



**ATTACHMENTS TO REPORTS**

**GENERAL COUNCIL MEETING**

**ITEMS UNDER SEPARATE COVER**

**19 FEBRUARY 2020**



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**CONSIDERATION OF CHANGE  
REPRESENTATIONS – GARY HAYES &  
PARTNERS PTY LTD, 50 WALLACE  
STREET, WARWICK**

**Submissions**

**Meeting Date: 19 February 2020**

**Attachment No: 1**

Southern Downs Regional Council  
PO Box 26  
Warwick  
QLD 4370

**Objection:**

Application Reference: MCU \ 02066  
Proposed Development  
50 Wallace Street  
Warwick Q 4370

SOUTHERN DOWNS REGIONAL COUNCIL WARWICK BRANCH			
RECEIVED			
12 SEP 2019			
	Action: Addressed	✓	File
Tsk			
Dst			
Fwd			

**Objector:**

Jacqueline Butler (owner and ratepayer)  
52 Locke Street  
Warwick Q 4370

**Nature of Objections**

A. Extension of Hours

- \* Increased vehicular traffic resulting in additional vehicle noise and accompanying emission of fumes, with further congestion on both Wallace Street and Locke Street (noise pollution, air pollution, safety issue)
- \* Increased hours of business meaning more hours of very bright advertising signs (visual pollution)

B. Increased Deliveries of Fuel

(Obviously owners/proprietors are lodging their proposal anticipating increased sales)

- \* Increased fuel tanker engine noise, with tankers off-loading their fuel and engines left running, resulting in disturbed sleep (noise pollution + health hazard)
- \* Increase in emission of vapour from fuel which already requires closing all windows and doors of my home situated diagonally opposite the service station (air pollution + health hazard)

C. Erection of Diesel Tank

- \* Above-ground tank would be environmentally unattractive in a residential area (visual pollution)
- \* A possible danger to reversing vehicles and/or out-of-control vehicles (safety issue)
- \* A target for vandalism and consequential fire hazard (health and safety issue)

**Addendum**

I, Jacqueline Butler, would like it to also be recorded that the document titled  
"Response of Sally Edwards, owner of adjoining property at 65 Locke Street, Warwick QLD"  
has my full and unqualified support.

Signed: Jacqueline Butler

Date: 08 September, 2019



**RESPONSE TO DEVELOPMENT APPLICATION DA form 1 applicant ref no MCU\02066**  
**50 WALLACE STREET WARWICK QLD 4370**

RESPONSE OF SALLY EDWARDS, OWNER ADJOINING PROPERTY 65 LOCKE STREET WARWICK 4370

Introduction

This application has been made to a) change the hours of operation and b) to install an above ground diesel tank. My objection to both changes is on the basis that it will adversely affect my quiet enjoyment of my property and create extra odour, noise and light pollution problems and expose me to the unacceptable risk of air pollution, soil contamination and explosion. It may negatively impact the value of my property and potentially my house and contents insurance costs.

I will address each section of the development application, and the subsequent response by the applicant.

Part 3 – Development details

- Relevant plans. The plans submitted are incorrect in that they have incorrect measurements. They do not show adjoining affected properties at 46 Wallace Street and 65 Locke Street and how close they are to the proposed development. The plans are misleading as they do not show the propane gas tanks installed on the property on a concrete plinth with steel posts and also show parking spaces in an area required for fuel deliveries. It does not show the change of levels with the public toilets on the lower level.
- The plan shows a 25,000 above ground diesel tank. The manufacturer in the attached photo does not make a 25,000 litre above ground diesel tank – what size are they really planning to install?? What are its true dimensions?? How high will it be and where will the vapour vent be, what steps will be taken to prevent odour nuisance?
- Section 2 has not been completed for building work and no DA form 2 submitted. The area where the tank is proposed to be sited is not stable being decorative bricks on earth. A reinforced concrete pad will need to be constructed to support the weight of a smaller tank which will be over 22,000 kilos when full. This area is 700mm above ground level on my side of the fence and will need to be supported and drained – this is building work and should require a Form 2.

## Part 7 – Further Details

- Hazardous chemical facilities  
Diesel is a hazardous chemical and form 69 should have been completed.
- Vegetation Management  
Reference has not been made to the Chief Executive for a s22a determination to ensure that no damage will be made to the significant tree on my property that overhangs the area where the tank is proposed to be installed.

My comments on the Assessment against the Southern Downs Planning Scheme V5 as submitted by the applicant

Performance outcome	Applicants assessment	Comments
PO1	Complies, the single storey building exists	It is not a single storey building, there is a two story residence and a two storey shop – the toilets are underneath the main structure. Overall it is three stories including the below ground public use areas.
PO2 – maximum site coverage of all buildings and structures is 40%	Complies with AO2 The existing buildings have a site coverage of 36.8% excluding the bowser awning. The inclusion of the above ground tank will result in a site coverage of 38.8%	Why exclude the bowser and awning – it is a permanent fixed structure that has been there for over 20 years. Queensland Building act (1975) defines a structure as “a wall, a fence or anything fixed to or projecting from a building, wall, fence or other structure” Clearly the bowser awning is a structure and must be included. The measurements have also ignored the concrete pad and bollards erected on one car park space to house the propane gas tanks and the concrete pad and illuminated sign. If both are taken into account, the coverage exceeds 40%.
	The inclusion of the above ground tank within the northern building setback will	At anything from 2.6 to 3.6m high It will have an enormous impact on my view across to the park and the sunset. I will have a huge white fuel tank

	<p>have minimal impact on the appearance of the site from Wallace street</p> <p>There is currently no landscaping on site</p> <p>There will be minimal change to the scale of the built form of the property</p>	<p>looming over my property as it is at least 1 meter above my ground level.</p> <p>Landscaping of a brick patio, flowering trees, outdoor tables and chairs, and a decorative screen exist which is entirely consistent with current approved use.</p> <p>The built form will now include a huge white tank, it will impact to the north and east of the property and will impact on the quiet enjoyment of my deck which has been an established use for at least 17 years.</p>
PO3	Complies with AO3 Both Wallace street and Locke Street are sealed, kerb and channelled	The fuel station has, without approval, annexed the footpath in Wallace street and covered the green nature strip with tarmac to increase the size of their forecourt. They have annexed without my approval the driveway to my Wallace street gate to provide a slip way off Wallace street for large vehicles. There has been no access easement for these incursions.
PO4	Complies with AO4. The property is connected to all infrastructure.	There are no gutters around the forecourt to prevent run off to the sewers creating a pollution hazard. There is no way to prevent fumes entering the sewer system via the public toilets creating an explosion hazard.

<p>PO5</p>	<p>Complies with PO5 and AO5 The non-residential use of the building exists on the site and have done for approximately 70 years. There will be no change to the existing façade</p> <p>The operation provides for the day to day needs of the residents in the area and</p>	<p>This building was constructed as a shop with one petrol bowser. It was never a repair garage or primarily a service station but was “Stablers” general store. It was never intended to service large trucks with large diesel tanks. The encouragement of large trucks has only started in the last 12 months, before that this was an acceptable petrol station not causing any disturbance to the neighbourhood. These trucks tend to visit at night, keep their engines on and lights on shining into neighbouring properties causing light and noise pollution and take up to 25 minutes to fill. They queue along Wallace street, park across the pavement and block my gateway and cause a traffic hazard. This new service to large trucks is not providing a service to local residents (PO5) and indeed there is a suitable 24 hour high flow diesel service station 300 yards down the road (Freedom Fuels Wallace Street) so it is an unnecessary change. Some of these trucks have NSW plates. There is no change to the façade but there has been a change to the signage from an unilluminated sign to a bright red lit sign that impacts on local residences. No planning permission has been granted for this sign which is operated every night until at least 8.30 pm in breach of current planning approval.</p> <p>Targeting inter-state travelling trucks the operators are not providing for the local</p>
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	travelling public. There will be no change to the items sold from the site as a result of this application.	residents. This part of Wallace and Locke streets are purely residential, it is not an industrial area. The items sold will not change but the volume will, with more diesel available more trucks will fill up causing more noise, more odour, light pollution and generally more congestion at a very dangerous intersection.
PO6	Not applicable	
PO7 (b) non-residential buildings are set back at least 6 m from the primary street frontage  (c) carparks are set back at least 6 m from the street frontage, 3m from any secondary street frontage and 1 m from side and rear boundaries  (d) driveways are set back at least 1 m from side and rear boundaries	Complies with PO7. The building and layout of the site does not achieve the setbacks stipulated in AO7  The above ground tank is proposed to be located within the northern setback. This area has previously been used for an outdoor eating area. It has been indicated that a screen could be erected to ensure the street scape of the site from Wallace street is not impacted by the change. Due to the height of the existing fence and part of the site not being not highly visible, the proposed above ground tank will not dominate the site.	How can it comply and <u>not</u> achieve the setbacks??  Carparks are within 100mm of my fence! As is the driveway.  It seems that the argument is that if it already (illegally) exists it can stay.  The above ground tank will dominate the view from 48 Wallace street and 65 Locke Street. I will no longer be able to see the sunset from my deck. At a minimum the tank will be 2.6m high. It will dominate the site as the ground is approximately 1 m above the land on my side of the eastern fence. I disagree that there will be no impact – this will ruin my view, ruin my quiet enjoyment of my existing deck.  My deck had planning permission unlike their illuminated sign and their operation of the business until late at night.

PO8	Complies with PO8 The proposed above ground tank will be located beside the building, so to retain the existing setback to Wallace Street. A fence can be erected to ensure the streetscape is not adversely impacted.	The tank will be 1.5 m from my fence. The manufacturer recommends 3.0m. It will loom over my garden and impact the views from my house. It is nice that they are erecting a fence to protect the Wallace street streetscape but what about my views and my amenity. I wish to retain my views, having a large white tank looming 3 - 4 metres above my fence will impact on my existing enjoyment of my premises.
PO9	Complies with PO9	Is the development " <i>physically integrated</i> "?? Is an above ground tank a " <i>logical extension of the existing residential fabric</i> "? Not for local residents it isn't. There are no other above ground fuel tanks in Warwick on residential or commercial premises situated this close to a residential property. There are no other large white tanks in Wallace Street or Locke Street, which are both residential in nature so it is neither physically integrated or a logical extension of the built form.
PO10  "development for uses other than residential uses is located and designed to avoid significantly changing the conditions of privacy, safety, noise, odour and fumes, lighting and traffic generation experienced by	Complies with AO10.1 There will be no changes to the existing building....  All public areas are located on the western side of the building.  .....	Yes there will be changes. Surely the propane tanks have to be moved, and a new stable slab created for the tank to sit on if it is a permanent structure. Incorrect - there are public areas on the northern side - there are doors opening out of the shop and two public toilets on the lower ground level – they will need to maintain access to the public toilets which patrons will now have to pass and negotiate newly constructed steps to get to.



<p>occupants of nearby residential uses</p>	<p>The use of the site for a service station and food and drink outlet decades ago. The site has not ceased operation in this time, however has undergone a number of transformations. Given the sites history as a service station and the other high impact uses surrounding, the operation of the subject site until 10pm Monday to Saturday and until 9pm on Sunday will not be detrimental to the amenity of the area.</p>	<p>(what steps will be taken to ensure these toxic fumes do not enter the sewer system from these public toilets creating an explosion risk?)</p> <p>1. The site has never been purely a service station. It was a local convenience store with one bowser. I have evidence from a grocery supplier that it was always a corner store first, petrol retailer second. In recent years it had a hot chicken outlet but stopped being a hot food and drink outlet more than 12 months ago when the current tenant moved in.</p> <p>2. There are no high impact uses surrounding it as stated. There is a hospital within 300 yards. A helicopter calls infrequently - once or twice a week. There is a rail line 300 m away. Apart from the tourist steam train I have seen only three trains in twelve months! The park opposite is the Warwick Peace Park – a place of quiet and sanctuary – None of this amounts to high impact uses as alleged.</p> <p>The applicant has not addressed the 6 items in PO10.</p> <p>1. Privacy – extended hours means people on the forecourt looking over the fence into my property and the windows of 48 Wallace street at night. People parking outside my house in Locke Street and throwing their fast</p>
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		<p>food packages and soft drink cans out of the windows.</p> <p>2. Safety – I do not feel safe in my house at night with strange men on the forecourt and going to the toilets so close to my boundary. I do not feel safe when the tanker deliveries back up and hit my boundary fence threatening to knock it over (daily event). I do not feel safe when large amount of vapour are discharged when filling propane tanks causing an explosion risk. I do not feel safe when my grass is subject to fume and fall out from diesel vehicles that contaminates my chickens. I do not feel safe using my barbeque when the air is so thick with petrol and diesel fumes there is a risk of explosion. I do not feel safe when I have an asthma attack from the diesel fumes that permeate my house every time tankers refuel the existing tanks.</p> <p>3. Noise - Trucks loading diesel – low flow - can sit on the forecourt with engines running, radios loudly playing for at least 25 minutes. I can hear voices shouting laughing and talking. Doors open and slam. The residents of 46 Wallace street have small children and this noise impacts on the children's bedrooms making it difficult for them to sleep. The noise should stop at 7pm as required now, any extension of time will impact that family's</p>
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		<p>ability to help the children get a good night's sleep. The applicant states that the noise is "not out of character in the area" – it certainly is, most people in Warwick are quietly tucked up at home after 7pm both summer and winter, no other resident in Locke street has to put up with a commercial activity after 7pm at night.</p> <p>4. Odour and fumes – no mention has been made of how the applicant plans to cut the excess odour caused by the venting of tanks when they are refilled. These fumes are heavier than air and collect under the tree and close to my barbeque creating an explosion hazard.</p> <p>The existing vents for the underground tanks are above the roof line on the north side of the building. When a tanker fills the tanks fumes are vented and the vapour falls to the level of my deck causing us to have to go inside and close the windows.</p> <p>This smell is so strong that neighbours in other houses further down Locke street have complained that they have to close their windows when a delivery is made also.</p> <p>Enquiries with the manufacturer show that these above ground tanks proposed do not have vapour recapture and only have "free to</p>
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		<p>air” venting. This will be at a lower level than the existing vents for the underground tanks thus creating even more of a nuisance. If the tanks are increased and the hours extended there will be more deliveries, if there are more deliveries we will suffer more unpleasant discharges of fumes and vapour.</p> <p>There are vapour recapture devices available for both the tanker delivering fuel and for the on-site tanks. This is a standard requirement in New South Wales. This must be required as a minimum for any future development.</p> <p>5. Lighting – I am impacted by lights from the shop into my lounge room at night. The windows are only 3.15m from my windows and I have to pull down block out curtains to block this intrusive light. The shop should shut at 7pm as per the current planning permission but already trades much later especially in summer. Photos on their own facebook page show the red light from the illuminated sign erected without planning approval, floods the local area with an unacceptable red glow.</p> <p>6. Traffic generation – the current managers announce “happy hour” on facebook causing bargain hunters to queue across my driveway blocking access to my property. Extended hours will create more traffic and more</p>
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		<p>problems. Additional diesel tanks will encourage more trucks which, without a slip road into the fuel station, can cause traffic to back up into Wallace street causing a traffic hazard. Please refer to Police for details of accidents already caused.</p>
PO11	<p>Complies with PO11  .....the operation of the site until 10pm  Monday to Saturday and until 9pm  Sunday will not be detrimental to the area</p>	<p>It will be detrimental because increased hours will increase</p> <ul style="list-style-type: none"> <li>• Noise</li> <li>• Fumes</li> <li>• Light pollution</li> <li>• Odour</li> <li>• Traffic generation</li> </ul> <p>It is to be noted that the extended hours are to be reduced by 1 hour on Sundays – what is the logic in this – that the disruption should be less on a Sunday because it is the day of rest?? But it is ok to disrupt us until 10 pm six days a week?</p> <p>In addition to disruption caused by extended trading hours there will be more deliveries and these can be at all times of the day and night. Sometimes they come at 5.30 am on a Sunday (and wake us up with the piercing beep beep beep of the reverse alarm and hiss of air brakes) sometimes as late as 9pm. More deliveries means more disruption and more fumes through the house. Each time we have a delivery we must rush to close all the windows to prevent the odour from permeating every room of the house.</p>

		If I am entertaining on my deck we have to immediately leave the area and come inside and close all the windows. This is the very definition of detriment to neighbours. It is a public health nuisance crossing a boundary and should be controlled by enforcing the existing planning regulation on trading hours and <u>strengthened</u> by requiring no deliveries after those approved trading hours.
PO12	Complies with PO12 . The proposed changes to the operation will not be subject to impacts from the state controlled road network.	A fuel station on a major highway should have a slip lane to prevent accidents. This is a 60 km zone. Traffic queuing to get in creates an accident black spot.
PO13	Not applicable	
PO14 All uses are located, designed , orientated and constructed to minimise noise, odour, lighting and dust nuisance from existing lawful uses.	Complies with PO14 There are no existing lawful uses which could potential impact on the proposed changes	PO 14 says "all uses must..." Adding an above ground tank is a new use and therefore must be constructed to minimise odour nuisance as per PO14. No reference has been made as to how they will recapture the vapour from the new tank when it is filled. The technology exists. No new tank should be installed without a vapour capture device to minimise odour nuisance to neighbouring properties. The technology also exists for the delivery vehicle to recapture the vapour – planning approval should require only such vehicles to deliver to this location.

PO15	<p>Complies with PO15 The proposed inclusion of the above ground fuel tank will reduce the number of fuel tanker deliveries to the site per week from two to three to one per week.</p> <p>There are currently seven on site car parks</p>	<p>This defies logic – if they have greater capacity they will sell more and need more and therefore will need more and longer deliveries.</p> <p>Incorrect. They currently have two to three deliveries per day at times!! If they have additional tanks the deliveries will either be more frequent or just be bigger and take longer and produce more vapour and odour.</p> <p>Incorrect. according to the plan they provided, there are six shown on the plan however in fact there are only five as one is taken up by the propane tanks. The remaining two on the northern side have to be kept clear for the daily tanker delivery to back into, so in fact, apart from the two allocated to the residence, there is one available to the public. This is a very cluttered site and not suited to expanded operations or high volume diesel sales.</p> <p>When the tanker is delivering it blocks access from Wallace street, parks over the public footpath/ road reserve and blocks access to most of the bowsters.</p>
PO16	Complies with PO16	<p>Incorrect. The site has annexed the public footpath/ road reserve and made it part of the forecourt making it dangerous for pedestrians and cyclists. The owner often parks a ute on the foot path blocking pedestrian access. Furthermore the toilets being on the lower</p>

		ground floor accessed by stairs are not accessible for the disabled.
PO17	Complies with PO17. There will be no change to the existing vehicle movements – all areas will remain for the use that they have always be used for.	Incorrect. The applicant will need to move the refuse bins, and the propane tanks to access the new above ground tank – where are they to be re-sited? How will the refueller back in to fill the new tank – the current hoses will not be long enough, creating even greater risk of diesel spills and odour.
PO18	Complies with PO18 – the use has existed at this site for some time, and along with petrol provides for the day to day needs of the residents and travelling public. The proposed changes will not alter this intention.	Local residents can meet their day to day needs during the current opening hours up until 7pm. After that time they are able to access fuel at a safe fuel station with a slip road and 24 hour service at Freedom fuels Wallace street within sight of this station - less than 500 m away. There is no community need or support demonstrated for these extended hours or for the increased service of diesel.
PO19 Sensitive land uses are protected	Complies with PO19	



I would now like to address the “Response to Information Request – 50 Wallace St” dated 22<sup>nd</sup> July 2019 prepared by Gary Hayes and Partners.

Paragraph	Applicants response	My comments
(a)	There will be no additional air conditioning units.....	n/c
(b)	<p>The area is already significantly impacted by noise and light nuisance from adjoining features</p> <p>There will be no changes to the existing building as a result of the proposed development . There is a screen fence erected along both the northern and eastern boundary to maintain the privacy of the residence and reduce any impacts.</p> <p>The use of the site for a service station and food and drink outlet commenced decades ago.</p> <p>Given the sites history as a service station and the other high impact uses surrounding it the operation of the subject site until 10 pm Monday to</p>	<p>I disagree – the area is quiet after 7pm apart from passing traffic. This argument however seems to be that if an area is already noisy we can make it noisier. My counter argument is that if it is noisy we should be looking for noise abatement measures to improve the liveability of the area for the residents not making it worse.</p> <p>The screen fence erected by my predecessors will not screen out the impact of a huge white fuel tank looming over my property. The fuel tank will be so high it will cut out my views of the western sun.</p> <p>The shop was opened as a general store decades ago. It has never previously been primarily a fuel station.</p> <p>This does not answer the question posed by council “ <u>demonstrate how noise and light nuisance will not be created from the proposed operation.</u>” It merely reiterates the incorrect and untrue statements in the Assessment again the Southern Downs Planning scheme. No new information provided here.</p>

	<p>Saturday and until 9pm on Sunday will not be detrimental to the amenity of the area.</p> <p>The only potential dwelling impacted is located opposite at 54 Locke street.</p> <p>Vehicles need to be turned off while refuelling.</p> <p>The existing LED fuel price sign is not of high illumination and does not emit light that would cause a nuisance to residences across the road.</p> <p>It is not a 24 hour operation that is being proposed</p> <p>There will be additional noise resulting from the proposed additional operating hours...there are no mitigation measures.</p>	<p>Incorrect. 46 Wallace Street, 65 Locke Street, 52 Locke Street and 63 Locke Street are all impacted negatively.</p> <p>Incorrect. It has been frequently observed that trucks do not turn off their ignition while refuelling.</p> <p>The Sign is not "existing" it has been installed without planning permission. A google search shows an unilluminated sign in August 2017 and to my memory was installed in September 2018. It is so bright the red light reflects off the windows of the house opposite, it is clearly an unnecessary light nuisance and should be turned off after dark.</p> <p>No, but getting extended hours to 10pm is the slippery slope to 24 hours. It is not required as there are three 24 hour stations in Warwick and there is a 24 hour petrol station within view 500 yards further down Wallace street.</p> <p>Yes there will be more noise more frequently .</p> <p>Agreed there are no mitigating measures other than reducing the hours of operation. The current hours should be enforced.</p>
(c)	<p>There is minimal existing forecourt drainage infrastructure with all stormwater flowing to either Wallace or Locke Street</p>	<p>Correct. So this is not the type of premises that should be expanded. Expanded hours means increased risk of spills. This should remain a small operation. There was an incident on 24<sup>th</sup> November 2018 when a fuel bowser was knocked over at 11.44 am causing a fuel leak ( Warwick Daily News 25 November 2018)</p>

(d)	The proposed above ground tank has a secondary containment sufficient in size ....	What is the proposed tank – enquiries with the supplier indicate that they do not manufacture a 25,000 tank. Further details of all the specifications of the tank are required including overall dimensions, height and weight and recommended distance from residential boundaries. Also no information has been provided as to how this tank is to be filled or vented.
(e)	The cooking and gas refilling have been undertaken on the site for 70 years.	Incorrect. Previous operators used “swap and go” gas bottles with no odour emission.
(f)	The bin is moved to within the parking/driveway area out of business hours and is collected out of business hours	Incorrect: the google maps image shows the refuse bin in its usual place taking up a parking space. The bin is emptied mid – morning during business hours.
(g)	Our client has advised that the advice from the Workplace Health and Safety officer was verbal .... In relation to the location of the proposed tank, its proposed capacity and the separation distances to the adjoining property.	<p>What is the proposed capacity – this is not clear. The manufacturer advised by phone that the tank should be at least 3m from an adjoining residential fence to comply with Australian standards.</p> <p>AS1941 section 2.3 (a) if the storage is located on a floor that is above the building's lowest floor ( ie on a floor that is above the ground floor or basement), its location shall not jeopardise the safety of any areas on lower levels of the building or impede firefighting operations. (b)Flammable vapours and spilt liquids shall be prevented from escaping to any lower levels of the building.</p> <p>AS/NZS 60079.10.1 Flammable liquids. “There shall be no uncontrolled sources of ignition in any space in which a flammable mixture of vapour and air could be present”. My barbeque area abuts the fence next to the area where the tank is to be installed creating an unacceptable risk of ignition.</p>

Completed 07/09/2019 emailed to SDRC 07/09/2019

Robert and Stephanie Molony

54 Locke Street

Warwick QLD 4370

9<sup>th</sup> September 2019

SDRC

Ref: MCU\02066

Dears Ladies and Gentlemen,

Please find attached our response to the above referenced application.

Up until the current operator took over we enjoyed a facility that provided a corner store and fuel outlet; it appeared to operate within its approvals and the capacity of the site, and therefore was of little concern or nuisance value.

The present operator extended the hours, embarked on a campaign to attract trucks, and changed the signage. We are on record as having contacted the council many times in regard to this operation; the advice given to us by council was that little could be done until the operator applied for a DA to cover the extended hours and the new sign, this then would be our opportunity to object.

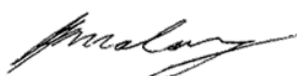
The operator has used the system and played a clever game of brinkmanship with the council and local residents and ratepayers. They waited for the Show Cause and now, twelve months later, we are finally getting to object to the blatantly illegal operation of this garage.

I know we have a system to follow, but I think it totally unreasonable that we have had to suffer a year of this operation, and potentially many months of decision making, appeals and so forth. The simple fact is they have been operating illegally for a year with no penalty. This has been a calculated and deliberate plan to bully the SDRC and get their own way, no matter the cost to the community.

We have a front verandah that we used a lot, it was an enjoyable place to be, and an essential element in communicating with our neighbours and local passers-by; the verandah now sits idle, its amenity has been totally destroyed by the signage and trucks that have been illegally forced on us by this garage.

Please do not sit back and allow this operation to continue; it is unsafe and a blight on the community and the SDRC.

Yours Sincerely



Robert (Bob) Molony



Stephanie Molony

Attached : 1 Response to DA – MCU\02066

2 Copy of (a) Photographs 1-32, (b) LED Article (c) Various Diary extracts of Garage Hours

**RESPONSE TO DEVELOPMENT APPLICATION DA form 1: applicant ref no  
MCU\02066**

**50 WALLACE STREET WARWICK QLD 4370**

Response of Stephanie and Bob MOLONY, Owners/Rate payers of 54 Locke Street  
Warwick 4370

**Introduction**

This application has been made to:

- (a) Change the hours of operation and
- (b) To install an above ground diesel tank.

Our objection to both changes is on the basis that they will adversely affect our quiet enjoyment of our property and create odour, noise and light pollution problems and expose us to the unacceptable risk of air pollution.

We will address each section of the development application, the cover letter and the subsequent response by the applicant.

**Part 3 – Development details**

- Relevant plans. The plans submitted are incorrect in that they have incorrect measurements. They do not show adjoining affected properties at 48 Wallace Street and 65 Locke Street and how close they are to the proposed development. The plans are misleading as they do not show the propane gas tanks installed on the property on a concrete plinth and also show parking spaces in an area reserved for fuel deliveries.
- Section 2 has not been completed for building work and no DA form 2 submitted. The area where the tank is proposed to be sited is not stable being decorative bricks on earth. A reinforced concrete pad will need to be constructed to support the weight of the tank. This area is 700mm above ground level on my side of the fence and will need to be supported and drained – this is building work.
- Covering Letter from Gary Hayes and Associates, page 3, Southern elevation photograph, the red lit sign appears to be turned off. In all the photographs we have it is burning bright.
- Response to Information request, page 2 photograph, this photograph purports to demonstrate that the “existing LED fuel price signage is not of high illumination and therefore at night time, does not emit light that would cause a nuisance to residences which are across the road”. This photograph is deceptive in that it is taken at right angles to the sign and therefore doesn’t show the lighting that is directed at our house. Photographs of the effect of the sign are noted in the “Comments” section below.
- I note that the response to Information Request from Gary Hayes and Associates relies heavily on the fact that this facility has been here in some

form or another for 70 years, and therefore can continue in the same vein. In most areas of life and business we have not arrived in 2019 without changing, for the better, what we did 70 years ago. OH&S and progress in our understanding of what is safe and acceptable practice dictate that we make changes; this facility is desperately in need of a once in 70 year safety overhaul!! To not demand this would be negligent.

- I note that the covering letter from Gary Hayes and Associates, page 4 Car Parking etc states there are seven on-site car parking spaces, in other documents they claim six; this is incorrect, effectively there is only one car parking space, (see comments to PO7).

#### Part 7 – Further Details

- Hazardous chemical facilities  
Diesel is a hazardous chemical and form 69 should have been submitted.

Performance outcome	Applicants assessment	Comments
PO1	Complies, the single storey building exists	This is a THREE story building
PO2 – maximum site coverage of all buildings and structures is 40%	Complies with AO2 The existing buildings have a site coverage of 36.8% excluding the bowser awning. The inclusion of the above ground tank will result in a site coverage of 38.8%  The inclusion of the above ground tank	Why exclude the awning – it is a permanent fixed structure, as are the fuel pumps and the concrete pad they are attached to. The measurements have also ignored the concrete pad and bollards erected on one car park space to house the propane gas tanks. If this is taken into account the coverage exceeds 40%

Performance outcome	Applicants assessment	Comments
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PO2 – maximum site coverage of all buildings and structures is 40%	Complies with AO2 The existing buildings have a site coverage of 36.8% excluding the bowser awning. The inclusion of the above ground tank will result in a site coverage of 38.8%	Why exclude the awning – it is a permanent fixed structure, as are the fuel pumps and the concrete pad they are attached to. The measurements have also ignored the concrete pad and bollards erected on one car park space to house the propane gas tanks. If this is taken into account the coverage exceeds 40%
	The inclusion of the above ground tank within the northern building setback will have minimal impact on the appearance of the site from Wallace street	It will have significant impact both visually and operationally
	There is currently no landscaping on site	Landscaping of a brick patio, flowering trees, outdoor tables and chairs, and a decorative screen exist which is entirely consistent with use.
	There will be minimal change to the scale of the built form of the property	The built form will impact to the north and east of the property
		Re PO 2(c) Clothes drying is done on the balcony rail at the front of the building
PO3	Complies with AO3 Both Wallace street and Locke Street are sealed, kerb and channelled	The fuel station has, without approval, assumed the footpath and the Wallace Street driveway of 65 Locke street, into their operating area. All

		trucks and delivery vans etc park on the footpath and also refuel from there (Photos 1-5). There is no physical delineation of the footpath and the business (Photo 6), where every other fuel outlet in Warwick has this (Photo 7) The footpath is the prime parking area for all vehicles as there is effectively only one parking spot. (See comments against PO 7) Refuelling, particularly of trucks, is also done on the footpath; generally trucks keep their engines running and lights on. Vehicles parked on the footpath create a danger by blocking the view of oncoming traffic for Locke Street traffic wanting to cross or enter Wallace Street. (Photo 9) Access is limited and can be dangerous as there is no slip lane on Wallace Street (Photo 8). If entry is via Locke Street then this street is often blocked at the corner, creating a dangerous situation for vehicles turning from Wallace into Locke street.
PO4	Complies with AO4. The property is connected to all infrastructure.	There are no gutters around the forecourt to prevent run off to the sewers and storm water drains creating a pollution hazard and a fire hazard.
PO5	Complies with PO5 and AO5 The non-residential use of the building exists on the site and have done for approximately 70 years. There will be no change to the existing façade	This building was constructed as a shop with one bowser. It was never a repair garage or primarily a service station but was "Stablers" general store. It was never intended to service large trucks. (Photos 10-11). The encouragement of large trucks has only started in the last 12 months, before that this was an acceptable petrol



<p>station not causing any disturbance to the neighbourhood. These trucks tend to visit at night, keep their engines on and lights on shining into our property causing light, fumes and noise pollution, they take up to 25 minutes to fill (Photo 12) They queue along Wallace street, then park on the footpath</p> <p>This new service to large trucks is not "providing a service to residents of the surrounding residential area", (PO5) and indeed there is a more suitable 24 hour service station 400 yards down the road with suitable access for cars and trucks, (Freedom Fuels Wallace Street) so it is an unnecessary change.</p> <p>There is no change to the façade but there has been a change to the signage from a softly lit sign to a bright red lit LED sign that severely impacts on our property. <u>No planning permission has been granted for this sign.</u> (Photo 15 shows the effect this sign has on the inside of our house).</p> <p>The operator is not interested in the local residents and directly targets (Facebook – email etc) large trucks, to the detriment of the local residents. The number of trucks and the badly damaged footpath (photo 13-14), both make the place dangerous and unattractive to local shoppers etc. This part of Wallace and Locke streets is purely residential, it is not an industrial area. The items sold will not change but the volume will, with more diesels available more</p>	<p>The operation provides for the day to day needs of the residents in the area and travelling public. There will be no change to the items sold from the site as a result of this application.</p>	

		trucks will fill up causing more noise, odour, light pollution and generally more congestion at a very dangerous intersection. There has been a number of accidents at this intersection in the past twelve months. To demonstrate the operator's disdain for the community, the SDRC and their approvals etc, and the environment, a few months ago he pressure cleaned the forecourt, between 4am and 6am.	
	Not applicable		How can it comply and <u>not</u> achieve the setbacks??  The site plan Provided by Gary Hayes and Partners indicates there are six parking spaces, this is grossly inaccurate. The two car parks under the residential accommodation are used by staff, and would never be considered by customers as being available for their use. The three car parks on the north side of the property are taken up variously by rubbish bins a skip, Gas bottles, and the requirement to leave room for the itinerant fuel tankers that call at any time, day or night. Effectively there is ONE car park, most people have no choice but to park on the footpath.
PO6 PO7 (b) non-residential buildings are set back at least 6 m from the primary street frontage  (c) car parks are set back at least 6 m from the street frontage, 3m from any secondary street frontage and 1 m from side and rear boundaries  (d) driveways are set back at least 1 m from side and rear boundaries	Complies with PO7 The building and layout of the site does not achieve the setbacks stipulated in AO7  The above ground tank is proposed to be located within the northern setback. This area has previously been used for an outdoor eating area. It has been indicated that a screen could be erected to ensure the street scape of the site from Wallace street is not impacted by the change. Due to the height of the		

<p>existing fence and part of the site not being not highly visible, the proposed above ground tank will not dominate the site.</p>	<p>The signage, which has NO planning approval, (Large red LED sign) is totally out of character to the local, residential, environment. The photograph on page 2 of Gary Hayes and Partners Response to Information request dated 22 July 2019 is misleading as it is taken at right angles to the sign, Photos (15-19) show the true day and night effect of this sign. This sign directly faces our property and is lit, on average fourteen hours a day; (the operator chooses to ignore the approved hours and makes his own. A copy of diary notes on closing times is attached at the end of this document). The spill of light around and in our house is intolerable; it affects sleeping patterns and the liveability of the front of our house; to extend the hours would be unconscionable.</p> <p>The sign facing south is not required: if you drive north on Wallace Street you don't see it until you have crossed the rail line, then four seconds later you are past it. You are on the wrong side of the road and a quick decision to turn in will usually cause traffic problems. Cars entering from Locke street are going against the majority of the incoming traffic. To entice traffic heading North to make a quick turn and/or cross a double line is dangerous and therefore not acceptable.</p> <p>The operating company (Metro), has a fuel outlet in Stanthorpe, this has only one sign that is</p>
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		appropriately sighted for the traffic on its side of the road.  If the above is not enough, there is a body of scientific opinion that states that strong Led lighting is unhealthy, causing eye damage and interferes with natural daily rhythms.
PO8	Complies with PO8 The proposed above ground tank will be located beside the building, so to retain the existing setback to Wallace Street. A fence can be erected to ensure the streetscape is not adversely impacted.	
PO9	Complies with PO9	An extension of hours is not a logical extension of the existing residential fabric. It will not help anyone around here; there is no justification to extend the hours other than greed. This is a rural community and most people are not out late at night. The only target for the extended hours is trucks, and that can never be construed as "a logical extension of the existing residential fabric" Given the operator currently sets his own hours and ignores the approved hours, to grant an extension would be insulting to the local residents and ratepayers, and could be likened to handing a child the keys to the lolly shop.

<p>PO10</p> <p>"development for uses other than residential uses is located and designed to avoid significantly changing the conditions of privacy, safety, noise, odour and fumes, lighting and traffic generation experienced by occupants of nearby residential uses"</p>	<p>Complies with AO10.1 There will be no changes to the existing building.... All public areas are located on the western side of the building.</p> <p>.....</p> <p>The use of the site for a service station and food and drink outlet decades ago. The site has not ceased operation in this time, however has undergone a number of transformations. Given the sites history as a service station and the other high impact uses surrounding, the operation of the subject site until 10pm Monday to Saturday and until 9pm on Sunday will not be detrimental to the amenity of the area.</p>	<p>1. The site stopped being a significant food and drink outlet more than 12 months ago</p> <p>2. There are no high impact uses surrounding it. There is a hospital within 300 yards. A helicopter calls once or twice a week. There is a rail line 200 m away. Apart from the tourist steam train I have seen only three trains in twelve months! This is not high impact.</p> <p>The applicant has not addressed the 7 items in PO10.</p> <p>1. Privacy – extended hours means truck lights and the Red LED lights shining on the front of our house (Photos 20-26)</p> <p>2. Safety – We do not feel safe when large amount of vapour are discharged, either from petrol, Diesel or propane tanks. This corner has had a number of accidents associated with the petrol station, to extend the hours would increase the danger.</p> <p>3. Noise. Trucks loading diesel can sit on the footpath with engines running, radios loudly playing for at least 25 minutes. We can hear voices shouting laughing and talking. Doors open and slam. The noise must be made to stop at 7pm as required now. The applicant states that the noise is "not out of character in the area" – it certainly is, most people in Warwick are quietly tucked up at home after 7pm both summer and winter, few other resident in Locke street have to put up with this level of noise.</p>
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	<p>4. Odour – no mention has been made of how the applicant plans to handle the extra odour from a new tank; the current level of odour is excessive now, so why consider adding to it.</p> <p>5. Lighting – We are badly affected by lighting from vehicles, particularly trucks and the red LED sign. Trucks in particular, leave the engine running and lights on when filling up. To suggest that we are ok because we have some trees is insulting and shows a lack of understanding of the lighting problem created by this petrol station. Our trees do not stop the lights from the trucks and the red lit sign! (Photo 27 is a daytime shot that shows that the trees do not ameliorate the lights at all.) The red lit sign is directly opposite our property, and shines directly into our house, fourteen hours a day! The shop must be made to shut at 7pm, and the sign must be removed, as per the current planning permission. The operator must be made to comply with the current planning approval.</p> <p>6. Traffic generation – the current managers announce "happy hour" on facebook, causing bargain hunters to queue down Wallace Street and traffic in Locke is often queued near the corner, this is dangerous. Extended hours will create more traffic and more problems. Additional diesel tanks will encourage more trucks which can cause traffic to back up into Wallace street causing a traffic hazard. Please refer to Police for details of accidents already caused. (Photos 28-32)</p>

PO11	<p>Complies with PO11 .....the operation of the site until 10pm Monday to Saturday and until 9pm Sunday will not be detrimental to the area</p>	<p>It will be detrimental because increased hours will increase</p> <ul style="list-style-type: none"> <li>• Noise</li> <li>• Fumes</li> <li>• Light pollution</li> <li>• Odour</li> <li>• Traffic generation</li> </ul> <p>In addition to this disruption there will be more deliveries and these can be at all times of the day and night. Sometimes they come at 5.30 am on a Sunday (and wake us up with the piercing beep beep beep of the reverse alarm and hiss of air brakes) sometimes as late as 9pm. More deliveries means more disruption and more fumes through the house. Each time we have a delivery we must rush to close all the windows to prevent the odour from permeating every room of the house. This is the very definition of detriment to neighbours. It is a public health nuisance and should be prevented by enforcing the existing planning regulation.</p> <p>This site is trying to be something that it is not suited for; it started as a corner store with one petrol pump, this grew to four pumps; to suggest expanding the original use into a truck stop operating sixteen hours a day, is totally unrealistic, totally unacceptable and totally at odds with the "residential" classification of the area.</p> <p>A fuel station on a major highway should have a slip lane to prevent accidents. This is a 60 km</p>
PO12	Complies with PO12. The proposed changes to the operation will not be	

	subject to impacts from the state controlled road network.	zone. Traffic queuing to get in creates an accident black spot.
PO13	Not applicable	
PO14 All uses are located, designed, orientated and constructed to minimise noise, odour, lighting and dust nuisance from existing lawful uses.	Complies with PO14 There are no existing lawful uses which could potential impact on the proposed changes	How can you say that extending the hours will minimise the noise, odour, lighting and dust nuisance, if it is open longer hours then all these must increase. Adding an above ground tank is a new use and therefore must be constructed to minimise odour nuisance as per PO14. No reference has been made as to how they will recapture the vapour from the new tank when it is filled. No new tank can be installed without a vapour capture device to minimise odour.
PO15	Complies with PO15 The proposed inclusion of the above ground fuel tank will reduce the number of fuel tanker deliveries to the site per week from two to three to one per week.  There are currently seven on site car parks	This defies logic – if they have greater capacity they will sell more and need more and longer deliveries. To sell more they will advertise more and attract more trucks, this will significantly increase “the other than residential traffic”  Not true. They currently have two to three deliveries per day!! They operate on an ad hoc basis and get the dregs from other deliveries, this can be anytime day or night. The tanker makes considerable noise, particularly when reversing; and the engine is left on.  Untrue – read the plan, there are six shown on the plan however in fact there are only five as one is taken up by the propane tanks. The remaining two on the northern side have to be kept clear for the tanker delivery to back into so in fact, apart from the two allocated to the



		<p>residence, there is one. This is a much cluttered site and not suited to expanded operations or high volume diesel sales.</p> <p>When the tanker is delivering it blocks access from Wallace street and access to most of the bowzers.</p>
PO16	Complies with PO16	<p>Untrue. The site is so small that the parking spots at the outside pumps can only fit a normal car, anything bigger will encroach on the footpath. To solve their inadequacy they have annexed the public footpath and made it part of the forecourt making it dangerous for pedestrians and cyclists. The owner often parks a ute on the foot path blocking pedestrian access. Further the toilets being on the lower ground floor accessed by stairs are not accessible for the disabled. The footpath is badly potholed from the constant heavy traffic, (Photos 13-14), and is quite dangerous for pedestrians; added to this they think they are on a footpath when in fact they are in the operating area of the petrol station. This site is close to the hospital and many pedestrians are old or in some way handicapped.</p>
PO17	Complies with PO17. There will be no change to the existing vehicle movements – all areas will remain for the use that they have always be used for.	<p>The applicant will need to move the refuse bins, and the propane tanks to access the new above ground tank – where are they to be resited? How will the refueler back in to fill the new tank – the current hoses will not be long enough.</p>
PO18	Complies with PO18 – the use has existed at this site for some time, and	<p>Local residents can meet their day to day needs during the current opening hours up until 7pm</p>

	<p>along with petrol provides for the day to day needs of the residents and travelling public. The proposed changes will not alter this intention.</p>	<p>After that time they are able to access fuel at a safe fuel station with a slip road and 24 hour service at Freedom fuels Wallace street within sight of this station, less than 500 m away. There is no community need demonstrated for these extended hours.</p>
PO19	Complies with PO19	

①



Photo 1



Photo 2

②



4



Photos



Photos

5







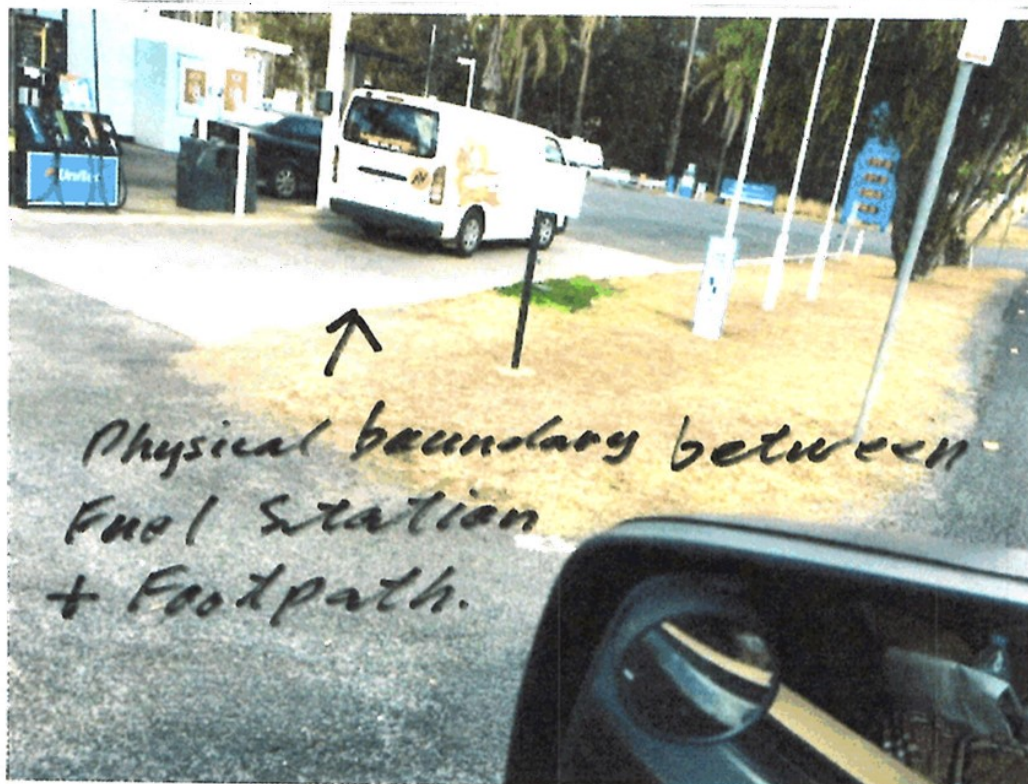






Photo  
8

(8)

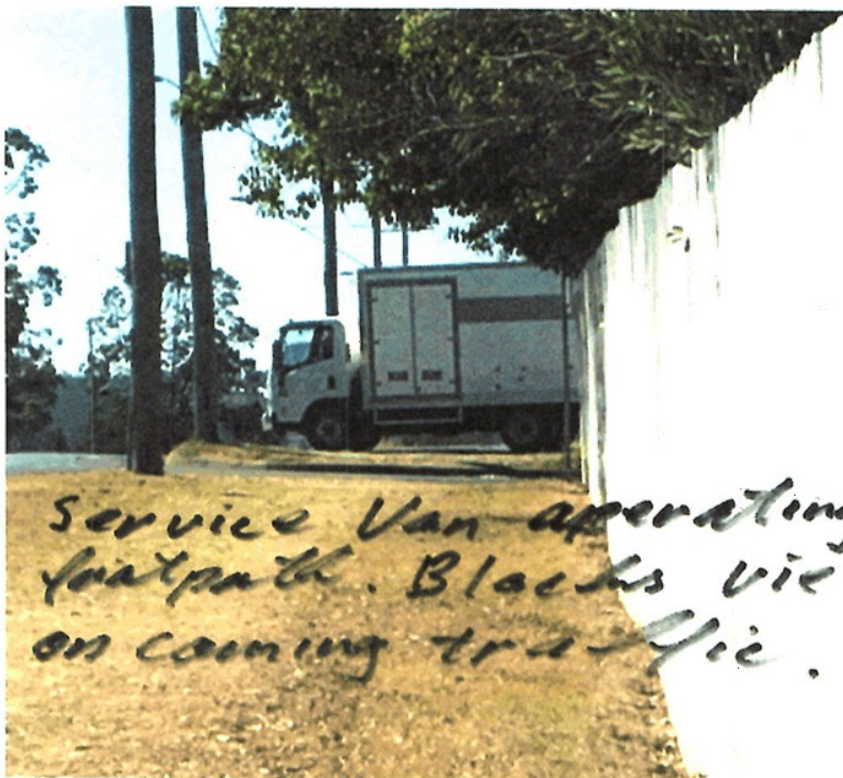


Photo  
9

Service Van operating from  
footpath. Blocks view of  
on coming traffic.

(9)









Photo  
12

12

13



Photo  
13



Photo  
14

14





Photo  
15  
✓

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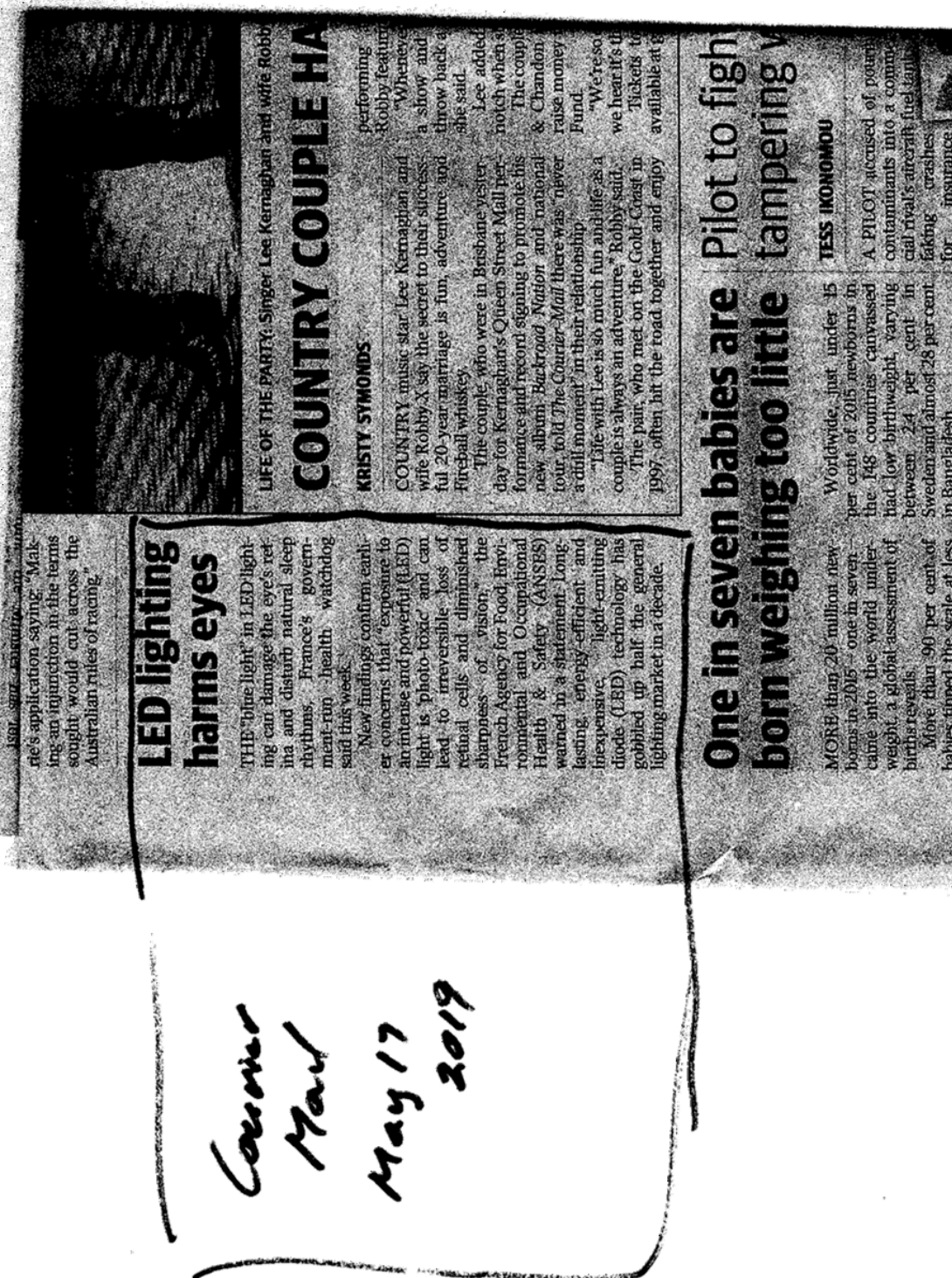
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29









Thurs 30/10 9pm  
Fri 2/11 8:30  
Sun 4/11 7:45  
Mon 5/11 8:30  
Wed 7/11 7pm  
Thurs 8/11 8pm  
Fri 9/11 9pm  
Sat 10/11 8:30  
Sun 11/11 8:30  
Mon 12/11 8:30  
Tues 13/11 8:00  
Wed 14/11 8:45  
0477 0477 405 - 640



Sun 14/10 7:45pm

Mon 15/10 9:40pm

Tues

Wed 17/10 9:50

Thurs 18/10 9:48

Sun 22/10 8:00

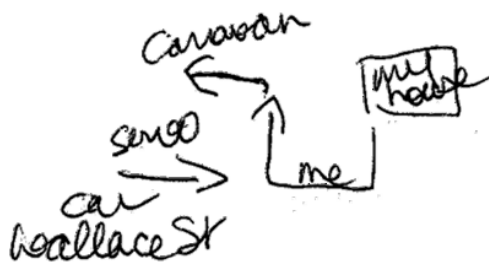
Mon 23/10 9:50

Sat 27/10 7:30

Fri 26/10 9:55

17/5 3:15

I drove out of my driveway  
& proceeded to turn right  
then right again into Locke St  
oncoming car up Wallace St,  
cars at hospital corner,  
as I make the judgement  
to turn I am stopped in  
my track by car dawning  
grant caravan 5 kms  
per hour turning into servo.  
I'm still  $\frac{1}{4}$  in Wallace St  
no where to go. I stood  
on horn. nearly bad  
accident.





Sun 14/10 7:45pm

Mon 15/10 9:40pm

Tues

Wed 17/10 9:50

Thurs 18/10 9:48

Sun 22/10 8:00

Mon 23/10 9:50

Sat 27/10 7:30

Fri 26/10 9:55.

30/4 open 6am close 8:30.  
1/5 open 6am close 8:32  
2/5 open 6am close 8:30  
3/5 open 6am. close 8:30  
4/5 open 6am close 8:30  
5/5 open 7am close 8:30  
6/5 open 6am close 8:25  
7/5 open 6am close 8:30  
8/5 open 6am close 8:30  
9/5 open 6am close 8:30  
10/5 open 6am close 8:30  
11/5 open 6am close 8:30  
12/5 open 6am close 8:30  
13/5 open 6am close 8:35  
red light off  
rest 8:40.  
14/5 open 6am close 8:30



14/4 open 7am.  
close 8:30pm

15/4 close 8:35pm

16/4 close 8:35 pm.

17/4 close 8:30pm

18/4 close 8:30

19/4 good Friday open 6am  
close 8:40

20/4 close 8:30

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21/4 open 7am.  
close 8:30pm

22/4 POP close 8:30.

23/4 7am open. close 8:30.

24/4 open 6am close 8:30

25/4 open 7am close 8:21

26/4 open 6:15 close 8:30.

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2/4  
3/4

open 6am }  
close 8:30pm  
2 trucks in tonight  
took photos.

6/4

close 8pm

7/4

open 7am

8/4

close 8:10pm

9/4

open 6am

9/4

close 8:30pm

10/4

close 8:30pm

11/4

close 8:30pm

13/4

close 8:1pm.

Leicki Sawyer called  
4pm 3/4/19



Mon  
~~Fri~~ 21/1/18 9:17pm

22/1/17 9:00pm

25/1/19 9:05

29/1/19 4:45am  
high pressure  
hosing

27/1

8:30 double druck fuels  
up + run del 8:45  
2nd druck waiting  
then pulls in with  
watches hats in place  
& druck still running.

19/3/19 8:40pm lights out

30/3 ~~closed~~ 8pm

31/3 8pm

opened  
7am

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14/3/19 06146932.  
17/3/19 614 | ~~2870~~ 358  
7290  
18/3/19 2792 502  
23/3/19 614 | 150348 2556/6 = 400?

18/5 7:55am truck arrives  
to fuel up. left @  
8:11am

19/5 open 6am close 8pm.

20/5 open 6am close 8pm

21/5 open 6am

pm 7:27pm one truck pulls  
out

pm 7:28pm next truck  
pulls in.

close 8:27pm

24/5 close 8:30pm

Sat 25/5 open 7am

Sun 26/5 open 7am

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15/5 open 6am close 8:30

16/5 open 6am close 8:30

18/5 open 7am

21/6 open 6am close 8pm

22/6 open 7am close 8:30

23/6 open 7:05am

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Tues 30/10 9pm  
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Tues 13/11 8:00  
Wed 14/11 8:45  
off 11 047 405 - 640





14/3/19 06146932  
17/3/19 614 2870 358  
7290  
18/3/19 2792 502  
23/3/19 614 150344 2558/10 1402

18/5 7:55am truck arrives  
to fuel up. left @  
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 Sun 11/11 8:30  
 Mon 12/11 8:30  
 Tues 13/11 8:00  
 Wed 14/11 8:45  
 0477 0477 405 - 6440



14/3/19 0614 6932  
 17/3/19 614 2870 358  
 7290  
 18/3/19 2792 502  
 23/3/19 614 150348 2556/6 = 4.09?  
 18/5 7:55am truck arrives  
 to fuel up. left @  
 8:11am  
 19/5 open 6am close 8pm.  
 20/5 open 6am close 8pm  
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 out  
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 Sat 25/5 open 7am  
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