

Dept. of Planning and Infrastructure

PO Box 18

SYDNEY 2001

Attention: Andrew Hartcher – Planner

Dear Sir:

RE: OBJECTION TO DA SSD-5119, 158 MAITLAND RD, SANDGATE

Thank you for the opportunity to lodge this objection to the development application (Application Number SSD-5119) for an Ammonium Nitrate Storage and Distribution Facility (described on the Department of Planning and Infrastructure website as a "Chemical Manufacturing" project) at 158 Maitland Rd, Sandgate, involving the storage of up to 13,500 tonnes of ammonium nitrate (AN).

I believe that this development application should be rejected on the following grounds:

1. Danger of catastrophic explosion:

Large stockpiles of AN such as that proposed in this development application pose a risk of catastrophic explosion that presents an unacceptable danger to residential areas within the blast risk contour.

The DA has been classified as 'State Significant Development (SSD)' under Part 4, Division 4.1 of the EP&A Act 1979, as a consequence of AN being a Class 5 dangerous good, bringing the development within the ambit of development for the purpose of the manufacture, storage or use of dangerous goods in such quantities that constitute the development as a major hazard facility (MHF) within the meaning of Chapter 6B of the Occupational Health and Safety Regulation 2001.

The quantity of ammonium nitrate that would be stored under this DA approval would make it the largest stockpile of AN in the Newcastle local government area (in fact, it may well be the largest such stockpile in Australia or the world). I am aware of a significant number of incidents involving accidental explosions of much smaller quantities of AN around the world with disastrous affects (see, for example, the incidents listed in the following Alert from the USA Environmental Protection Agency, "Explosion Hazard from Ammonium Nitrate", 1993, <http://www.epa.gov/osweroe1/docs/chem/ammonitr.pdf>). An even more comprehensive list can be found at:

http://en.wikipedia.org/wiki/Ammonium_nitrate_disasters#Texas_City.2C_United_States.2C_1947, which lists 24 such accidents at various locations around the world). The HSE Hazard Analysis accompanying the EIS for this DA also references 18 such accidents (Hazard Analysis, pp.12-13).

As the US EPA document states:

Although ammonium nitrate generally is used safely and normally is stable and unlikely to explode accidentally, accidental explosions of ammonium nitrate have resulted in loss of lives and destruction of property. These accidents rarely occur, but when they do, they have high impacts.

A source from within the mining industry acknowledges that "large stockpiles of the material can be a major fire risk due to their supporting oxidation, and may also detonate" (see http://www.capitalco.com.au/Portals/0/Docs/Mining_Resources/Ammonium%20Nitrate.pdf).

Accidental detonation of stored materials at a site such as that proposed in the Sandgate DA could occur through various means, including:

- Natural events, such as lightning or earthquake.
- On-site fire in equipment, such as conveyor, auger, loaders, trucks or forklifts.
- Unexpected initiation by a mentally unstable member of the public or worker, or by terrorist action.
- Other events listed in p.67 of the HSE Hazard Analysis that forms

As far as I am aware, no accidental explosion of ammonium nitrate has yet involved quantities similar to that proposed in this DA, but, on the basis of the experience of previous incidents, a worst case explosion of 13,500 tonnes of AN at the Sandgate site would clearly directly affect tens of thousands of residents in the Newcastle area, and cause hundreds if not thousands of deaths, with many more injured, and massive destruction of built structures and damage to other parts of the surrounding physical environment. I accept that the probability of such an accident is low, but (as the examples demonstrate) accidents do happen - in fact, as I write, an accidental gas leak at Orica's Kooragang plant is being reported by the local media (Orica being another large stockpiler of AN in the Newcastle area), and the small possibility of such an accident must be balanced against the catastrophic magnitude of a potential explosion should an accident occur.

However, the hazard analysis accompanying the EIS for this DA does not appear to conceive of a catastrophic explosion of this magnitude, and therefore fails to deal with balancing risk probability and consequence magnitude. For example, the Hazard Analysis states that "The likelihood of occurrence of all potential accidents identified in this hazard analysis is considered to be low. The more likely hazardous events (i.e., incidents involving ammonium nitrate on vehicles or in conveyors) have limited impact beyond the site boundaries" (HSE Hazard Analysis, p.60). That may be so for "the more likely" hazardous events, but the potential catastrophic impacts of a low probability explosion event could be felt well beyond the site boundaries.

The HSE Hazard Analysis notes HIPAP 4, which states that "Where there is an existing high risk from a hazardous installation, additional hazardous developments should not be allowed if they add significantly to that existing risk." (p.60) However, it then simplistically cites the previous operation of this particular facility to substantiate a low level of additional risk, apparently oblivious to the fact that much of this was non-compliant, and that a limited number of years of the operation of a single facility would not, in any case, represent a reasonable statistical basis for assessing risk for a quantity of material that presents such a catastrophic risk.

Transport operations associated with the facility present a further risk (albeit with more limited amounts), potentially triggered by contamination of the AN by fuels and other combustibles in the event of an accident (two accidents involving trucks carrying ammonium nitrate were reported in a

four month period in Western Australia alone just last year: see <http://www.miningaustralia.com.au/news/two-injured-in-ammonium-nitrate-truck-crash>).

2. Cumulative risk:

Large stockpiles of AN are already located in Newcastle (on Kooragang Island). These already present what - in my view - represent an unacceptable risk to workers and residents within the potential blast range.

The EIS accompanying the development application fails to consider the cumulative risk associated with the proposed development adding to the current risk level presented by the existing AN stockpiles (clearly, X number of individual facilities each carrying a risk of X carry a cumulative risk of (at least) XY, without even considering any "domino-effect" risks arising from interactivity between the developments themselves (e.g., one stockpile explosion triggering explosion of another).

3. Non-compliance risk:

My understanding of the background to this application (implied, but not explicitly stated, in the EIS accompanying the DA), is that the company involved was storing quantities of AN that exceeded the 2,000 tonne limit for which it was licensed (<http://www.abc.net.au/news/2012-02-03/company-caught-stockpiling-ammonium-nitrate-without-licence/3809008>). Presumably, they also lacked planning approval for a facility storing such a quantity of ammonium nitrate.

Given the large quantity of ammonium nitrate involved here, and the potential catastrophic impact of an explosion involving such a quantity, authorities must insist on the highest level of compliance with regulatory requirements from whatever organisation is given approval to undertake such activity. The background to this matter would appear to suggest that there may be cause for concern in this case.

These facilities should be located remote from residential areas. Government policy should focus on relocating the current large AN stockpiles around Newcastle to areas at least 10km from significant residential settlements, not expanding them in built up areas.

Thank you once again for the opportunity to make this submission.

Sincerely

John Sutton

83 Henry St

Tighes Hill

NSW 2297

11 March 2013

Political donations disclosure statement



NSW GOVERNMENT
Department of Planning

Office use only:

Date received: ____/____/____

Planning application no. _____

This form may be used to make a political donations disclosure under section 147(3) of the *Environmental Planning and Assessment Act 1979* for applications or public submissions to the Minister or the Director-General.

Please read the following information before filling out the Disclosure Statement on pages 3 and 4 of this form. Also refer to the 'Glossary of terms' provided overleaf (for definitions of terms in *italics* below). Once completed, please attach the completed declaration to your planning application or submission.

Explanatory information

Making a planning application or a public submission to the Minister or the Director-General

Under section 147(3) of the Environmental Planning and Assessment Act 1979 ('the Act') a person:

- (a) who makes a *relevant planning application* to the Minister or the Director-General is required to disclose all *reportable political donations* (if any) made within the *relevant period* to anyone by any *person with a financial interest* in the application, or
- (b) who makes a *relevant public submission* to the Minister or the Director-General in relation to the application is required to disclose all *reportable political donations* (if any) made within the *relevant period* to anyone by the person making the submission or any *associate of that person*.

How and when do you make a disclosure?

The disclosure to the Minister or the Director-General of a *reportable political donation* under section 147 of the Act is to be made:

- (a) in, or in a statement accompanying, the relevant planning application or submission if the donation is made before the application or submission is made, or
- (b) if the donation is made afterwards, in a statement of the person to whom the relevant planning application or submission was made within 7 days after the donation is made.

What information needs to be included in a disclosure?

The information requirements of a disclosure of reportable political donations are outlined in section 147(9) of the Act.

Pages 3 and 4 of this document include a Disclosure Statement Template which outlines the information requirements for disclosures to the Minister or to the Director-General of the Department of Planning.

Note: A separate Disclosure Statement Template is available for disclosures to councils.

Warning: A person is guilty of an offence under section 125 of the *Environmental Planning and Assessment Act 1979* in connection with the obligations under section 147 only if the person fails to make a disclosure of a political donation or gift in accordance with section 147 that the person knows, or ought reasonably to know, was made and is required to be disclosed under section 147.

The maximum penalty for any such offence is the maximum penalty under Part 6 of the *Election Funding and Disclosures Act 1981* for making a false statement in a declaration of disclosures lodged under that Part.

Note: The maximum penalty is currently 200 penalty units (currently \$22,000) or imprisonment for 12 months, or both.

Glossary of terms (under section 147 of the *Environmental Planning and Assessment Act 1979*)

gift means a gift within the meaning of Part 6 of the *Election Funding and Disclosures Act 1981*. Note. A gift includes a gift of money or the provision of any other valuable thing or service for no consideration or inadequate consideration.

Note: Under section 84(1) of the *Election Funding and Disclosures Act 1981* gift is defined as follows:

gift means any disposition of property made by a person to another person, otherwise than by will, being a disposition made without consideration in money or money's worth or with inadequate consideration, and includes the provision of a service (other than volunteer labour) for no consideration or for inadequate consideration.

local councillor means a councillor (including the mayor) of the council of a local government area.

relevant planning application means:

- a) a formal request to the Minister, a council or the Director-General to initiate the making of an environmental planning instrument or development control plan in relation to development on a particular site, or
 - b) a formal request to the Minister or the Director-General for development on a particular site to be made State significant development or declared a project to which Part 3A applies, or
 - c) an application for approval of a concept plan or project under Part 3A (or for the modification of a concept plan or of the approval for a project), or
 - d) an application for development consent under Part 4 (or for the modification of a development consent), or
 - e) any other application or request under or for the purposes of this Act that is prescribed by the regulations as a relevant planning application,
- but does not include:
- f) an application for (or for the modification of) a complying development certificate, or
 - g) an application or request made by a public authority on its own behalf or made on behalf of a public authority, or
 - h) any other application or request that is excluded from this definition by the regulations.

relevant period is the period commencing 2 years before the application or submission is made and ending when the application is determined.

relevant public submission means a written submission made by a person objecting to or supporting a relevant planning application or any development that would be authorised by the granting of the application.

reportable political donation means a reportable political donation within the meaning of Part 6 of the *Election Funding and Disclosures Act 1981* that is required to be disclosed under that Part. Note. Reportable political donations include those of or above \$1,000.

Note: Under section 86 of the *Election Funding and Disclosures Act 1981* reportable political donation is defined as follows:

86 Meaning of "reportable political donation"

- (1) For the purposes of this Act, a reportable political donation is:
 - (a) in the case of disclosures under this Part by a party, elected member, group or candidate—a political donation of or exceeding \$1,000 made to or for the benefit of the party, elected member, group or candidate, or
 - (b) in the case of disclosures under this Part by a major political donor—a political donation of or exceeding \$1,000:
 - (i) made by the major political donor to or for the benefit of a party, elected member, group or candidate, or
 - (ii) made to the major political donor.
- (2) A political donation of less than an amount specified in subsection (1) made by an entity or other person is to be treated as a reportable political donation if that and other separate political donations made by that entity or other person to the same party, elected member, group, candidate or person within the same financial year (ending 30 June) would, if aggregated, constitute a reportable political donation under subsection (1).
- (3) A political donation of less than an amount specified in subsection (1) made by an entity or other person to a party is to be treated as a reportable political donation if that and other separate political donations made by that entity or person to an associated party within the same financial year (ending 30 June) would, if aggregated, constitute a reportable political donation under subsection (1). This subsection does not apply in connection with disclosures of political donations by parties.
- (4) For the purposes of subsection (3), parties are associated parties if endorsed candidates of both parties were included in the same group in the last periodic Council election or are to be included in the same group in the next periodic Council election.

a person has a financial interest in a relevant planning application if:

- a) the person is the applicant or the person on whose behalf the application is made, or
- b) the person is an owner of the site to which the application relates or has entered into an agreement to acquire the site or any part of it, or
- c) the person is associated with a person referred to in paragraph (a) or (b) and is likely to obtain a financial gain if development that would be authorised by the application is authorised or carried out (other than a gain merely as a shareholder in a company listed on a stock exchange), or
- d) the person has any other interest relating to the application, the site or the owner of the site that is prescribed by the regulations.

persons are associated with each other if:

- a) they carry on a business together in connection with the relevant planning application (in the case of the making of any such application) or they carry on a business together that may be affected by the granting of the application (in the case of a relevant planning submission), or
- b) they are related bodies corporate under the *Corporations Act 2001* of the Commonwealth, or
- c) one is a director of a corporation and the other is any such related corporation or a director of any such related corporation, or
- d) they have any other relationship prescribed by the regulations.

Political Donations Disclosure Statement to Minister or the Director-General

If you are required under section 147(3) of the Environmental Planning and Assessment Act 1979 to disclose any political donations (see Page 1 for details), please fill in this form and sign below.

Disclosure statement details				
Name of person making this disclosure		Planning application reference (e.g. DA number, planning application title or reference, property address or other description)		
Your interest in the planning application (circle relevant option below)				
You are the APPLICANT YES / NO OR You are a PERSON MAKING A SUBMISSION IN RELATION TO AN APPLICATION YES / NO				
Reportable political donations made by person making this declaration or by other relevant persons				
<i>* State below any reportable political donations you have made over the 'relevant period' (see glossary on page 2). If the donation was made by an entity (and not by you as an individual) include the Australian Business Number (ABN).</i>				
<i>* If you are the applicant of a relevant planning application state below any reportable political donations that you know, or ought reasonably to know, were made by any persons with a financial interest in the planning application, OR</i>				
<i>* If you are a person making a submission in relation to an application, state below any reportable political donations that you know, or ought reasonably to know, were made by an associate.</i>				
Name of donor (or ABN if an entity)	Donor's residential address or entity's registered address or other official office of the donor	Name of party or person for whose benefit the donation was made	Date donation made	Amount/ value of donation
John Sutton	83 Henry St, Tighes Hill	The Greens	1 July 2013	\$50 (membership fee)
Please list all reportable political donations—additional space is provided overleaf if required.				
By signing below, I/we hereby declare that all information contained within this statement is accurate at the time of signing.				
Signature(s) and Date				
Name(s)				

Cont...

Political Donations Disclosure Statement to Minister or the Director-General

Name of donor (or ABN if an entity)	Donor's residential address or entity's registered address or other official office of the donor	Name of party or person for whose benefit the donation was made	Date donation made	Amount/ value of donation