2 of this Section of the DCP, must be submitted with a development application for any of the following late night trading premises proposing to operate between 8pm and 7am: (a) pub, (b) small bar, (c) any use proposed to operate beyond the maximum trading hours.</p> <p>P3 Plans of Management must be reviewed following any trial period and make revisions necessary to maintain a level of amenity and safety in the vicinity of the premises which is at an acceptable community standard.</p> <p>P4 The Plan of Management shall form part of any development consent granted by Council.</p>	A plan of management has been prepared in accordance with these criteria	Yes
8.2.2 Kirribilli Neighbourhood Desire Future Character	<p>P1 Predominantly high density residential accommodation in the form of residential flat buildings, according to zone</p> <p>P2 Limited potential for low to medium density</p>	The proposed development will have minimal impact on the character of the area. There are no physical works proposed and the hours of operation relate to an existing approved use.	Yes

Statement of Environmental Effects
40A McDougall Street Kirribilli

	residential accommodation in the form of attached dwellings, dwelling houses, dual occupancies, multi dwelling housing and semi-detached dwellings. P3 Educational establishments. P4 Limited redevelopment is envisaged for this Area with no substantial increase in density		
8.2.3 Kirribilli Neighbourhood Desired Built Form	P1 Development is to generally conform with the provisions contained within Part B – Development Controls of the DCP. P2 Educational establishments are to reflect the scale and massing of development on adjoining properties at its interface with the adjoining property. Materials P3 Walls - Masonry, face brick P4 Windows - Timber framed P5 Roofs - Terracotta tiles, slate	No change to built form is proposed	N/A

Trading hours

The DCP provides guidance for indoor hours of operation of 7am to 10pm (Sun-Wed) 7am – 11pm (Thurs – Sat). Outdoor hours are 7am to 9pm. The proposed hours of operation of 7am-11pm seven days per week are in accordance with the DCP for Thursday to Saturday, although an additional hour in the evening outside of the DCP guidance is proposed for Sunday to Wednesday. All proposed activities are indoor and no outdoor operation is proposed.

There are much larger sources of noise in vicinity to the subject site, being the Cahill Expressway and the northern railway line.

The proposed hours of operation are justified on the basis that any potential adverse impacts are mitigated through the implementation of recommendations of the acoustic report prepared and submitted as part of the application. A plan of management has further been prepared to mitigate noise impacts that includes implementation of the recommendations of the noise report.

The impacts of one additional hour of operation in the evening between Sunday to Wednesday are minor and an acceptable level of amenity for surrounding residents will be maintained through implementation of the noise report and plan of management. This will reduce net overall noise from the development compared to existing rather than increase it. The application therefore provides a net benefit with respect to noise emissions.

(iia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F

Not applicable.

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(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)

None applicable.

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

The proposed development will not create significant environmental impacts on the natural and built environments. The proposed development involves no physical construction works and is a suitable use within the context of the existing building.

The development will have no adverse social impact on the surrounding area. Acceptable social impacts will be ensured through implementation of the proposed plan of management.

Economic benefits will occur as a result of the employment of staff and greater business activity in the North Sydney LGA.

(c) The suitability of the site for the development,

The proposed development is permissible under relevant planning controls; it is compatible with surrounding land uses and supports the continued use of a commercial building for commercial purposes.

The subject site is also zoned specifically for commercial uses and the proposed use is complementary to other uses within the area.

(d) any submissions made in accordance with this Act or the regulations,

Consideration will be given to any submissions made as a result of Council's consultation and notification processes.

(e) the public interest.

No adverse impacts relating to the public interest are expected to arise from the proposal. The proposal supports the use of the site for purposes consistent with the zoning and planning controls.

Statement of Environmental Effects
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5.0 Other considerations

5.1 Visual Impacts

The proposed change in hours of operation will have no visual impacts.

5.2 Open Space

The development will create no additional demand for open space.

5.3 Overshadowing and Privacy

The development will have no overshadowing or privacy impacts.

5.4 Noise

The development is expected to generate minimal noise impacts. There will be a slight extension in the approved hours of operation, with an additional two hours of operation on weekdays in the evening and two and a half hours on the weekend. Morning hours will be the same on weekdays, with an additional hour of operation in mornings on weekends.

The proposed hours of operation are within the range of other businesses operating in the immediate area.

There is a much larger source of noise in the area, being the Cahill Expressway, approximately 200m from the site.

The level of noise generated by the development will be in line with other, similar uses already operating within the area.

5.5 Erosion Control Measures

Not applicable. There are no physical works as part of the proposal.

5.6 Economic and Social Impacts

The proposed development is likely to contribute to a range of economic benefits in the North Sydney local government and surrounding areas through:

- additional business opportunities within the area
- employment of persons at the premises
- the use of the unit contributing to the ongoing maintenance and viability of the building

The development will have no significant social impacts.

5.7 Environmental Benefits

The proposed development will have no adverse impacts on the environment as no physical works are proposed.

5.8 Disabled Access

The change in hours of operation will have no impact on disabled access.

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5.9 Security, Site Facilities and Safety

The development will have the beneficial impact of increasing security and safety in the area due to the presence of staff and customers overlooking the street and surrounding area during the additional proposed hours. The plan of management will also regulate security and safety impacts.

5.10 Waste Management

Existing approved waste facilities will be capable of accommodating the proposed minor extension in approved hours.

5.11 Building Code of Australia

The proposed extension in operating hours will have no impact on compliance with the Building Code of Australia. No physical works are proposed.

5.12 Traffic

The development will have minimal traffic impacts. A majority of customers walk to the site and live within the immediate area. The extended hours of operation (between 9pm-11pm on weekdays and between 7am-8am and 830pm-11pm on weekends are not peak times of traffic or parking demand within the local area.

5.13 Stormwater/flooding

There will be no impact on stormwater as no physical works are proposed. The site is not known to be flood prone.

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6.0 Conclusion

The development proposed for the subject site, located at 40A McDougall Street Kirribilli has been considered in terms of the matters for consideration that are contained within Clause 4.15(1) of the *Environmental Planning and Assessment Act 1979* ("the Act").

As indicated in Part 4 of this Statement, the proposed development is considered to be acceptable in terms of the relevant provisions of North Sydney LEP 2013, which is the principal environmental planning instrument applicable to the subject site. As such, it is considered to be acceptable in terms of Clauses 4.15(1)(a)(i) and 4.15(1)(a)(ii) of the Act.

As indicated in Part 4 of this Statement, the proposed development is considered to be acceptable in terms of all the relevant aims, objectives and standards contained within the relevant chapters of the North Sydney Development Control Plan 2013 and is therefore consistent with Clause 4.15(1)(a)(iii) of the Act.

In addition, the proposed development would have a range of social and economic benefits. It is considered unlikely that the proposed development, given its nature, scale and location, would have any detrimental impacts on the built or natural environment or any detrimental social or economic impacts on the surrounding locality. Thus, it is considered to be acceptable in terms of Clause 4.15(1)(b) of the Act.

Further, the subject site, given its location, size and features, and given it is not subject to any significant hazards, is considered to be, pursuant to Clause 4.15(1)(c) of the Act, suitable for the proposed development.

The proposed development will provide for a minor extension in the approved hours of operation without having any significant adverse impacts on the surrounding area. Thus, the proposed development is clearly in the public interest, and acceptable in terms of Clause 4.15(1)(e) of the Act.

Given the above, the proposed development is worthy of approval, and it is requested that the development application to which this Statement of Environmental Effects relates be approved by Council as submitted.