

**Submission
No 246**

**INQUIRY INTO PERFORMANCE OF THE NSW
ENVIRONMENT PROTECTION AUTHORITY**

Name: Mr Steve Haigh

Date received: 15/09/2014

I would like to raise an issue regarding the performance of the NSW EPA to be considered in the inquiry into the performance of the NSW EPA.

My issue relates to objective (c) Any other related issues.

This issue is the failure of the EPA to have in place a requirement for planning authorities to consider resultant transport risk to surrounding land uses and assess those risks levels against the Department of Planning's applicable criteria for land use safety planning as outlined under HIPAP No 4 through the planning and development control process.

Attached is a copy of an affidavit dated 30/10/2009, provided to the Supreme Court by Professional Risk Consultant, Dr John McCracken.

Clause 2 highlights that DUAP was negligent in having breached its duty of care for not properly identifying the whole extend of land uses exposed to unacceptable risk, including the transportation of hazardous materials, in either of its published reports of quantified risk in its 1996 Port Botany Safety Study and the 2001 Botany/Randwick Industrial Area Land Use Safety Study.

Dr McCracken's affidavit provides evidence at Clause 3 & 4 (a) of where transportation of hazardous materials was not considered through the planning and development control process for the Orica Replacement Chlor-Alkali Plant, 1999.

The Orica 1998 EIS at page 51 stated (see clause 4 (a)); as the proposed development does not increase the risk associated with the transportation of potentially hazardous material...., this issue should not form a critical part in the decision on whether the development should be approved or not. Therefore transport risk has not been quantified as part of the PHA (Preliminary Hazard Analysis).

At 4 (b), Dr McCracken found the argument that a proposed development might not increase risk as was posed in 4 (a) above as a reason for not undertaking a transport risk assessment is without foundation and is invalid.

Clause 4 (a) also said; A quantitative and qualitative transport risk assessment will form part of subsequent studies as the design of the modified chlorine and derivative plant is finalised. Also, as part of the Botany/Randwick study the risk from the transport in the region will be assessed, including the risk associated with chlorine and HCl transport to and from the Orica site.

Clause 4 (d); Dr McCracken said - certainly no mention was made of this (above) in the 2001 Study.

I now refer to the submission of the Hillsdale and Eastgardens Resident Action Group (HERAG) provided to the Inquiry 15/9/2014.

The second issue also relates to failure of the EPA to have a process in place to ensure that land is not developed if there is inappropriate risk from transport routes carrying significant volumes of dangerous goods traffic.

Risk impacts of dangerous goods traffic around the industrial area were not included in the scope of the 2001 Study.

The DPE has concealed transport risk from the public on routes carrying significant volumes of dangerous goods traffic in the vicinity of the Botany/Randwick Industrial area.

Attached is a copy of the QRA Dangerous Goods Transport Denison St undertaken recently for the Bunnings Warehouse proposal in Denison St. The HERAG submissions details the QRA.

This is the first time that the DPE has publically released a quantitative transport risk assessment for Denison St.

The QRA shows large residential areas in Denison St and parts of Wentworth Ave that will now be affected by planning strategies and controls contained in the 2001 Botany/Randwick Industrial Land Use Safety Study.

Residences in the risk zones have been unknowingly exposed to unacceptable levels of risk imposed from potentially hazardous risk from local transportation of hazardous materials.

Under SEPP55, planning authorities are required to consider, at the development approval and rezoning stage, the potential for contamination to adversely affect the suitability of a site for its proposed use.

There is no process for the EPA to ensure that land is not developed if there is inappropriate risk from transport routes carrying significant volumes of dangerous goods traffic.

Regards

Steve Haigh