

Ms Deana Burn,
Major Projects
Department of Planning Housing and Infrastructure
Email: deana.burn@planning.nsw.gov.au

21 April 2026

Ref No: F2025/00309

Dear Ms Burn,

RE: MOD 6 IXOM Chlorine Liquefaction Plant (DA35/98-Mod-6 - Submissions Report)

I refer to the notification received from the Department requesting Council's input into the Submissions Report for the IXOM Operations Pty Ltd modification application for the Orica Chlorine Liquefaction Plant (DA35/98-Mod-6), located at 16-20 Beauchamp Road, Banksmeadow. Council notes this modification is for IXOM Operations to construct and operate a new chlorine liquefaction packaging plant on the site.

Council notes that the original consent in 1998 approved the installation of a replacement Chlor-Alkali Plant to produce 35,000 tonnes per annum of gaseous chlorine at Botany. This development replaced the existing mercury-cell technology with a modern membrane cell technology. The development also included closure of the chlorine liquefaction plant.

Having reviewed the Submissions Report, Council provides the following comments and recommended conditions to support environmental protection, and amenity and risk management measures that are appropriate for its proximity to Randwick residential areas.

1. The "Substantially the Same Development" Test

Council reiterates its concern that the establishment of a new on-site chlorine liquefaction plant represents a significant departure from the approved 1998 development, including from aspects of that approval which explicitly removed on-site liquefaction capacity.

The RTS does not demonstrate that the proposal remains "*substantially the same development*" as originally approved. In particular, the RTS:

- Relies significantly on the fact that the approved production capacity remains unchanged, while failing to address the materially different nature, form and consequences of risk introduced by the on-site storage and processing of liquefied chlorine.
- Treats chlorine liquefaction as a "benign" physical handling process yet fails to address the materially different risk profile created by the introduction of large-scale bulk inventories, cryogenic systems and catastrophic failure scenarios that were not contemplated by the original approval.
- Does not properly address established Land and Environment Court decisions which confirm that material increases in risk or public exposure can rule out approval as a modification, even if the site continues to be used for industrial purposes.

2. Introduction of New Off-Site Public Risk

Council maintains its concern that the proponent's risk assessment demonstrates irritation injury contours extending beyond the site boundary into the adjoining Banksmeadow Recycling Yard at 38 McPherson Street, a publicly accessible facility.

The RTS acknowledges this extension but seeks to downplay its planning significance by characterising the land use as "industrial/commercial" and therefore safe for industrial workers. Council does not agree that this approach is consistent with the intent or application of HIPAP 4, which is directed to also protecting members of the public visiting the recycling yard regardless of whether the land is described as industrial or commercial.

Council considers the introduction of new off-site public exposure to be a material change in risk profile, further emphasising that the proposal cannot be treated as substantially the same development.

3. Risk Assessment Findings Do Not Resolve Planning Threshold Issues

Council notes that the RTS and updated risk assessments acknowledge:

- An increase in societal risk, (that is, the overall level of risk to people as a group across the population potentially affected by an incident will increase)
- A shift in individual fatality risk contours under contingent operational scenarios (that is, in certain situations, for example, when the plant is operating in backup or contingency mode, the areas where people could be exposed to serious harm or fatal risk will expand, sometimes closer to where people live or work).

While the RTS argues that the changes remain within accepted safety guidelines, Council notes that simply meeting numerical risk benchmarks does not, on its own, determine whether a proposal can be approved as a modification. The key issue is whether the proposal, as changed, alters the nature or impacts of the development in a meaningful way compared to what was originally approved. While the proponent accepts that risk will increase, it relies on safety benchmarks rather than explaining why those changes do not alter the nature or impact of the development. Section 4.55(2) of the EP&A Act (that a development consent may only be modified if “*the development as modified is substantially the same development as the development for which consent was originally granted.*” Council reiterates that this is the threshold legal test that must be satisfied before numerical impacts or mitigation measures are considered.

Council remains of the view that the proposal does not meet the required legal threshold to be assessed or approved as a modification rather than as a new application.

4. Dangerous Goods Transport and Cumulative Risk

Council remains concerned that the RTS does not address the deficiencies previously identified in relation to dangerous goods transport and cumulative risk, including that:

- the transport and risk assessment still relies on outdated or modelled traffic data rather than current, site-specific traffic counts, meaning it may not reflect how the surrounding road network is actually being used today.
- the cumulative risk assessment departs from the baseline framework required by the SEARs and instead relies on an alternative model that has not been independently validated.
- the assessment acknowledges residential risk levels along Denison Street exceed accepted thresholds yet does not propose any enforceable measures to reduce those risks.
- there are no binding controls to manage tanker movements, queuing or peak-period traffic under contingency operating scenarios.

It should be noted, the Secretary’s Environmental Assessment Requirements (SEARs) for this modification application required the proponent to:

- Assess traffic and dangerous goods impacts using an appropriate and current baseline, and
- Address cumulative transport risk, including interaction with existing and reasonably foreseeable road usage.

Accordingly, the intent of the SEARs is to ensure that impacts are assessed against actual current conditions, not outdated assumptions; and the consent authority can understand the incremental impact of the proposal, particularly in areas already subject to heavy industrial and dangerous goods transport. Council considers that the RTS fails to adequately address the SEARs, as it does not provide a current, site-specific traffic and dangerous goods baseline for Denison Street, instead continuing to rely on outdated or assumed data to assess cumulative transport risk.

5. Contamination and Remediation

Council continues to hold concerns about contamination risks at the site. In particular, the RTS acknowledges that mercury and chlorinated hydrocarbons are migrating off-site as vapours, relies mainly on containment and engineered barriers rather than removing contamination at its source, and proposes to defer independent site audit verification until after approval, despite the site being classified as a significant risk-of-harm site. NSW Environment Protection Authority (EPA) contaminated land practice, requires that matters relating to land suitability, off-site migration and human health protection, to be satisfactorily resolved prior to the grant of consent, particularly where a proposal would introduce additional hazard potential.

6. Noise, Amenity and Consultation

Council also notes that the RTS does not adequately address the following issues regarding noise, amenity and consultation:

- Reliance on existing Environmental Protection Licence (EPL) that exceed contemporary residential amenity benchmarks for increased 24-hour industrial intensity. The project relies on existing noise limits set under the site's environmental licence, which allow higher noise levels than those normally considered acceptable for people living nearby. While these licence limits are designed to control noise pollution from an industrial site, they do not directly protect residential comfort or sleep, particularly at night. The RTS does not explain why it is reasonable to increase or maintain round-the-clock industrial activity near homes using these higher limits, or how residential amenity would be protected when additional plant is operating overnight. Without this justification, there is concern that noise impacts on nearby communities could increase, particularly during night-time periods when people are most sensitive to disturbance.
- worst-case operational noise assessment. Council is concerned that the noise assessment does not clearly examine the loudest realistic operating conditions, particularly at night, making it unclear whether nearby residents would be adequately protected from noise impacts during peak operations. Noise impacts are most noticeable and disruptive during these peak periods, not under average conditions, and night-time noise can be especially intrusive when background noise levels are low, and people are trying to sleep. Without a clear assessment of these worst-case scenarios, there is no confidence that noise impacts would remain acceptable or that appropriate mitigation measures could be put in place before approval is granted.
- Council's concern that, while the consultation undertaken may meet minimum procedural requirements, it does not reflect the seriousness of the hazards and risks associated with the IXOM proposal. In this case, the project involves the reintroduction of on-site chlorine liquefaction, increased handling of liquefied chlorine, and acknowledged extensions of risk contours beyond the site boundary, yet consultation was largely limited to standard notification and opportunities to lodge submissions based on highly technical documentation. Council considers that this approach may not provide surrounding communities, including residents within the Randwick local government area, with clear, accessible explanations of potential safety, noise and emergency-related impacts, nor did it involve engagement commensurate with a proposal involving hazardous materials and potential off-site effects. As a result, while consultation may have met procedural requirements, it did not adequately reflect the potential impacts of this specific proposal on neighbouring communities.

Without Prejudice – Draft Conditions (If Approval Is Nonetheless Contemplated)

Without prejudice to Council's position outlined above, and solely in the event that the Department is of the mind to grant approval, Council submits the following draft conditions: Council reiterates that the imposition of conditions cannot rectify the fundamental legal deficiencies identified. In these circumstances, any approval should be supported by legal advice confirming that the proposed modification constitutes substantially the same development as approved.

A. Independent Verification Prior to Construction

Independent Risk Audit

Prior to the commencement of any works, an independent quantitative risk audit (not prepared by or previously engaged by the proponent) shall be submitted to the Department, confirming:

- Verification of all critical safeguard availability assumptions (including scrubbing systems); and
- That all risk modelling inputs remain conservative and valid.

B. Public Risk and Land-Use Protection

No Public Access Within Hazard Contours

The consent holder shall ensure that no land accessible to the public is located within any off-site injury or irritation hazard contour arising from the operation of the proposed chlorine liquefaction plant, as identified in the approved risk assessment. Where such exposure is identified, operations shall be modified or curtailed until compliance is achieved.

C. Dangerous Goods Transport

Tanker Queuing and Staging

At all times, including under contingent operating scenarios, no tanker queuing, staging or idling shall occur on public roads. All waiting, holding and loading activities shall be contained wholly within the site.

Updated Traffic and DG Monitoring

Prior to the commencement of operations, the consent holder shall undertake updated, site-specific traffic and dangerous goods movement counts on Denison Street to verify the cumulative transport risk baseline required by the Secretary's Environmental Assessment Requirements. The results shall be submitted to the Department for endorsement and, where actual traffic conditions differ materially from those assumed in the approved assessment, the consent holder shall implement measures to address cumulative transport risk to the satisfaction of the Department before continuing operations.

D. Contamination and Remediation

Pre-Determination Site Audit Statement

A NSW EPA-accredited Site Audit Statement confirming the suitability of the land for the approved use shall be submitted to the satisfaction of the Department prior to commencement of any construction works.

E. Noise and Amenity

Worst-Case Noise Validation

Prior to operation, independent acoustic validation shall demonstrate compliance with night-time amenity and intrusiveness criteria under a worst-case concurrent operational scenario, at the most affected residential receivers.

F. Community Notification and Emergency Preparedness

Community Notification Protocol

A Community Notification and Emergency Communication Plan shall be prepared in consultation with Randwick City Council, Bayside Council and local emergency services, detailing notification mechanisms, triggers and responsibilities.

Should the Department require clarification of any matter, please contact Council's Coordinator Strategic Planning, David Ongkili, on 9093 6793 or david.ongkili@randwick.nsw.gov.au.

Yours sincerely,



Stella Agagiotis

Manager Strategic Planning

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<p>English</p> <p>If you need help to understand this letter, please come to Council’s Customer Service Centre and ask for assistance in your language or you can contact the Telephone Interpreter Service (TIS) on 131 450 and ask them to contact Council on 1300 722 542.</p>	<p>Greek</p> <p>Αν χρειάζεστε βοήθεια για να καταλάβετε αυτή την επιστολή, παρακαλείστε να έρθετε στο Κέντρο Εξυπηρέτησης Πελατών της Δημαρχίας (Council Customer Service Centre) και να ζητήσετε βοήθεια στη γλώσσα σας ή τηλεφωνήστε στην Τηλεφωνική Υπηρεσία Διερμηνέων (Telephone Interpreter Service — TIS) τηλ. 131 450 και να ζητήσετε να επικοινωνήσουν με τη Δημαρχία τηλ. 1300 722 542.</p>	<p>Italian</p> <p>Se avete bisogno di aiuto per capire il contenuto di questa lettera, recatevi presso il Customer Service Centre del Municipio dove potrete chiedere di essere assistiti nella vostra lingua; oppure mettetevi in contatto con il Servizio Telefonico Interpreti (TIS) al 131 450 e chiedete loro di mettersi in contatto col Municipio al 1300 722 542.</p>
<p>Croatian</p> <p>Ako vam je potrebna pomoć da biste razumjeli ovo pismo, molimo dođite u Općinski uslužni centar za klijente (Council’s Customer Service Centre) i zatražite pomoć na svom jeziku, ili možete nazvati Telefonsku službu tumača (TIS) na 131 450 i zamoliti njih da nazovu Općinu na 1300 722 542.</p>	<p>Spanish</p> <p>A la persona que necesite ayuda para entender esta carta se le ruega venir al Centro de Servicios para Clientes [Customer Service Centre] de la Municipalidad y pedir asistencia en su propio idioma, o bien ponerse en contacto con el Servicio Telefónico de Intérpretes [“TIS”], número 131 450, para pedir que le comuniquen con la Municipalidad, cuyo teléfono es 1300 722 542.</p>	<p>Vietnamese</p> <p>Nếu quý vị không hiểu lá thư này và cần sự giúp đỡ, mời quý vị đến Trung Tâm Dịch Vụ Hướng Dẫn Khách Hàng của Hội Đồng Thành Phố (Council’s Customer Service Centre) để có người nói ngôn ngữ của quý vị giúp hay quý vị có thể liên lạc Dịch Vụ Thông Dịch qua Điện Thoại (TIS) ở số 131 450 và yêu cầu họ liên lạc với Hội Đồng Thành Phố (Council) ở số 1300 722 542.</p>
<p>Polish</p> <p>Jeśli potrzebujesz pomocy w zrozumieniu treści tego pisma, przyjdź do punktu obsługi klientów (Customer Service Centre) przy Radzie Miejskiej i poproś o pomoc w języku polskim, albo zadzwoń do Telefonicznego Biura Tłumaczy (Telephone Interpreter Service — TIS) pod numer 131 450 i poproś o skontaktowanie się z Radą Miejską (Council) pod numerem 1300 722 542.</p>	<p>Indonesian</p> <p>Jika Anda memerlukan bantuan untuk memahami surat ini, silakan datang ke Pusat Pelayanan Pelanggan (Customer Service Centre) Pemerintah Kotamadya (Council) dan mintalah untuk bantuan dalam bahasa Anda, atau Anda dapat menghubungi Jasa Juru Bahasa Telepon (Telephone Interpreter Service - TIS) pada nomor 131 450 dan meminta supaya mereka menghubungi Pemerintah Kotamadya pada nomor 1300 722 542.</p>	<p>Turkish</p> <p>Bu mektubu anlamak için yardima ihtiyaciniz varsa, lütfen Belediye’nin Müşteri Hizmetleri Merkezi’ne gelip kendi dilinizde yardım isteyiniz veya 131 450’den Telefonla Tercüme Servisi’ni (TIS) arayarak onlardan 1300 722 542 numaradan Belediye ile ilişkiye geçmelerini isteyiniz.</p>
<p>Hungarian</p> <p>Amennyiben a levél tartalmát nem érti és segítségre van szüksége, kérjük látogassa meg a Tanácsház Ügyfél Szolgálatát (Customer Service Centre), ahol magyar nyelven kaphat felvilágosítást, vagy hívja a Telefon Tolmács Szolgálatot (TIS) a 131 450 telefonszámon és kérje, hogy kapcsolják a Tanácsházat a 1300 722 542 telefonszámon.</p>	<p>Czech</p> <p>Jestliže potřebujete pomoc při porozumění tohoto dopisu, navštivte prosím naše Středisko služeb pro veřejnost (Council’s Customer Service Centre) a požádejte o poskytnutí pomoci ve vaší řeči anebo zavolejte Telefonní tlumočnickou službu (TIS) na tel. číslo 131 450 a požádejte je, aby oni zavolali Městský úřad Randwick na tel. číslo 1300 722 542.</p>	<p>Arabic</p> <p>إذا أردت مُساعدة لفهم هذه الرسالة، نرجوك الحضور إلى مركز خدمة عملاء المجلس وأطلب المساعدة في لغتك، أو يُمكنك الاتصال بخدمة الترجمة الهاتفية (TIS) على هاتف رقم 131 450 وأطلب منهم الاتصال بالمجلس على رقم 1300 722 542.</p>
<p>Chinese</p> <p>如果你需要人幫助你了解這封信的內容，請來市政會顧客服務中心要求翻譯服務，或者與電話傳譯服務 (TIS) 聯繫，號碼是 131 450。請他們幫助你打電話給市政會，號碼是 1300 722 542。</p>	<p>Russian</p> <p>Если Вам требуется помощь, чтобы разобраться в этом письме, то, пожалуйста, обратитесь в Муниципальный Центр Обслуживания Клиентов и попросите оказать Вам помощь на Вашем языке или же Вы можете позвонить в Телефонную Службу Переводчиков (TIS) по номеру 131 450 и попросить их связаться с Муниципалитетом по номеру 1300 722 542.</p>	<p>Serbian</p> <p>Ako vam treba pomoć da razumete ovo pismo, molimo vas da dođete do Centra za usluge mušterijama pri Opštini (Customer Service Centre) i zamolite ih da vam pomognu na vašem jeziku, ili možete nazvati Telefonsku prevodilačku službu (TIS) na 131 450 i zamolite ih da vas povežu sa Opštinom na 1300 722 542.</p>

