



Date: 30 September 2019

Our Ref: 2018/018239 (pmf 10115)

Email: andrew.battye@safework.nsw.gov.au

Your ref: DA2017/01338

Ms Amanda Gale
Senior Development Officer
Newcastle City Council
282 King Street
(PO Box 489)
Newcastle NSW 2300

By email: mail@ncc.nsw.gov.au; agale@ncc.nsw.gov.au

cc: Nicholas.Hon@planning.nsw.gov.au

Dear Amanda,

Re: DA 2017/01338 (Wickham Wool Stores Redevelopment)

SafeWork NSW is making this submission in the interest of full disclosure of all the information that needs to be considered when decisions are made in relation to the proposed development under DA 2017/01338.

On 1 July 2019 SafeWork NSW visited the Caltex Petroleum Australia Pty Ltd facility located at 156 Hannell Street, Wickham NSW 2293. The visit was undertaken as part of a potential major hazard facilities verification program. The verification visit and subsequent correspondence between parties revealed that there are areas requiring improvement in relation to spill containment of hazardous chemicals at the site.

The current spill containment system is reliant on bunding to contain any leaks of the contents of bulk hazardous chemical storage tanks. The current bund compounds need to be upgraded to ensure that the spill containment system contains any part of a hazardous chemical that spills or leaks and any resulting effluent, within the workplace. For example, the bunds need to be upgraded to ensure they are sufficiently impervious to retain spillage and to enable recovery of any spillage and bund walls need to be upgraded to ensure they are in good condition so that they can contain liquid and maintain structural integrity.

The bunds are currently not compliant with Australian Standard – AS 1940:2017 *The storage and handling of flammable and combustible liquids*. For example, not all bunds are sufficiently impervious to retain spillage and thereby enable recovery of any such spillage [AS1940:2017 Section 5.8.3(a)]. AS 1940:2017 is not mandated under the NSW Work Health and Safety legislation however, it is referenced in the SafeWork NSW approved Code of Practice *Managing the risks of Hazardous chemicals in the workplace August 2019*. It is anticipated that the bunds will not be compliant with AS1940:2017 before 2024.

Non-compliance with the Code of Practice is not an offence under the WHS legislation. However, under the *Work Health and Safety Act 2011* (the Act) codes of practice are admissible in court proceedings. Courts may regard a code of practice as evidence of what is known about a hazard, risk or control, and rely on it to determine what is reasonably practicable in the circumstances to which the code relates.

It is recognised that equivalent or better ways of achieving the required work health and safety outcomes may be possible. For that reason, compliance with codes of practice is not mandatory providing that any other method used provides an equivalent or higher standard of work health and safety than suggested by the code of practice.

SafeWork NSW is working with the facility to ensure that a standard of work health and safety that is equivalent to or higher than the standard required in the code is achieved.

Should you have any further question please contact State Inspector Michele Stromquist on 02 8867 2737 or by email michele.stromquist@safework.nsw.gov.au.

Yours sincerely,



Andrew Battye

Manager – Dangerous Goods & Explosives

SafeWork NSW