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18 February 2021

The General Manager
Penrith City Council
PO Box 60
PENRITH NSW 2751

RE: Proposed S4.55(2) to DA19/0604 - St Clair McDonald's at 4 Endeavour Avenue, St Clair NSW 2759

1 INTRODUCTION

KDC Pty Ltd (KDC) acts on behalf of its client McDonald's Australia Limited (McDonald's) in preparing this supporting Statement of Environmental Effects (SEE) for the proposed s4.55(2) modification to DA NO. DA19/0604 to amend the existing trading hours of the existing McDonald's operation located at 4 Endeavour Avenue, St Clair NSW 2759 (the site).

This modification seeks permanency to the existing 18 month trial for 24 hour 7 days a week operation of the St Clair McDonald's for the entire site. This SEE describes the site, its environment, the proposed modification and an assessment of the proposal in terms of the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A 1979).

1.1 MCDONALD'S AUSTRALIA

There are approximately 1005 McDonald's operations Australia wide, the vast majority of which are either owned or operated by members of the local business community. McDonald's Australia serves approximately 1.2 million people a day and provides job opportunities for over 100,000 people Australia wide.

Since 2002, McDonald's Australia has implemented a number of alternative healthy eating options and choices. McDonald's Australia is a well-known and respected company across Australia, known for its food product, well trained staff and new and improved designs.

McDonald's Australia not only provides employment opportunities and a high standard of food and service, it also works closely with and supports a number of charities and local groups. This is mainly through major sponsorship, supporting local teams, providing educational, environmental, artistic and sporting programs and charity work (i.e. Ronald McDonald House charity, 'Clean up Australia Day').

2 BACKGROUND

2.1 SITE SURROUNDS AND ANALYSIS

The site is located at 4 Endeavour Avenue, St Clair 2759, and forms part of the St. Clair Shopping Centre (Refer to **Figures 1 and 2**) and is legally identified as Lot 2 in DP 1018519.

The site has a frontage to Bennett Road to the east of approximately 47m. Access to the site is provided via a private internal road within the adjacent Lot 1 in DP 1018519 (Refer **Figures 3 and 4**). Tenancies adjacent to the store, as part of the wider shopping centre, include two (2) take away food and drink premises, a gymnasium, and an Australia Post.



As of October 2nd 2020, **KDC has joined the SLR Consulting team**. To learn more about SLR, and the additional expertise that we can now provide our clients, [take a read here >](#)

The McDonald’s building is setback from Bennett Road and is bounded on the northern and eastern boundary by car parking associated with the St. Clair Shopping Centre. The existing McDonald’s operation including drive-thru, carparking, and landscaping currently occupies the entire site.

The land within the vicinity of the site is characterized by the commercial uses associated with the shopping centre and residential land uses. Neighbouring land uses to the south include a pre-school and freestanding residences occur to the east.

Figure 1 – Site Aerial (SixMaps)



Figure 2 – Cadastral Plan (Source: SixMaps)



Photograph 1 – View of Existing McDonald’s Operation from Bennet Road (Source: Google Maps)



Photograph 2 – View of Existing McDonald’s Operation from Lot 1 DP1018519 (Source: Google Maps)



2.2 RELEVANT SITE HISTORY

19 April 1999 – Consent was granted under [DA986577](#) for the construction of a McDonald’s operation, including a drive-thru service. Condition 66 of stipulates the operating hours are permitted between 6:00am and 10:00pm, Monday to Sunday on a 12 month reviewable condition. The 12-month period was satisfied and the existing McDonald’s operated was made permanent from 6:00am to 10:00pm, Monday to Sunday.

18 November 2019 – Consent was granted under [DA19/0604](#) which allowed an extension of the operating hours of the St Clair McDonald’s to allow 24 hour trade Mondays to Sundays for a trial period of 18 months.

3 PROPOSAL

The proposed modification seeks to amend condition 2 of DA19/0604 to extend the hours of trading for the entire operation at St Clair McDonald’s to 24 hours a day 7 days a week.

The current conditions states –

2. The approved **base** hours of operation for the McDonald's Restaurant is as follows:

6:00am – 11:00pm Mondays to Sundays

In addition to the above, approval is granted for extended hours of operation, for a period of 18 months from the date of this consent as follows:

11:00pm – 6:00am Mondays to Sundays

A modification application is to be lodged with Council, a minimum of 3 months prior to the completion of 18 months, for the extension of, or incorporation (into the base hours) of the extended operating hours.

The proposed modified condition is detailed below.

2. The approved **base** hours of operation for the McDonald's Restaurant is as follows:

24 hours, Mondays to Sundays

~~***In addition to the above, approval is granted for extended hours of operation, for a period of 18 months from the date of this consent as follows:***~~

~~***11:00pm – 6:00am Mondays to Sundays***~~

~~***A modification application is to be lodged with Council, a minimum of 3 months prior to the completion of 18 months, for the extension of, or incorporation (into the base hours) of the extended operating hours.***~~

As the proposed modification seeks to extend the trading hours to 24 hours, 7 days a week for St Clair McDonald's operation, the previously approved Plan of Management has been altered to reflect the updated operating hours. This updated Plan of Management is located at Appendix C of the SEE.

3.1 JUSTIFICATION

The proposed amendment to the trading hours of the McDonald's operation at 4 Endeavour Avenue, St Clair NSW 2759, is considered to be of minor impact in terms of noise and other associated environmental/amenity impacts. No complaints were received during the previous trial period, and good performance has been demonstrated with the operation trading in accordance with the previously approved Plan of Management. It is therefore considered appropriate to seek permanency to the 24 hour 7 days a week trading. The extended trading hours proposed under this modification will not result in an increase to anti-social behaviour in the area. The potential for anti-social behaviour is addressed within the Plan of Management accompanying this application (refer to Appendix C).

The purpose of the trading extension is to provide key services to the community during the late night and early morning trade, particularly as there are no other take away food and drinks premise within the locality that are currently open to customers within these hours. The proposal will provide a convenient service for local residents and passing traffic to access a food and drink premise at any time of the day.

A Noise Assessment (NA) had been previously prepared for this site in September 2019 by Muller Acoustic Consultants (MAC) and attached at Appendix A of this report. The results of this NA are still valid for this application. As indicated within the previous NA, the results demonstrate that noise emissions from the operation can satisfy the relevant projected noise trigger levels at all assessed receivers for the proposed extension of operational hours based on the current designs and noise controls that have been established at the operation. Furthermore, sleep disturbance is not anticipated, as

emissions from impact noise are predicted to remain below the EPA guideline for maximum noise level screening criteria. An addendum letter to supplement the NA is also provided at Appendix A and further outlines the above details.

Based on the previously obtained NA results, there are no noise related issues which would prevent Council approving the proposal. Additionally, the results of the assessment show compliance with the relative EPA guidelines and criteria, accordingly, no additional ameliorative measures to those already implemented would be required.

The proposed permanency to the variation in trading hours is not likely to comprise any significant impacts on traffic movements on the surrounding road network, as it is considered to be a predetermined 'destination' for food during the extended hours, but rather capturing passing trade already on the road network. The proposed modification provides an opportunity for patrons to access the McDonald's operation outside peak traffic hours.

To ensure the safety and security is maintained during the extended trading hours, a Plan of Management (POM) has been prepared. The POM outlines the safety and security mitigation measures employed at the site and appropriate procedures for staff to follow including incident reporting, complaints management, noise management, litter collection, and general communication protocols. All staff at the store will be required to be familiar with this document. Refer to the POM provided at Appendix C.

Overall, it is considered that the proposed extension of trading hours will not result in any unreasonable impacts to the surrounding area and provides community benefit by responding to the increased demand for convenient access to a food premises during both the day and night. Accordingly, the proposed modification is considered to be appropriate in the context of the site and will not result in any adverse impacts to the community. Additionally, the proposal is considered to bode well from an economic and social perspective through increased employment opportunities.

4 PLANNING ASSESSMENT

Compliance with all legislative requirements under various Environmental Planning Instruments (EPIS) remains unchanged under this application. The proposed amendments do not change the overall design, function or impact of the development (as approved).

The following legislation, EPIS and Development Control Plan (DCP) are relevant to the proposed application and have been addressed below:

- + Environmental Planning and Assessment Act 1979;
- + Penrith Local Environmental Plan 2010; and
- + Penrith Development Control Plan 2014.

4.1 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

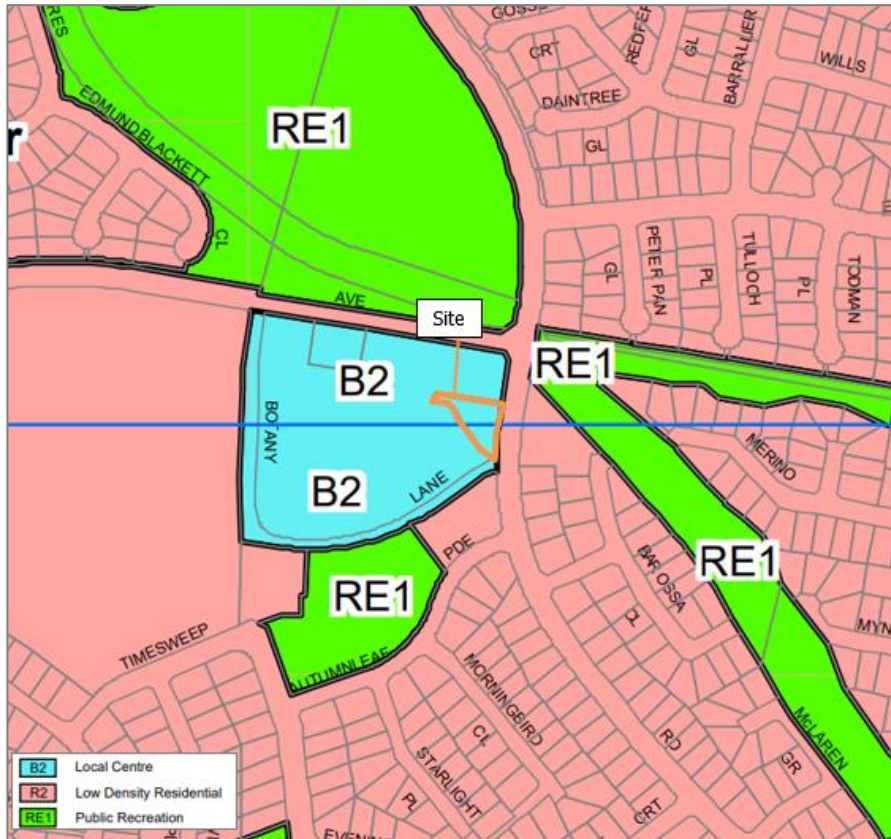
It is considered that the proposed modification of the development consent is substantially the same development as for which the original consent was granted, and accordingly that the approval path for the proposed modification is a s4.55 (2) Other modifications under the EP&A Act 1979.

In determining an application for modification of a consent under Section 4.55 of the EP&A Act 1979, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The relevant matters for consideration are addressed throughout this SEE.

4.2 PENRITH LOCAL ENVIRONMENTAL PLAN 2010

Under the provisions of the Penrith Local Environmental Plan (LEP) 2010, the site is zoned B2 Local Centre (refer to **Figure 3**).

Figure 3 – Zoning Map Extract form Penrith LEP 2010 (LZN_006)



The proposed modification to trading hours will not alter the approved use and built form of the premises. A McDonald's operation is defined under the LEP as a 'food and drink premises', which has a higher order definition as a commercial premise. A commercial premise is permitted in the B2 Local Centre zone with consent and therefore the McDonald's operation is permitted with consent under the LEP. The existing operation on the site will remain consistent with the objectives of the sites B2 zoning, ensuring a mix of compatible land uses within the zone.

4.3 PENRITH DEVELOPMENT CONTROL PLAN 2014

The proposed modification has been prepared having due regard for the provisions of Penrith DCP 2014. The modification meets all of the relevant controls contained with the DCP. An assessment of the development controls has been carried in the compliance table at Appendix B of this SEE.

The overall building design, including signage, remains unchanged and the operational arrangements on site in regard to waste management, deliveries, access and car parking also remain unchanged by this application.

5 ASSESSMENT OF PLANNING ISSUES

As discussed in Section 3, the proposed extension of the trading hours is in direct response to continued customer demand at the St Clair McDonald's. Given that there are limited takeaway food and beverage premises located within the general vicinity of the area offering services both to late night and early morning customers, McDonald's seeks to satisfy demand

for this type of service. The proposal, and the ongoing adoption of mitigation measures currently implemented at the site, is expected to result in minimal adverse impacts on the environment and the amenity of the surrounding area. The proposal will provide a convenient service for local residents, visitors and passing traffic to access its services throughout the day and night.

5.1 AMENITY

The proposal is expected to cause minimal adverse impacts on the general amenity of the surrounding premises. It has been highlighted through the trial period for extended hours that the operation has successfully implemented mitigation measures that has ensured no ongoing adverse amenity impacts on the closest residential receivers during this time. It is emphasised that the St Clair McDonald's had an exemplary record during the trial period and therefore have proven that the proposed increase in hours can be managed to ensure minimal impact to the surrounding amenity.

5.2 NOISE

An Acoustic Assessment was conducted by Muller Acoustic Consulting Pty Ltd (MAC) for the original 2019 application and attached at Appendix A of this report. The results of the NA demonstrate that noise emissions from the project can satisfy the relevant Project Noise Trigger Levels (PNTLs) at all assessed receivers for the extension of operation hours based on the current designs and noise controls that have been established at the site. Furthermore, sleep disturbance is not anticipated, as emissions from impact noise are predicted to remain below the EPA requirements for maximum noise level screening criteria.

The nearest residential receivers are located on the opposite side of Bennett Road approximately 60m (boundary to boundary) from the McDonald's operation and separated by a relatively busy connector road. The adjoining commercial receivers to the west are not anticipated to be affected as a result of the project as they will be unoccupied during the night-time assessment period. Receiver locations were placed near the residences located toward the north-east and south-east of the site, as demonstrated in the NA.

The proposed 24 hour operation has been assessed as compliant with current noise policy and EPA guidelines, as demonstrated in the NA.

5.3 ODOUR

The proposal will have minimal impact on surrounding premises from the potential odours of air pollution associated with cooking and waste storage on the premises. The operation will continue to operate in accordance with the Food Standard Code and relevant Australian Standard.

5.4 TRAFFIC AND PARKING

The proposed modification to extend the trading hours is not likely to result in any significant impacts on traffic movements on the surrounding road network, as the drive-thru will predominantly capture passing trade. The proposed modification provides an opportunity for residents and visitors to continue to be able to access the McDonald's operation outside peak traffic hours. There are no changes proposed to the existing access.

Noting that there are no changes proposed to the existing access or parking arrangements on site, the proposal is considered to be minor in nature with regard to impacts on traffic flows, circulation, and vehicle volume movements to and from the site. The proposal therefore does not impact on the existing approved conditions regarding traffic, parking, and access.

5.5 LIGHTING

The existing external lighting will be utilised during the extended trading hours, and therefore the site will be lit from dusk to dawn. The existing lighting will enable clear surveillance and has been designed to prevent concealment and shadowing.

The standard of lighting is designed to not only reduce the fear of crime in accordance with Australian lighting standards, but also serves to provide clear identification of activity using the high technology CCTV cameras.

Lighting is generally directed internally within the site to prevent light spill on nearby land uses. The orientation and screening of the drive thru, as well as carpark ensures minimal adverse impacts on adjoining properties and roads.

5.6 SAFETY AND LIGHTING

The proposal will have minimal impact on the existing safety and security of the McDonald's operation. Under the current trial period which the St Clair McDonald's is operating in accordance with, there have been no incidents or complaints registered with the McDonald's in relation to customer behaviour, or any aspect of the late-night trading.

McDonald's will ensure the safety and security of the site through the updated Plan of Management (attached at Appendix C) which deals with such matters as the amenity of the neighbourhood, lighting, surveillance equipment, vandalism, noise, anti-social behaviour and security. A number of measures are used to ensure the safety and security of the site, including:

- + CCTV surveillance;
- + control and monitoring of access;
- + activity and space management; and
- + training in emergency situations and on cash handling.

By utilising these measures throughout the operation, the premises will upkeep the safety of the site. The trial period has demonstrated that the McDonald's can operate 24/7 while still ensuring safety and security of customers, staff and the surrounding neighbourhood. A Crime Risk Assessment of the proposal is included at Appendix D.

McDonald's trades over 650 sites during late night hours nationally and have been operating sites during late night trade hours for over 20 years and in doing so understand the risks and responsibilities that are required to be considered and managed when trading during late night hours. McDonald's standard operating policies are in place at all of their operations to mitigate and manage these risks as well as the impact for staff and the surrounding amenity relating to late-night trade.

It is considered that the modification will not detract from the safety and security of the area.

5.7 PUBLIC INTEREST

The proposal is considered to be in the public interest as it will deliver a number of public, social and economic benefits with minimal adverse impacts. The proposal will allow McDonald's to continue to provide low cost, convenient fast-food services to service the needs of neighbouring businesses, local community and tourists. Furthermore, the trial period has demonstrated that the late-night operating of the St Clair McDonald's will not impact the security of the surrounding area and can provide a positive late-night trading local business. The McDonald's operation will generate increased employment opportunities for existing and new staff which is a direct result of the proposed extended trading hours.

6 CONCLUSION

The proposed modification for the extension to trading hours (24/7) will not change the overall design, use or function of the approved McDonald's operation. The proposal will not result in detrimental amenity impacts to surrounding commercial and residential uses. It is considered that the proposed modification for the extension to the trading hours of the operation is appropriate given the demand for a late-night/ early morning food and beverage facility in the area and the operators compliancy with the relevant legislation and Australian Standards.

It has been established through the Noise Assessment that the proposal will not result in unacceptable impact to the nearest residential noise receptors and the emissions will comply with the current noise policy.

Furthermore, the proposal will not result in any excess traffic being encountered on the surrounding road network or result in any other traffic issues. Accordingly, there will be no unreasonable social or environmental impacts, and the premise will operate in accordance with the updated Plan of Management submitted with this application to ensure the safety and security of the site is maintained.

Overall, it is considered that the proposed extension to hours will provide community benefit by responding to the increased demand for convenient access to a food premises. The proposed hours are considered to be appropriate in the context of the site and will bode well from an economic and social perspective through increase employment opportunities.

Given the merit of the proposal and the absence of any significant adverse impacts, the extension of hours is considered to be worthy of Council's support.

Yours sincerely



Yannis Comino
Town Planner
KDC Pty Ltd

Appendices

Appendix A – Noise Assessment and Addendum Letter

Appendix B – DCP Compliance Table

Appendix C – Plan of Management

Appendix D – CPTED Report

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APPENDIX A – NOISE ASSESSMENT & ADDENDUM LETTER

Muller Acoustic Consultants

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APPENDIX B – DCP COMPLIANCE TABLE

KDC Pty Ltd

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APPENDIX C – PLAN OF MANAGEMENT

McDonald's Australia

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APPENDIX D – CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN STATEMENT

KDC Pty Ltd

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