

Our ref: F2007/00656

22 April 2022

Mr Jeffrey Peng
Industry Assessments
Major Projects
Department of Planning, Industry and Environment
Locked Bag 5022
Parramatta NSW 2124

Dear Jeffrey,

**Re: Response to RtS for Modification 4 (DA246/96) Second Thermal Oxidiser – 45
Friendship Road, Port Botany**

Thank you for the opportunity to comment on the Proponent's Response to Submissions (RtS) in relation to the modification 4 (MOD 4) application to modify DA246/96 for the existing Terminals bulk liquid storage facility. MOD 4 essentially seeks to install a new thermal oxidiser with associated infrastructure at the existing bulk liquid storage facility site at 45 Friendship Road, Port Botany.

Council has reviewed the RtS prepared by Quantem and maintains its concern that the installation of a new thermal oxidiser unit represents a substantial departure from the terms of approval granted under Modification 2 (MOD 2) for the following reasons:

1. The proposed MOD 4 will provide a waste disposal process for treatment of a liquid waste stream whereas the MOD 2 process is for vapour waste stream only. Furthermore, the current MOD 2 approval allows for the storage and handling of liquid waste only and not for destruction of this waste. The proposed destruction of liquid waste via the proposed second thermal oxidiser effectively constitutes a materially and fundamentally different disposal process with significantly different technical, environmental and safety requirements and regimes. Among other things, the introduction of a new thermal oxidiser effectively introduces a mixed waste stream treatment regime on-site which will be more challenging to manage particularly in terms of the need for sufficient temperature control to ensure effective destruction of both waste components.
2. The approved use under MOD 2 was for the expansion of a bulk liquid storage facility with ancillary and associated loading/ unloading facilities, pipelines, safety systems, landscaping. Prior to this, a Vapour Recovery Unit (VRU) was approved under MOD 1 also as an ancillary equipment to support the facility. All these ancillary components are integral to the existing bulk liquid tank facility as an "environmental management system" on-site but not as an existing waste treatment facility that can be legally modified in the manner proposed under MOD 4. Furthermore, Council contends that the pre-existing operation of a "Vapour Emission Control System" (VECS) under MOD 1 constitutes an emission

management facility only and not an emissions destruction facility as is being proposed. Therefore, the development approved under MOD 1 and 2 does not provide adequate legal and procedural basis for the introduction of a larger, different and more impactful waste treatment facility (namely the second thermal oxidiser) via a Section 4.55(1A) modification (MOD 4) application.

3. The proposed second thermal oxidiser will be 50 per cent larger in capacity along with a new, added liquid waste burning capability whereas the existing facility has a limited vapour-only disposal capability which will remain in operation. As such, the proposal is not a replacement like for like, rather an additional and distinct, larger combustor facility which cumulatively results in a greater waste treatment capability on-site. The use of a modification application to install a second thermal oxidiser of this nature will facilitate a creep in the scale, capacity and function of waste treatment on-site, which, if approved, potentially sets a precedent for further unchecked expansion in the future. More significantly, it will facilitate the use of the thermal oxidiser as a stand-alone waste treatment plant and not as an ancillary to existing bulk liquid fuel terminal.
4. The proposed MOD 4 thermal oxidiser constitutes a waste treatment facility that cannot be considered ancillary to the existing development given its scale and capacity. It has the potential to cater for waste treatment from a wider area than the subject bulk liquid storage facility site. In this regard, Council notes that the plans for the proposed thermal oxidiser are submitted in parallel with a CDC for a new pipeline connecting the subject site and the existing bulk liquids storage tank development in Site C at 51 Friendship Road (previously known as 49 Friendship Road). The CDC for the pipeline seeks to facilitate future waste transfer from an external site, namely, Site C at 51 Friendship Road to the subject site for processing and incineration at the new thermal oxidiser. Council is concerned that the RtS package for the Terminals modification application (DA 246/96-Mod-4) does not substantively address the implications and impacts of importing waste in this manner beyond the existing operational functionality of the bulk liquid storage facility on the subject site at 45 Friendship Road. Furthermore, the proposed incineration of liquid waste, and the ability to import such waste from beyond the subject site, does not comply with the Transport and Infrastructure SEPP (which replaces the Three Port SEPP) as being a Port-related development. Rather, it represents a new and distinct land use that is not currently undertaken in the existing facility so that the proposed MOD 4 is not substantially the same development as that approved under MOD 2.
5. While it is noted that the Proponents SEE states that the parallel CDC for the pipeline relates to Site C at 51 Friendship Road and therefore is separate from the MOD 4 Application, it should be noted that there are specific conditions on the development consent for establishment of the existing bulk liquids terminal in Site C at 51 Friendship Road as to how waste is to be treated from the existing development in Site C at 51 Friendship Road. Specifically, Conditions Nos 6 and 7 of the 1977 Development Consent DA159/1977 state as follows:
 - “(6) *The Details of the collection, storage and disposal of trade waste spillage and stormwater run-off from the site shall be submitted for approval by the Council.*
 - (7) *All run-off from the storage warehouse and the blended products holding tanks shall be intercepted, treated and disposed of to the satisfaction of Randwick Council and State Pollution Control Commission;”*

Council would advise that any disposal of waste from the bulk liquids terminal in Site C at 51 Friendship Road via a new pipeline to the proposed second thermal oxidiser at the subject site (Sites A and B at No. 45 Friendship Road) is not supported by Council and would, in fact, represent a breach of these conditions. It would set a precedent for treating off-site waste at this new facility which in effect, creates waste treatment facility contrary to the bulk liquid fuel terminal that was granted approval in the first place. The treatment of waste as proposed would be inconsistent with the original approval and permissibility.

6. A “waste treatment facility” is not exempt development under the Transport and Infrastructure SEPP 2021 (formerly the Three Ports SEPP). This same assessment should be applied when considering the “substantially the same development test” for the MOD 4 proposal. The burning of liquid waste under MOD 4 is materially different in nature, operation and impacts from the burning of vapours under MOD 2. In fact, the Transport and Infrastructure SEPP 2021 defines exempt development as development that, among other things, “*must not be ... of a kind specified as designated development*” (Schedule 3, Environmental Planning and Assessment (EP&A) Regulation 2000). Any proposal for a new liquid waste incinerator should especially consider the fact that such a proposal would be used for incinerating Dangerous Goods which significantly meets the definition of designated development as per the following relevant excerpt from Schedule 3 to the EP&A Regulation 2000) below:

Designated Development

32 Waste management facilities or works

- (1) Waste management facilities or works that store, treat, purify or dispose of waste or sort, process, recycle, recover, use or reuse material from waste and—
 - (a) that dispose (by landfilling, incinerating, storing, placing or other means) of solid or liquid waste—
 - (i) that includes any substance classified in the Australian Dangerous Goods Code or medical, cytotoxic or quarantine waste, or

Australian Dangerous Goods Code includes Class 3 substances which are Flammable liquids i.e. fuels

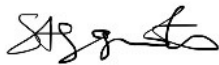
7. The existing thermal oxidiser burns vapours from existing operations and is licensed under EPL1048. This licence does not cover the combustion of liquid waste as proposed under MOD 4. Accordingly, the proposed works are materially different in activity and scale and cannot be carried out under Terminals existing Environmental Protection Licence EPL 1048 as authorised by the NSW EPA. An amendment to this licence is required before operation is permissible, this is stated by the applicant in the response table. Council contends that it is not substantially the same development if it requires a new licence.
- While the claimed economic and environmental benefits of the proposed MOD 4 liquid waste disposal process, as detailed in the RtS, are laudable, they do not justify the installation of this process via a modification application. The technical merits and environmental obligations of a new liquid waste incinerator should be the subject of a thorough development application assessment and determination process. This will allow for comprehensive stakeholder and agency input as well as community engagement and transparency especially in relation to the proposed incineration (disposal) of flammable liquids classified in the Australian Dangerous Goods Code. As mentioned above, such an activity constitutes designated development pursuant to Schedule 3 to the EP&A Regulation 2000. Designated development, as defined under the EP&A Regs Schedule 3, Section 32, are “high-

impact developments” and likely to generate pollution. Furthermore, the facility is within a 100m metres of an environmentally sensitive area, in this case, Botany Bay, both as an estuary and natural water body. Accordingly, the proposed development must be accompanied by an EIS, which requires public notification for at least 28 days. In this context, the proposal should not be considered as a DA modification but as a fresh stand-alone new development.

In summary, respectfully, Council reiterates its position that the proposed MOD 4 thermal oxidiser is not supported should be subject to a separate development application assessment process that comprehensively addresses the long term operational intentions for, and environmental impact of, the original approved development rather than be via a modification to an earlier, possibly unrelated, MOD 2 consent.

If you have any questions regarding Randwick City Council’s submission, please contact Bronwyn Englaro, Senior Sustainability Officer on 9093 6796, or David Ongkili, Council’s Coordinator Strategic Planning On 9093 6793.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Stella Agagiotis', with a stylized flourish at the end.

Stella Agagiotis
Manager Strategic Planning

<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 služni 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 yardıma 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 Tölmács 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 واطلب المساعدة في لغتك، أو يُمكنك الاتصال بخدمة الترجمة الهاتفية (TIS) على هاتف رقم 131 450 واطلب 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) 聯係，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 mušterijaма при Општини (Customer Service Centre) и замолите их да вам помогну на vašem језику, или можете назвати Телефонску преводилачку службу (TIS) на 131 450 и замолите их да вас повежу са Општином на 1300 722 542.</p>