

Ms Carolyn McNally  
Secretary  
Department of Planning and Environment  
GPO Box 39  
SYDNEY NSW 2001

27 October 2017

Dear Ms McNally

**Determination of Modification Application  
Kurnell Refinery Conversion Works (SSD 5544 MOD 2)**

Thank you for your Department's letter received on 13 October 2017, referring the above modification application to the Planning Assessment Commission for determination under Ministerial delegation of 14 September 2011. Mr John Hann, Prof. Helen Lochhead and Dr Marcus Lincoln-Smith constituted the Commission to determine the application.

Caltex Australia Petroleum Pty Ltd applied under section 96(2) of the *Environmental Planning and Assessment Act 1979* to modify the development consent for the Kurnell Refinery Conversion Works to permit on-site containment of asbestos contaminated soil occurring on the site.

The Commission has considered carefully the Department's environmental assessment report, all information provided by the applicant, recommendations from government agencies and Sutherland Shire Council, submissions from the public and section 96 and 79C of the *Environmental Planning and Assessment Act 1979*.

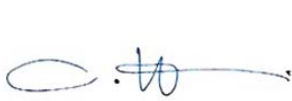
Key matters for this application include the applicant's approach to the management of asbestos contaminated soil, soil and groundwater impacts and air quality impacts. The Commission has reviewed the Department's assessment of these matters and is satisfied that:

- the containment of the affected soil on the site in a suitably designed and constructed containment cell is an appropriate remediation outcome, having regard to the risks, particularly transport, work safety and long-term management risks, associated with other management options;
- the deletion from the proposal of bio-piling for the treatment of hydrocarbons in the asbestos contaminated soil is an appropriate response to the Environment Protection Authority's initial concern about the mobilisation of asbestos fibres;
- the appointment of an independent Site Auditor under the *Contamination Land Management Act 1997*, as recommended by the Environment Protection Authority, and as required by the Department's recommended conditions provides an appropriate level of oversight for the remediation actions and review of management plans; and
- soil, groundwater and air quality issues on the site can be adequately managed through the existing consent conditions, as well as the additional conditions recommended by the Department, which require management plans that are specific to the asbestos contaminated soil remediation actions.

The Commission notes, in particular, that the proposed containment cell would not be permitted to accommodate asbestos contaminated material originating outside of the site.

The Commission considers the proposed modification does not fundamentally change the essential nature of the approved development as the site would continue to be used as an approved fuel finished product, import and distribution terminal. In the Commission's view, the proposed changes are within the scope of section 96(2) and may be considered for approval by the Commission.

For the reasons set out above, the Commission has determined to approve the modification application subject to the conditions set out in the instrument of approval.



**Mr John Hann (Chair)**  
**Member of the Commission**



**Prof. Helen Lochhead**  
**Member of the Commission**



**Dr Marcus Lincoln-Smith**  
**Member of the Commission**

cc.           The Hon. Anthony Roberts, MP  
              Minister for Planning  
              GPO Box 5341  
              SYDNEY NSW 2001