



City of
Newcastle

CITY OF NEWCASTLE



BRIEFING COMMITTEE

Councillors,

In accordance with section 367 of the Local Government Act, 1993 notice is hereby given that a Briefing Committee Meeting will be held on:

DATE: Tuesday 16 February 2021

TIME: Following the Public Voice Committee

VENUE: Council Chambers
Level 1
City Administration Centre
12 Stewart Avenue
Newcastle West NSW 2302

J Bath
Chief Executive Officer

**City Administration Centre
12 Stewart Avenue
NEWCASTLE WEST NSW 2302**

Tuesday 9 February 2021

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BRIEFING COMMITTEE
16 February 2021

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BRIEFING COMMITTEE REPORTS

ITEM-1 **BR 16/02/21 - MANAGEMENT OF AMMONIUM NITRATE STOCKPILES IN THE NEWCASTLE LGA**

REPORT BY: **GOVERNANCE**
CONTACT: **MANAGER GOVERNANCE / MANAGER REGULATORY, PLANNING AND ASSESSMENT**

PURPOSE

To action Council's resolution from the Ordinary Council Meeting held on 22 September 2020:

That City of Newcastle:

- 1 *Requests a briefing from Orica and Crawfords and its regulatory authorities (the NSW EPA and SafeWork NSW) on current and proposed safety and risk management measures associated with the production, storage and transport of ammonium nitrate: and*
- 2 *Writes to the Minister responsible for SafeWork NSW, Minister Anderson, and the Minister for NSW EPA, Minister Kean, seeking assurances that the regulation of Orica and Crawfords meets world's best practice'.*

BACKGROUND

Ammonium Nitrate (AN) is the main raw material used in commercial blasting products by the mining industry. It is also used to produce fertiliser for the agricultural industry and for other uses by the manufacturing industry.

On 4 August 2020 a quantity of AN stored for six years in a warehouse at the port of the city of Beirut, Lebanon exploded causing 204 deaths, injuring at least 5,000 people and left an estimated 300,000 people homeless. The exact amount of AN involved in the explosion is still to be confirmed but it is believed to not exceed 2,800 tonnes(t). Official investigations have yet to reach a conclusion on the cause of the blast.

Following the explosion, concerns were raised by some sections of the community that the AN facilities in the Newcastle Local Government Area (LGA), pose an unacceptable level of risk to the community and should be relocated to more isolated sites away from urban areas.

Orica Limited (Orica) - Kooragang

Orica has operated an ammonium manufacturing facility at 15 Greenleaf Road Kooragang since 1969.

The facility operates in accordance with a Major Project Approval (08_0129) granted in early December 2009 by the then Minister for Planning under Part 3A (Repealed) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The project approval permits production of 360,000 tonnes per annum (tpa) of ammonia product, 605,000tpa of nitric acid product and 750,000tpa of AN product. While the facility has capacity to store on site 22,800t of solid AN product, a media release from Orica in 2020 states '*The amount of ammonium nitrate stored at KI (Kooragang) varies, according to customer demand, on average we store between 6,000 and 12,000 tonnes.*'

Crawfords Freightlines (Crawfords) - Sandgate

Crawfords operate an ammonium nitrate storage and distribution facility at 158 Old Maitland Road Sandgate. Conditional development consent (SSD-5119) for the facility was granted on 13 June 2013 by a delegate of the former Minister for Planning and Infrastructure. The consent permits the storage of up to 13,500t of ammonium nitrate within three buildings and shipping containers in an open compound. However, under the terms of an amended Explosives Licence issued under the NSW Explosive legislation by SafeWork NSW in May 2016, at the request of Crawfords, one of the storage buildings (Shed C) was removed from the original licence reducing the licensed storage capacity to 9,000t. In March 2019 Crawfords submitted a further request to amend the licence to have the above shed reinstated and the capacity increased. This request was rejected by SafeWork NSW and is the subject of an appeal to the NSW Civil and Administrative Tribunal.

Regulatory Authorities

Both AN facilities operate in accordance with a Major Hazard Facility (MHF) licence issued by SafeWork NSW. The maximum term for an MHF licence is 5 years.

An application from Orica for an MHF Licence Renewal is currently being considered by SafeWork NSW. A decision is not expected before the second quarter of 2021. The Orica facility also has a licence to '*Manufacture Explosives and Security Sensitive Dangerous Goods*' issued by SafeWork NSW.

Both facilities also have an Environment Protection Licence granted by the NSW Environment Protection Authority (EPA). If certain thresholds under the Dangerous Goods (Road and Rail Transport) Regulation 2014 are triggered the vehicles used to transport AN and drivers are required to be licensed. This Regulation is administered by the NSW EPA.

The conditions of the planning approvals and the licences impose a strict regime of regular monitoring, auditing and reporting on compliance. In addition, officers from SafeWork NSW and NSW EPA undertake regular inspections, both unannounced and announced, of the facilities.

Representatives from both Orica and Crawfords and officers of SafeWork NSW and NSW EPA will be participating in the briefing (refer to **Attachment A**). The letter

received from Minister Anderson and Minister Kean are also attached (refer to **Attachment B**).

RECOMMENDATION

The briefing be received.

ATTACHMENTS

Item 1 Attachment A: List of Speakers

Item 1 Attachment B: Correspondence letters

- 1 Letter dated 3 December 2020, The Honourable Matt Kean MP - Minister for Energy and Environment
- 2 Letter dated 16 November 2020, The Honourable Kevin Anderson- Minister for Better Regulation and Innovation

Item 1 Attachment A - List of Speakers

ORICA - SPEAKERS

- Paul Hastie - Manufacturing Centre Manager Kooragang Island
- Antony Taylor - Senior Manager Safety, Health, Environment, Security – Continuous Manufacturing
- Nicole Masson - Specialist - Community Relations

Topics

- What is ammonium nitrate and what is it used for?
- Storage conditions in Beirut
- Controls in place at Orica Kooragang Island (and conditions to avoid)
- Regulations
- Benefits of storing ammonium nitrate at a manufacturing facility

CRAWFORDS FREIGHTLINES - SPEAKER

- Peter Crawford - Owner

SAFEWORK NSW - SPEAKER

- Michael Wright – Manager Major Hazard Facilities

Topics

- Regulatory requirements
- SafeWork structure and function

NSW ENVIRONMENTAL PLANNING AUTHORITY (EPA) - SPEAKER

- Adam Gilligan - Director Regulatory Operations

Topics

- The EPA's role in regulating premises that store ammonium nitrate
- The findings of EPA's recent inspections of those premises in the Newcastle LGA
- EPA's broader experience in regulating the environmental performance of those premises

Item 1 Attachment B - Attached correspondence



The Honourable Matt Kean MP
Minister for Energy and Environment

LED YellowRef: MD20/7801

Ms Michelle Bisson
Manager Regulatory, Planning and Assessment
City of Newcastle
PO Box 489
NEWCASTLE NSW 2300



Dear Ms Bisson

Thank you for your correspondence of 28 October 2020 regarding the regulation of ammonium nitrate facilities.

Ammonium nitrate can represent an explosion risk in certain circumstances, for example if it is stored incorrectly, becomes contaminated, or is allowed to degrade and become unstable. All of these circumstances have been reported to be factors in the ammonium nitrate explosion in Beirut on 4 August 2020.

In NSW, premises that store significant quantities of ammonium nitrate are classified as Major Hazard Facilities under the Work Health and Safety Regulation 2017. The lead regulator for Major Hazard Facilities and the safety aspects of ammonium nitrate storage is SafeWork NSW. There is a robust regulatory regime across regulators, including SafeWork NSW, NSW Police, Fire & Rescue and the Environment Protection Authority (EPA) which should give the community confidence.

I can advise that between 10 and 14 August 2020, the EPA inspected NSW licensed premises that produce and/or store significant quantities of ammonium nitrate, including Orica and Crawfords premises in the Newcastle Local Government Area.

The focus of these inspections was to assess how environmental risks are being managed, with such measures as proper storage and Pollution Incident Response Management Plans. Inspections found that these premises were compliant with their environmental obligations. The EPA provided SafeWork with feedback following the inspections.

The EPA will continue to liaise with SafeWork, Fire & Rescue NSW and the Department of Planning, Industry and Environment to ensure a robust and risk based regulatory approach is implemented to provide the community with confidence that the risk of an incident is low.

Thank you for taking the time to bring this matter to the Government's attention.

Yours sincerely

A handwritten signature in blue ink that reads 'M Kean'.

Matt Kean MP
Minister for Energy and Environment

3-12-20



The Honourable Kevin Anderson MP
Minister for Better Regulation and Innovation

Our reference: COR-07258-2020
Your reference: NOM 22/09/20

Ms Michelle Bisson
Manager Regulatory, Planning and Assessment
City of Newcastle
By email: mail@ncc.nsw.gov.au

Dear Ms Bisson

Thank you for your correspondence about the best practice management of Ammonium Nitrate (**AN**) stores in the Newcastle local government area.

When I received your correspondence, I requested SafeWork NSW review and provide me with advice.

There are 126 sites that store AN in NSW, with 9 of these a licensed major hazard facility (**MHF**).

SafeWork NSW regulates AN in NSW via three means:

- To import/export, manufacture, store and transport AN – it requires an explosives licence under the NSW Explosives Regulation 2013, with each person that handles the product unsupervised also requiring a security clearance (national security check and NSW Police fit and proper assessment).
- When a quantity of AN exceeds the Schedule 11 Work Health and Safety Regulation 2017 threshold, a notification to SafeWork NSW is required – at 1000kg for AN.
- When the quantity of AN exceeds the Schedule 15 Work Health and Safety Regulation 2017 threshold, a MHF licence is also required – at 2500T for ammonium nitrate, 5000T for ammonium nitrate fertilisers and 200T for liquified ammonia solutions (emulsions) – by way of a whole of NSW Government assessment approach known as a ‘safety case’ assessment.

The whole of NSW Government arrangements that have been in place since 2004 include the involvement of NSW Police, who assess the security plan; the NSW Environment Protection Authority (**EPA**) for waste and environmental management; Fire and Rescue NSW for the emergency plan, with SafeWork NSW to assess onsite and offsite risk and to make the final determination. The EPA also licenses the facility under the Protection of the *Environment Operations Act 1997*.

The safety case framework is considered best practice and has been adopted by leading safety regulators in the United Kingdom and Australia, with it progressively being mandated in other countries as it requires the site to “make a case to the regulator” that is independent to industry, requires workforce involvement and imposes clearly defined duties on the site operator. Lebanon (Beirut) has no such regime (2020 incident), nor does the United States (2013 Texas AN incident) and France (2001 Toulouse AN incident).

SafeWork NSW also only permits, in conjunction with the NSW Port Authority, that shipments can remain in the ports for a maximum of five days, where it must then be transported and stored at a licensed facility or returned to its origin.

The AN in NSW also turns over very quickly from import to storage to use in the mines e.g. generally within 1-2 weeks by Orica, rather than being a "stockpile."

The conditions in Beirut therefore have no comparison to the regulatory regimes and oversight in NSW. AN is a stable/inert product if stored correctly. The AN in Beirut was stored for over six years with other incompatible and volatile substances, which became contaminated. This contamination with the ignition source of fire from welding sparks and some form of detonating device, possibly fireworks in the Beirut storage area, melted the AN and made it unstable causing it to explode.

If you require further information, please contact Meagan McCool, Director, Chemicals, Explosives and Safety Auditing at SafeWork NSW on 0402 992 233 or by email to Meagan.mccool@safework.nsw.gov.au.

Thank you for raising your concerns with me.

Yours sincerely

A handwritten signature in black ink that reads "Kevin Anderson". The signature is written in a cursive style with a long horizontal line extending to the right.

Kevin Anderson MP
Minister for Better Regulation and Innovation

Date: 16/11/20