

## AMPOL KURNELL – Modification 7 SSD-5544

### Submission Lynda Newnam 31 July 2025

Thank you for the opportunity to provide a submission. Please note that this is an OBJECTION based on major gaps in information required for assessment, absence of input from government agencies, including neighbour NPWS, regulator EPA, and NSW Health, and piecemeal presentation; I maintain it should be considered in conjunction with SSD-86799993 and SSD-64397711.



Figure 1: The Site and Development Area.

1.

I note the intent of Modification 7 as described on NSW Planning webpage:

Infrastructure Consolidation and Remediation

<https://www.planningportal.nsw.gov.au/major-projects/projects/mod-7-infrastructure-consolidation-and-remediation>

Description “Ampol intends to consolidate operational infrastructure, remove redundant assets, and undertake remediation and grading. Completion of these works (MOD-7) would continue the safe, viable and reliable operation of the Kurnell Terminal, whilst preparin”

2.

SSD-5544 was exhibited in 2013 and approved 7/1/2014. Most of the subsequent modifications (as listed below with available links) have not been as substantial as Modification 7. For example, Modification 6 was an extension of time for Modification 5. Modification 5 increased the Asbestos Cell capacity and as the EPA noted at the time work commenced prior to approval

<https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-5544-MOD-5%2120190729T042911.481%20GMT> Modification 2 introduced the asbestos cell – that was major.

3.

Modification 7 should be titled an ‘Enabling’ project for the 2 SSDs currently at ‘Prepare EIS’:

SSD-86799993 Kurnell Energy and Industry Precinct

<https://www.planningportal.nsw.gov.au/major-projects/projects/kurnell-energy-and-industry-precinct> (Prepare EIS)

SSD-64397711 Kurnell Battery Energy Storage Project

<https://www.planningportal.nsw.gov.au/major-projects/projects/kurnell-battery-energy-storage-system> (Prepare EIS)

Indeed after ‘whilst preparing(sic)’ the words ‘for conversion to major battery storage’ could have appeared.

And yet Modification 7 is presented as separate.

As a Modification there are no SEARs which provide guidance to community on what Sutherland Council and State Government Agencies such as the EPA consider the main areas to address. Guidance from these agencies, in the form of submissions, won’t be available until after the exhibition has closed. How does the Planning Minister expect community to navigate this system competently? Modification 7 documents need to be read in conjunction with the approvals from 2014,2015,2017(2),2018,2019,2020. In addition are the Environmental Reviews (Condition D4 of original approval) with only 2020 and 2024 available on the Planning website:

2020 Annual Review for Planning

<https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-5544-PA-9%2120201230T071655.766%20GMT>

<https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-5544-PA-35%2120250107T023955.399%20GMT>

And in addition to this is the track record of non-compliance – the operational context – which for many in the community has resulted in high negative impact, eg. 2022 event.

4.

I contacted the Cronulla Electorate Office and found out that the public exhibition was extended from 2 to 3 weeks. I also found out that to date there have been over 160 submissions. This number is many times greater than all the submissions to SSD-5544 since 2013 and is an indication of heightened community concerns which need to be addressed.

5.

I will refer to 2 major operational concerns that I have. The first is PFAS. In 2013 this was not publicly recognised as a contaminant of concern in Botany Bay but since 2017, Kurnell has been identified as one of 3 PFAS hotspots in/around Botany Bay.

<https://www.epa.nsw.gov.au/Your-environment/Chemicals/PFAS-in-NSW/nsw-government-pfas-investigation-program/Kurnell-Caltex> Monitoring is required under the Environmental Protection License EPL 837. Note the most recent variation: 31/3/2025: <https://app.epa.nsw.gov.au/prpoeoapp/ViewPOEONotice.aspx?DOCID=-1&SYSUID=1&LICID=1648095>

6.

The second major concern relates to the 2022 spill, consequent and ongoing impacts, and obvious inadequacies in monitoring of Consent Conditions.

<https://www.epa.nsw.gov.au/News/Media-Releases/2023/EPAMedia230920-Ampol-to-pay-over-%24700000-after-oily-water-spill-in-Kurnell>

It is to be expected that there is heightened community concern when previous assurances by the proponent, and government agencies charged with monitoring, have proven inadequate. Add to this the manner of presentation of the 3 components of Ampol's plan that should be presented as 1, or at the very least substantial guidance provided by government agencies on the process. When conditioned initially in January 2014 this facility was being converted for fuel storage with commensurate remediation. The recent proposal for a major energy facility with risk and various impacts such as noise was not in the public domain. There would, no doubt, be residents who moved to the area and businesses opened with the reasonable expectation that the industrial impacts were decreasing, not increasing.

7.

There are 3 major concerns I have with Modification 7 as presented: 1st there has been no referral to the EPBC. The consultants for the proponent have written:

“The proposed modification is not considered likely to result in a significant impact to species or communities listed under the EPBC Act, and as such, a referral to the Minister for the Environment and Water is not required.”

<https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-5544-MOD-7%2120250520T035039.555%20GMT>

Not only the Kurnell community but everyone concerned with environmental protection needs to know what the NSW Minister for Environment considers significant. I understand there will be a submission from DCCEEW through NPWS and the CPHR unit. NPWS should be reminded that Towra Point is under their guardianship and that to date the standard of stewardship is recognised as poor. In 2012 the Ramsar site was awarded a Ramsar Grey Globe award and in 2017 the Ramsar Convention noted further decline

<https://www.environment.gov.au/water/topics/wetlands/database/pubs/23-statement-of-reasons-notification-20170807.pdf> NPWS borders Ampol, this should be of concern not only

for staff responsible for management of KBB National Park but also the Greater Sydney Regional Advisory Committee which has responsibilities for community liaison (see Terms of Reference) <https://www.environment.nsw.gov.au/about-us/who-we-are/advisory-committees/regional-advisory-committees> I have seen no evidence of ‘liaison’.

Under the original conditions, C44, there were to be no detrimental impacts on Marton Park Wetland yet there have been (see EPA media release above). This need to be addressed.

#### **Protection of Marton Park Wetland**

C44. To ensure that the measures implemented to protect Marton Park Wetland from sedimentation, erosion and possible contaminants related to the stormwater drainage upgrade works approved by Sutherland Shire Council (DA 13/0195), are successful, monitoring of Marton Park Wetland must be undertaken after completion of the stormwater upgrade works, until otherwise agreed with Council, to ensure there are no detrimental impacts on the wetland. Caltex is to prepare a monitoring plan and submit it to Council for approval prior to completion of stormwater drainage upgrade works.

8.

The second concern is for the RAP. I note from the scoping document that ‘further intrusive investigations’ are required in order to provide ‘detailed RAPs’ (see below). How can community possibly comment on this without the detail. There needs to be a requirement to provide detail to the community and the EPA need to also provide advice on what is required and how they regulate. People who engaged in 2013 weren’t aware that there would be an asbestos cell. In the 2013 EIS ‘potential’ asbestos is mentioned but the word ‘cell’ does not appear. Once again ‘a suck and see’ exercise.

<https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-5544%2120190227T023322.182%20GMT> Note also in the list of

contaminants in 2013 there is no reference to PFAS even though there were investigations around Botany Bay from 2007 onwards. The asbestos cell was approved in 2017 under Modification 2.

Site understanding (from Modification 7)

<https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-5544-MOD-7%2120250520T034353.898%20GMT>

“Significant soil and groundwater investigations have been conducted on the Site since the 1990s. An Environmental Site Assessment Data Gap Assessment was undertaken in 2018 to reduce data gaps within the former refinery process unit areas, pipeways, and redundant tank bunds. Additional investigations conducted between 2018 and 2023 have provided an understanding of the distribution of impacts which has facilitated the preparation of this Conceptual RAP. Primary contaminants of potential concern (COPCs) for the Site comprise the following:

- Asbestos
- Petroleum hydrocarbons (PHC) comprising:
  - Total recoverable hydrocarbons (TRH)
  - Total recoverable hydrocarbons (TRH)
  - Total recoverable hydrocarbons (TRH)

A range of secondary COPC have also been identified onsite based on observations from historic investigations. Areas of known impact are discussed in Section 4.0 and presented on Appendix A, Figure F3. The primary source of asbestos is likely to be building and plant materials (in the form of gaskets, lagging, fibre boards, among others) with secondary sources from recycled building derived fill materials, and in the case of RPIP mountain, fill materials of unknown origin. The PHC soil and groundwater impact is likely to be associated with losses to ground that have occurred over the refinery’s history, as opposed to one or more releases from a single localised source. The primary source of PFAS is related to the storage and historical use of fluorinated firefighting foam at the Site. As part of this Conceptual RAP, a data gap assessment has been completed and identified key focus areas for data gaps (refer to Section 6.4). While the currently available historical information has been sufficient to complete this Conceptual RAP, further intrusive investigations would be required to address the identified data gaps and confirm and/or refine the proposed remedial approaches, estimated remediation volumes and remedial technologies to be adopted. It is anticipated that identified data gaps would be addressed in part by future intrusive investigations and used to inform preparation of the Detailed RAP(s).”

9.

The 3<sup>rd</sup> area of concern is around the level of scrutiny from government agency experts. I haven’t seen any input from NSW Health since 2016 Modification 2

<https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-5544-MOD-2%2120190228T015002.899%20GMT> and 2017 Modification 3

<https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-5544-MOD-3%2120190226T082513.321%20GMT> Under Condition C15

Contamination Management the proponent in 2014 was required to consult both EPA and



Health for the Construction Management Plan for Contamination. There is arguably more reason for oversight from Health now given that this is a PFAS hotspot. I have written to Dr Stephen Conaty Ministry of Health and copied EPA, Planning and the local MP about this. Dr Conaty appeared at the NSW Select Committee Inquiry into PFAS 5/2/25

<https://www.parliament.nsw.gov.au/lcdocs/transcripts/3421/Hearing%20Schedule%20-%2005%20Feb%202025.pdf>

Finally, I have only had time to deal with a few issues. There are obviously major concerns around stormwater management and flooding which I expect Sutherland Shire Council will address and likewise expect Water NSW to address groundwater and EPA the monitoring of groundwater and the wastewater treatment. I don't know the status of the asbestos cell in planning for the Energy project eg. might the cell be covered with a structure/s; will asbestos monitoring wells be moved. I didn't have time to go through the commitments made in RTS for Modification 2 in 2017

<https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-5544-MOD-2%2120190228T015006.795%20GMT> when the cell was

approved, nor when approval was given to increase capacity in 2020 Modification 2 in 2017 attracted over 20 community objections possibly a number of those people went to consultation in 2013 in good faith that contamination would be removed. I do want to stress that it is very difficult to navigate the complexity of this site. There is no overview; it appears more like a jigsaw puzzle with some pieces available and some not and no final picture to work with. I don't live in Kurnell, nor Sutherland Shire but I have taken an interest in Botany Bay for the past 25 years and some of that time in the Botany Bay and Catchment Alliance which was formed as one of the Botany Bay Plan outcomes. The intention of the Plan and subsequent Botany Bay Strategy (full report not released) was to provide a long-term vision with funding for research in priority areas – Bay processes, Contamination, Biodiversity.

\$1.5million was promised in 2004 for funding the Botany Bay Studies Unit at UNSW

<http://www.bbsu.unsw.edu.au/>. The funding was not delivered despite work already contributed by a range of academics and community. The Sydney Institute of Marine Science(SIMS) was established in 2005. In early 2023 SIMS published what was promoted as a major comprehensive report on Botany Bay: "The Science of Gamay"

[https://sims.org.au/wp-content/uploads/2023/02/Gamay-Botany-Bay\\_report\\_WEB\\_Nov16.pdf](https://sims.org.au/wp-content/uploads/2023/02/Gamay-Botany-Bay_report_WEB_Nov16.pdf) PFAS is not mentioned as a contaminant of concern even

though one of the 42 academics, whose names appear as authors of the publication, is PFAS expert Professor Glamore. There are other 'shortcomings'. suggesting to some that the report had particular objectives, not aligned with intentions of earlier Botany Bay studies. I mention this in the context of 'trust in process and experts.' My personal objective for engaging in any major project is to do whatever I can in what is a very limited role to see that the best expertise from the appropriate people shines through in the quality of the assessment and determination and if approved, the conditions of consent. My suggestion

for all processes is to aspire to see every stakeholder 'Wearing the HAT' – the HAT being an acronym – Honesty, Accountability, Transparency. I am also committed to continuous learning and appreciate being corrected on any fact and/or interpretation.

#### **Links Previous Modifications and Main Project SSD-5544**

Modification 6 (extension of time) <https://www.planningportal.nsw.gov.au/major-projects/projects/mod-6-extension-ac-s-management-works-period> 21/1/20

IPCN <https://www.ipcn.nsw.gov.au/cases/2020/01/caltex-kurnell-refinery-conversion-mod-6-ssd-5544>

Modification 5 (asbestos cell increased capacity)

<https://www.planningportal.nsw.gov.au/major-projects/projects/mod-5-ac-s-containment-cell-and-cwo-pipeline> 10/7/2019 IPCN

<https://www.ipcn.nsw.gov.au/cases/2019/06/caltex-kurnell-refinery-conversion-mod-5-ssd-5544>

Modification 4 IPCN <https://www.ipcn.nsw.gov.au/cases/2018/08/caltex-kurnell-refinery-conversion-works-ssd-5544-mod-4>

Modification 3 <https://www.planningportal.nsw.gov.au/major-projects/projects/mod-3-tank-101-demolition> 17/11/2017

Modification 2 <https://www.planningportal.nsw.gov.au/major-projects/projects/mod-2-ac-s-management-works> 27/10/2017

Modification 1 <https://www.planningportal.nsw.gov.au/major-projects/projects/mod-1-demolition-works> 10/8/2015

KURNELL CONVERSION SSD-5544

<https://www.planningportal.nsw.gov.au/major-projects/projects/kurnell-refinery-conversion> 27/1/2014 (IPCN) RTS:

<https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-5544%2120190227T023335.121%20GMT>