

**Submission
No 125**

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

Name: Mrs Meredith Southwood

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28 August 2014

The Director
General Purpose Standing Committee No. 5
Parliament House
Macquarie St
Sydney NSW 2000
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Dear Sir/Madam

Performance of the NSW Environment Protection Authority (Inquiry)

Please find attached submission to the above inquiry.

Yours faithfully

Meredith Southwood

Submission

General Purpose Standing Committee No. 5

Performance of the NSW Environment Protection Authority (Inquiry)

This submission is made in respect of Terms of Reference 1(c).

This submission is a personal submission – it reflects the views of the writer and does not purport to represent the views of any organisation.

The submission may, however, reference documents to which the writer has access by virtue of involvement with community organisations, namely Greenwich Community Association and Friends of Gore Bay Inc.

At the time of writing this submission, no permission has been sought to include copies of relevant correspondence but the writer will seek permission to provide such copies if required by the Committee.

The submission relates to the regulation of operations at Gore Bay Terminal, Greenwich, a facility that runs parallel to residential development on Greenwich Peninsula – see attached aerial photograph.

Overview

- . The operations of the petroleum import terminal at Gore Bay (the terminal), now operated by an entity trading under the name Viva Energy Australia, are regulated under EPA Licence 661.
- . This licence was approved in 2000. The terms of the licence are so broad as to effectively allow the licensee to import and store all petroleum products.
- . Prior to October 2012, the then licensee (Shell) operated the terminal as an import and storage facility for a range of petroleum products, the principal product being crude oil. Crude oil was stored at the terminal and pumped to a refinery at Clyde that operated under the Shell banner.
- . On intermittent occasions the terminal operated as a terminal for petrol when the refinery at Clyde was not operational.
- . In 2011 Shell announced that it was planning to decommission its Clyde refinery.
- . In January 2012 Shell lodged with the NSW Department of Planning a Scoping Report for a State Significant Development for capital works at the terminal.
- . In mid 2012 Shell announced that it was to decommission its Clyde refinery and that petrol would replace crude oil as the main product imported through the terminal from October 2012.
- . No planning approval was sought in respect of this product change nor has this been required subsequently.
- . On 28 August 2012 a letter was sent by a community group to the Hon Robyn Parker MP as the Minister for the Environment Protection Agency seeking clarification as to the possible risks of a changed operation and confirmation that the conditions of Licence

661 were adequate to protect the health and safety of the community and the environment.

- . On 26 September 2012 Mr Barry Buffier advised the community group as follows:-
 1. that Licence 661 allowed the licensee to import and store petroleum products including petrol and crude oil
 2. that in response to the proposed changes and as part of the development assessment process, the EPA would review Licence 661
 3. that the EPA understood the community's concern about possible health effects of the changed operation but it was not possible for the EPA to comment on these aspects until the Environmental Impact Statement (EIS) for the State Significant Development was available.
- . In October 2012 petrol replaced crude oil at terminal.
- . As of 28 August 2014, almost 2 years since the change occurred, no Environmental Impact Statement has been exhibited and no review of Licence 661 has occurred.
- . The EPA is not constrained in the performance of its duties by the delay in exhibition of the EIS. To attribute a delayed EIS as a excuse for a delayed review of Licence 661 demonstrates a failure on the part of the EPA to fulfill its statutory obligations, especially when it is aware of the level of concern within the community about the impact of product change at the terminal.

It is submitted that the EPA has not performed in accordance with its objectives in the following respects:-

Objective	Evidence of non-performance
<p>Section 6 (1) (b) (b) to reduce the risks to human health and prevent the degradation of the environment, by means such as the following:</p> <ul style="list-style-type: none"> • adopting the principle of reducing to harmless levels the discharge into the air, water or land of substances likely to cause harm to the environment 	<p>Licence 661 provides no mechanism for accurate ongoing assessment of the levels of discharge of substances likely to cause harm to the environment.</p> <ul style="list-style-type: none"> . The terms of the licence conditions provide for limited monitoring as follows:- . Section M2 of the licence specifies that air sampling takes place only monthly and that water sampling take less than 24 hours before discharge. . Section M2 has not been varied since the change of operations. . This is particularly concerning given the findings of the Federal Senate Enquiry on Impacts on health of air quality in Australia in 2013.

	<p>Licence 661 includes no mandatory levels for sulphur content in bunker fuel on vessels berthed at Gore Bay</p> <ul style="list-style-type: none"> · Vessels that berth at Gore Bay are chartered vessels and operating standards are inconsistent. · Vessels berthed at Gore Bay operate continuously on generator power to operate the pumps required in the unloading operation and to operate all other services on the vessels. · There is no prescribed sulphur level for bunker fuel in Licence 661 despite a high level of odour complaint in the community. · There has been no advice from the EPA in respect of proposals to mandate sulphur levels consistent with IMO standards.
<p>Section 6 (1) (b) (b) to reduce the risks to human health and prevent the degradation of the environment, by means such as the following:</p> <ul style="list-style-type: none"> • adopting minimum environmental standards prescribed by complementary Commonwealth and State legislation and advising the Government to prescribe more stringent standards where appropriate 	<p>The EPA has not reviewed Licence 661 to reflect the current best practice and international standards</p> <ul style="list-style-type: none"> · There has been no substantive change in licence conditions in 14 years notwithstanding changes in operations and international best practice · There is no mandated maximum sulphur content in bunker fuel contrary to IMO regulations · There has been no review of emissions levels since the findings in respect of particulates in the Senate Enquiry referred to above · There has been no review of noise levels to ensure consistency with international best practice in respect of industrial facilities adjacent to residential areas · Change of product in 2012 necessitated a change of pumping operation resulting in higher noise levels 24 hours a day and disturbing frequencies. There has been no review of mandated noise levels/ pitch since the change of product · Residents report sleep disruption to the extent that residents in a property adjacent to Shell were forced to leave their property
<p>Section 6 (1) (b) (b) to reduce the risks to human health and prevent the degradation of the environment, by means such as the following:</p> <ul style="list-style-type: none"> • promoting community involvement in decisions about environmental matters 	<p>Notwithstanding an acknowledgment that the community was concerned about the impacts of the changed operations, EPA representatives have had very limited engagement with the community since the changes at the terminal were first announced</p> <ul style="list-style-type: none"> · EPA attendance at community meetings ceased soon after changes were implemented at the terminal

	<ul style="list-style-type: none"> Requests for action by the EPA elicit the response that the community and the EPA must wait for release of the EIS
<p>Section 6 (1) (b) (b) to reduce the risks to human health and prevent the degradation of the environment, by means such as the following ensuring the community has access to relevant information about hazardous substances arising from, or stored, used or sold by, any industry or public authority</p>	<ul style="list-style-type: none"> The EPA has refused access under GIPA to almost all relevant data relating to current operations and breaches of licence. Licence 661 requires public reporting in respect of water standards only Records of emissions readings are retained by the licensee

