

ASSESSMENT REPORT

Section 4.55(1A) Modification Caltex Kurnell Refinery Conversion Works (SSD 5544 MOD 4)

1. INTRODUCTION

This report assesses a modification application by Caltex Refineries (NSW) Pty Ltd (the Applicant) to modify its development consent to extend the duration of the approved demolition works period. The application has been lodged pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

2. BACKGROUND

The Applicant operates a finished fuel product import and distribution terminal (the terminal) at 2 Solander Street, Kurnell in the Sutherland local government area (LGA) (see **Figure 1**).



Figure 1: Site Location

Between 1956 and 2014, the site was used as both an oil refinery and a storage and distribution terminal. Following a review of its operations in July 2012, the Applicant announced it would cease its refining

operations. However, the site would continue to import finished and processed fuels, including gasoline, diesel and jet fuel for storage and distribution to its market customers.

To facilitate the conversion, the Applicant sought development consent (SSD 5544) to convert the Kurnell Refinery to a finished product import and distribution terminal, referred to as the Kurnell Refinery Conversion Works. The Kurnell Refinery Conversion Works was approved on 7 January 2014 and commenced in late 2014. The works were considered necessary to ensure operations within Australia remain viable, while also guaranteeing a safe and reliable supply of petroleum fuels to New South Wales (NSW) and the Australian Capital Territory. The works involved the conversion of existing infrastructure to allow for the site to operate as a terminal, and the shutdown of the existing refinery (completed in 2016).

The Applicant then modified its development consent to undertake the demolition of redundant refinery infrastructure (SSD 5544 MOD 1), which commenced in late 2015 and was originally expected to be completed by mid-2018. The modification permitted the demolition and removal of redundant tanks, pipes and infrastructure within the terminal and on Silver Beach, Kurnell Wharf and various road reserves surrounding the site, including Captain Cook Drive, Prince Charles Parade, and Cook Street.

At the time of writing this report, the Applicant has completed the majority of these demolition works, including the removal of existing refinery process units, redundant storage tanks and other associated refinery infrastructure.

3. SUBJECT SITE

The terminal is located on the Kurnell Peninsula, within the Sutherland LGA, and is located approximately 15 kilometres (km) south of the Sydney CBD and 4 km south-east of Sydney Airport. The site has an area of approximately 187 hectares (ha) and is relatively level and low lying, at an elevation between 5-10 metres (m) Australian Height Datum.

Road access to the site is via Solander Street, off Captain Cook Drive. The site is surrounded by residential and industrial land uses and natural features (see **Figure 1**) including:

- the community of Kurnell village immediately to the north and north-west
- Quibray Bay Aquatic Reserve and Towra Point Nature Reserve (a RAMSAR wetland) to the west
- light industrial uses and the Sydney Desalination Plant to the west and south-west
- Kamay Botany Bay National Park to the east.

The closest sensitive receiver to the site is located approximately 30 m to the north of the site on Cook Street. The site is also subject to an existing Environment Protection Licence (EPL) No. 837 issued by the Environment Protection Authority.

4. APPROVAL HISTORY

On 7 January 2014, development consent was granted by the former Planning Assessment Commission for the Kurnell Refinery Conversion Works (SSD 5544). The development consent permits the conversion of the Kurnell Refinery to a finished product import and distribution terminal, including modification of existing fuel storage tanks and extension of product pipelines for gasoline, diesel and jet fuel.

SSD 5544 has been the subject of three previous modifications. A summary of each modification is provided in **Table 1** below.

Table 1: Summary of previous modifications to the development consent

MOD Number	Summary of Modification	Approval Date
SSD 5544 MOD 1	The modification permitted demolition and removal of redundant refinery process units, tanks, pipelines, pipeways and infrastructure at the site.	10 August 2015
SSD 5544 MOD 2	The modification permitted on-site containment and management of asbestos contaminated soil present at the site.	27 October 2017
SSD 5544 MOD 3	The modification permitted demolition and removal of Tank 101 in the far north-eastern corner of the site.	17 November 2017

5. PROPOSED MODIFICATION

The Applicant has lodged a modification application under section 4.55(1A) of the EP&A Act to modify the development consent for the Kurnell Refinery Conversions Works (SSD 5544), seeking to extend the length of the approved demolition works period until 10 June 2019.

Condition B7A of the development consent (as modified) requires the Applicant to complete all demolition works associated with the development by 10 August 2018, being three years after the date of consent of SSD 5544 MOD 1.

Since 2016, the Applicant has been investigating the viability of retaining existing butane infrastructure across the site, to improve the quality and reliability of fuel imported from overseas. The removal of this infrastructure was originally approved under SSD 5544 MOD 1, but was placed on hold whilst the retention and re-use of these assets was being considered.

Following the completion of its internal review, the Applicant concluded the retention of butane infrastructure at the site is not financially viable. Instead, these assets will be demolished and removed as originally approved under SSD 5544 MOD 1. Given the time taken to complete its internal review, the Applicant has advised it would not be possible for it to complete all demolition works associated with the development by 10 August 2018.

Consequently, the Applicant has indicated the proposed extension of the demolition works period until 10 June 2019 is necessary to facilitate the:

- removal of existing butane infrastructure across the site
- subsequent completion of all remaining demolition and civil works.

The modification would not involve any additional demolition or civil works beyond those which were previously assessed and approved as part of SSD 5544 MOD 1.

The modification is described in full in the Statement of Environmental Effects (SEE) included in **Appendix B**, whilst the revised demolition works program is summarised in **Table 2** below.

Table 2: Revised demolition works program

Task	Indicative Period
Demolition of refinery process units (excluding butane assets)	Complete
Demolition of redundant tanks (excluding three tanks listed below)	Complete
Removal of redundant pipelines	Early 2016 to mid-2018
Demolition and removal of butane assets	May 2018 to September 2018
Demolition of remaining buildings	July 2018 to December 2018
Final tank removals (last three tanks)	January 2019 to February 2019
Final waste processing (scrap, concrete, etc.)	October 2018 to March 2019
Final civil works (currently 50% complete)	November 2018 to April 2019

6. STATUTORY CONTEXT

6.1 Consent Authority

The Minister for Planning is the consent authority for the application under section 4.5(a) of the EP&A Act. The original DA was determined under delegation by the former Planning Assessment Commission as reportable political donations had been made by the Applicant.

As reportable political donations were made by the Applicant in the last two years, the Independent Planning Commission (the Commission) is the consent authority for the purposes of section 4.55 of the EP&A Act.

6.2 Section 4.55(1A)

The Department has reviewed the scope of the modification application and is satisfied that the proposed modification would result in minimal environmental impacts, and relates to substantially the same development as the original development consent on the basis that:

- the primary function and purpose of the approved liquid fuel terminal would not change as a result of the proposed modification
- the modification is of a scale that warrants the use of section 4.55(1A) of the EP&A Act
- the approved storage capacity of the liquid fuel terminal would remain unchanged as a result of the proposed modification
- any potential environmental impacts would be minimal and appropriately managed through the existing or modified conditions of consent.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers the application should be assessed and determined under section 4.55(1A) of the EP&A Act, rather than requiring a new development application to be lodged.

7. CONSULTATION

Clause 117(3B) of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) specifies that the notification requirements of the EP&A Regulation do not apply to State significant development. Accordingly, the application was not notified or advertised, however, it was made publicly available on the Department's website on 9 June 2018, and referred to Sutherland Shire Council and the relevant public authorities for comment.

The **Environment Protection Authority (EPA)** did not object to the modification, subject to the Applicant continuing to undertake approved demolition activities in accordance with the Demolition Environmental Management Plan (DEMP) and associated sub-plans. The EPA also advised the proposed modification would not require an amendment to EPL 837.

The following public authorities and service providers did not object to the modification, and indicated they had no specific comments applicable to the extension of the approved demolition works period:

- Sutherland Shire Council
- the Office of Environment and Heritage
- the Department of Industry – Lands and Water Division
- Roads and Maritime Services
- Fire and Rescue NSW
- SafeWork NSW
- Ausgrid.

The Rural Fire Service and NSW Health were also notified of the modification application, but did not make a submission.

8. ASSESSMENT

The Department has assessed the merits of the proposed modification. During this assessment, the Department has considered the:

- the SEE provided to support the proposed modification (see **Appendix B**)
- the assessment report for the original development application and subsequent modification applications
- submissions received from State government authorities and Council (**Appendix C**)
- relevant environmental planning instruments, policies and guidelines
- requirements of the EP&A Act, including the objects of the EP&A Act.

The Department considers the key assessment issue to be the extension of the approved demolition works period.

8.1 Extension of the Approved Demolition Works Period

The development consent (as modified) currently requires the Applicant to complete all demolition works associated with the development by 10 August 2018. As part of its determination of SSD 5544 MOD 1, the former Planning and Assessment Commission concluded this three-year period would provide sufficient time for the demolition works to be completed. However, the Applicant is now seeking to extend the duration of the approved demolition works period until 10 June 2019, to accommodate the removal of butane infrastructure across the site.

The proposed extension has the potential to impact upon nearby sensitive receivers primarily in relation to air quality, noise and vibration impacts. The extended demolition works period would also have the potential to impact upon the surrounding road network, due to the resulting extended duration of vehicle movements associated with the demolition works.

The Applicant has indicated the proposed modification would not involve any additional demolition or civil works beyond those which were previously assessed and approved as part of SSD 5544 MOD 1. The Applicant's assessment of the modification noted any potential impacts experienced during the extended demolition works period would be of the same scale as those previously assessed by the Department, and would continue to be managed in accordance with the environmental protection measures contained in the development's DEMP and the existing development consent (as modified).

The EPA's submission indicated the authority had no objections to the modification, subject to the Applicant continuing to undertake approved demolition activities in accordance with the DEMP and its associated sub-plans. All other relevant public authorities (including Sutherland Shire Council and the Roads and Maritime Services) indicated they did not object to the extension of the approved demolition works period until 10 June 2019.

The Department considers the proposed modification would not result in any additional environmental impacts beyond those which were previously assessed as part of SSD 5544 MOD 1. Whilst the modification would extend the period in which nearby sensitive receivers may experience potential impacts associated with the on-site demolition works, the Department notes such impacts would continue to be effectively managed through the environmental protection measures contained in the development's DEMP.

In addition, the Department notes the butane infrastructure which has not yet been demolished is largely located within the eastern section of the site, and is shielded from nearby sensitive receivers by existing tanks and infrastructure (see **Figure 2**). To date, the Applicant has not received any complaints regarding the on-site demolition activities which have occurred between the existing butane infrastructure and nearby sensitive receivers. The Department also notes the Applicant will continue to update the local community on the demolition works as part of its quarterly community meetings.

The Department's assessment concludes the proposed modification can be appropriately managed through the existing development consent (as modified) and the development's DEMP. The extension of the approved demolition works period would ultimately allow for the removal of all redundant infrastructure safely and efficiently, and further support the site's conversion into a finished product import and distribution terminal.

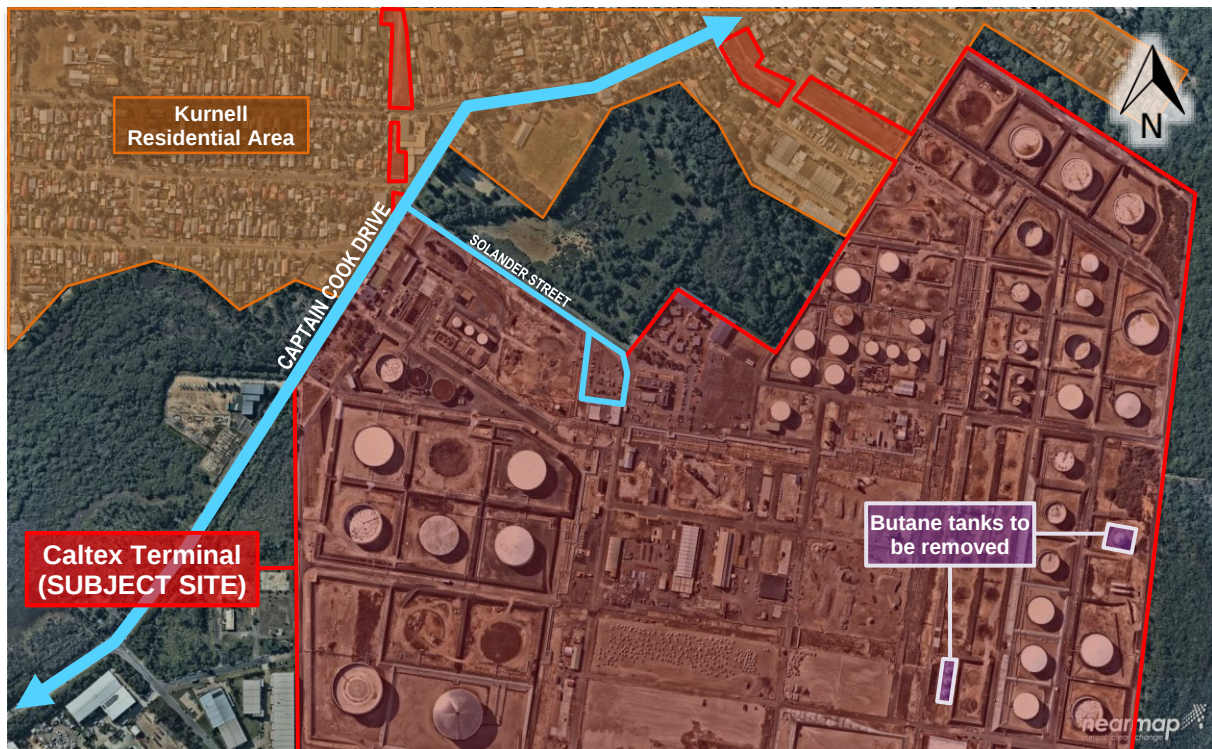


Figure 2: Location of butane tanks to be demolished

9. CONCLUSION

The Department has assessed the proposed modification in accordance with the relevant requirements of the EP&A Act. The Department considers the proposed extension of the approved demolition works period would not result in significant environmental impacts to the surrounding environment.

The proposed modification would not involve any additional demolition or civil works beyond those which were previously assessed and approved as part of SSD 5544 MOD 1, and would enable the Applicant to remain viable and competitive within the NSW market. The extended demolition period would allow for the removal of all existing butane infrastructure across the site, further minimising ongoing maintenance costs and reducing any potential risk to the operating terminal, on-site workers, the local community and the surrounding environment.

The Department notes the existing development consent includes a number of conditions to manage potential impacts associated with demolition works at the site. Whilst the extended demolition works period may result in some short-term impacts in relation to air quality, noise, vibration and traffic, the Applicant would continue to manage these impacts under the existing DEMP and in consultation with the EPA, Sutherland Shire Council and the local community.

Following on from its assessment of the modification, the Department considers the modification application is approvable, subject to the modification conditions outlined in **Appendix A**. This assessment report is hereby presented to the Commission for determination.

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APPENDIX A – NOTICE OF MODIFICATION

APPENDIX B – STATEMENT OF ENVIRONMENTAL EFFECTS

APPENDIX C – SUBMISSIONS

APPENDIX D – CONSOLIDATED CONSENT