

**Submission
No 129**

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

Organisation: Leichhardt Municipal Council

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**Re: Parliamentary Inquiry into the performance of the NSW
Environmental Protection Authority**

At the Leichhardt Municipal Council Ordinary meeting on 26 August 2014, Council resolved to make a submission to the Parliamentary Inquiry into the performance of the NSW Environmental Protection Authority ('EPA'). The Council resolution required that the submission is to only relate to one of the terms of reference - the regulation of cruise passenger ships at the White Bay Cruise Terminal at Balmain.

By way of background on 2 February 2011, the former NSW Minister for Planning Anthony Kelly granted a Part 3A Approval for the construction and operation of a Cruise Passenger Terminal in White Bay (NSW Department of Planning Ref. MP10_0069 dated January 2011). Council had strongly objected to the proposal prior to its subsequent approval.

It has been brought to Council's attention that since the opening of the Cruise Terminal, in April 2013 there have been a large number of community concerns and submissions regarding odour, air quality, health concerns, noise and vibration when ships are in port. To date, Council has forwarded approximately 158 resident submissions from 42 households and attended numerous meetings regarding the community concerns and the investigations.

Based on the level of community concern it is Council's opinion that the EPA (and other State Agencies) have not been effective in reducing the potential risks to human health and preventing environmental degradation in respect of cruise passenger ships at the White Bay Cruise Terminal in view of the emissions of fumes, odours, noise and vibrations from cruise ships berthed at the terminal.

Furthermore, it is considered that the EPA has not been effective in ensuring that adequate controls were incorporated into the conditions of consent and that the EPA has been ineffective in the subsequent regulation of these emissions and implementation of mitigation measures.

The EPA would or should have been a key referral agency during the assessment of the Part 3A application and could have advised of appropriate conditions which could potentially mitigate the current community concerns. It is considered the consent has a number of shortfalls including:

- not mandating the installation of a ship to shore power system when the terminal was built which would enable use by current or future vessels with capability
- not stipulating the type, age and environmental mitigation features of ships permitted to be berthed at the terminal
- not placing a maximum number of ships per year to be able to use the port. As such, notwithstanding ongoing community submissions and regulator investigations, the number of ships using the facility continues to grow
- general limitations on the collection of air quality data to nitrogen oxides, sulfur dioxides and particulates. However, diesel fuel exhaust has numerous other types of elements which could have an impact on the community that could be tested for
- limiting the number and location of the Air Quality Monitoring stations could have been increased from one permanent and one temporary station to a number of ongoing recording locations throughout Balmain and within the Pyrmont area given the proximity and number of ships being berthed at the terminal.
- not detailing protection measures for mitigating vibration from the ships abutting the terminal to the residential area
- not detailing protocols to be put in place to notify ship captains of noise restrictions from announcements / use of PA systems when using the port
- not stipulating protocols for preventing ships causing unreasonable environmental or amenity impacts from being berthed at the facility

Outside the Part 3A approval process, the EPA has a role to play as the Environmental Regulator. However, an *'all of government approach'* has been applied to the issues surrounding the port. This has resulted in a multitude of state agencies being involved including Planning, Ports, NSW Health, EPA and at one point the RMS. The issues associated with this approach include:

- Perceived lack of identity of a lead agency / point of contact
- Perceived lack of leadership and issuing of directives from the NSW's top Environmental Regulator
- Potential confusion within the community can arise regarding which agency is undertaking various elements of the review and actioning the community concerns
- Concerns that have been raised can be overlooked as no single organisation has carriage over all the issues and multiple agencies can receive correspondence

- No single point of communication or an evident cohesive communications strategy regarding progress in investigations, mitigation strategies or actions being undertaken'
- Concerns over the appropriateness of the operator of the site (Port Authority of NSW (formally Sydney Ports)) taking a lead role in addressing the issues when it is perceived that the EPA should be seen as taking charge of dealing with the community concerns that have been raised.

Notwithstanding the potential short falls in the consent conditions and the manner in which the community concerns are being dealt with. The community issues associated with the facility have been 'under investigation' by the EPA and other regulators for an extended period of time. There is uncertainty within the community as to having the issues addressed as no indication for a time period to have mitigation strategies (long or short term) beyond vessel inspections for noise are in place. This is despite the upcoming cruise season over the warmer months of the year where there will be an increase in the number of ships berthed at the facility.

Council further advises that a review of the air quality regulations needs to be undertaken. This review should focus on improving environmental standards from ship emissions to a level comparable to North American and European ports (at a minimum).

On a final note, it is essential that the EPA develop and implement some immediate mitigation measures to address the community concerns in response to the upcoming cruise season.

Thank you for providing Council an opportunity to make comment on this issue, as it is a significant concern to the residents of the Leichhardt Council community.

Peter Gainsford
Acting General Manager
Leichhardt Municipal Council