

# Notice of decision [SSD modification that was publicly exhibited]

## Section 2.22 and clause 20 of Schedule 1 of the *Environmental Planning and Assessment Act 1979*

<b>Application type</b>	State significant development modification
<b>Application number and project name</b>	DA246/96-Mod-4 Modification to the Terminals Bulk Liquids Storage Expansion
<b>Applicant</b>	Terminals Pty Ltd
<b>Consent Authority</b>	Minister for Planning

### Decision

The Director, Industry Assessments under delegation from the Minister for Planning has, under 4.55(2) of the *Environmental Planning and Assessment Act 1979* (**the Act**) modified the consent subject to the recommended conditions.

A copy of the instrument of modification and conditions is available at:  
<https://www.planningportal.nsw.gov.au/major-projects/projects/mod-4-second-thermal-oxidiser>

A copy of the Department of Planning & Environment's assessment report is available at:  
<https://www.planningportal.nsw.gov.au/major-projects/projects/mod-4-second-thermal-oxidiser>

### Date of decision

7 July 2022

### Reasons for decision

The following matters were taken into consideration in making this decision:

- the relevant matters listed in section 4.15 of the Act and the additional matters listed in the statutory context section of the Department's Assessment Report;
- the prescribed matters under the *Environmental Planning and Assessment Regulation 2000*;
- the reasons given by the consent authority for the grant of the original consent;
- the objects of the Act;
- all information submitted with the modification application during the assessment and information considered in the Department's Assessment Report;
- the findings and recommendations in the Department's Assessment Report;
- the submissions made concerning the modification; and
- the views of the community about the project (see Attachment 1).

The findings and recommendations set out in the Department's Assessment Report were accepted and adopted as the reasons for making this decision.

The decision maker was satisfied that the development to which the consent as modified relates is substantially the same development as the development authorised by the consent (as last modified under section 75W).

The key reasons for granting the modification are as follows:

- the modification to enable the operation of another thermal oxidiser on the site would ensure vapour emission, particularly principal toxic air pollutants such as benzene, can be controlled effectively at all times;
- the modification is permissible with consent and is consistent with NSW Government policies;
- the impacts on the community and the environment can be appropriately minimised, managed or offset to an acceptable level, in accordance with applicable NSW Government policies and standards; and
- the issues raised by the community during consultation and in submissions have been considered and adequately addressed through changes to the project and the recommended conditions of consent.
- weighing all relevant considerations, the modification is in the public interest.

## Attachment 1 – Consideration of Community Views

The Department publicly exhibited the modification application from 30 November 2021 until 13 December 2021 (14 days). The Department received six submissions on the modification during the exhibition period. Randwick City Council does not support the modification.

The key issues raised by the community and considered in the Department's Assessment Report and by the decision maker relates to the question of 'substantially the same development' and potential air quality impact. Other issues are addressed in detail in the Department's Assessment Report.

<i>Issue</i>	<i>Consideration</i>
<p><i>Substantially the same development</i></p> <ul style="list-style-type: none"> <li>concerns relating to whether the addition of a thermal oxidiser to allow the treatment of liquid waste on the site can be considered 'substantially the same development'</li> </ul>	<ul style="list-style-type: none"> <li>A detailed assessment of whether the proposed modification can be considered 'substantially the same development' is provided in Section 5 of the Department's Assessment report.</li> <li>The Department has reviewed the proposal from both a quantitative and qualitative standpoint and is subsequently satisfied that the modification can be categorised as 'substantially the same' development and is within the scope of section 4.55(2) of the EP&amp;A Act.</li> <li>The Department has recommended a condition of consent to ensure the proposed thermal oxidiser and the alternative waste treatment process remains intrinsically linked to the subject site by prohibiting the thermal oxidiser from treating liquid waste that is not generated on the site.</li> </ul>
<p><i>Air quality impact</i></p> <ul style="list-style-type: none"> <li>concerns relating to the potential air quality impacts caused by the use of the proposed thermal oxidiser</li> </ul>	<ul style="list-style-type: none"> <li>A detailed assessment of the impacts of air quality is provided in Section 5 of this report.</li> <li>The Applicant air quality impact assessment noted the proposed thermal oxidiser has an expected destruction efficiency for air impurities of more than 99.99%. In addition, the Applicant's RTS clarified that the predicted cumulative ground level concentrations at surrounding sensitive receptors were shown to be less than the background concentration level in Randwick and well below the criteria for all pollutants considered.</li> <li>The Department has consulted closely with the Environment Protection Authority throughout the assessment process for this modification application. The Department is satisfied the Applicant has made attempts to avoid and minimise air quality impact by adopting a thermal treatment plant with acceptable destruction efficiency for air impurities.</li> <li>The Department has recommended a condition requiring the Applicant to submit an air quality verification study. Should any unforeseen impacts be identified during the verification study, the Applicant would be required to implement additional mitigation measures to address the issue.</li> </ul>