



Mayfield Cargo Handling Storage Facility – Modification 3

DA 8137- MOD-3

Statement of Reasons for Decision

Sarah Dinning (Chair)

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1. Introduction

1. On 15 August 2025, the NSW Department of Planning, Housing and Infrastructure (**Department**) referred a modification application (**mod application**) pursuant to section 4.55(2) of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*, from the Port of Newcastle Operations Pty Limited (**Applicant**) to the NSW Independent Planning Commission (**Commission**) for determination. The mod application seeks to modify development consent DA 8137 for an open-air cargo storage facility, to permit the storage of lithium-ion batteries (**Project**). Development consent DA 8137 has been modified on two previous occasions (see section 2.3 of this report).
2. Andrew Mills, Chair of the Commission, determined that Sarah Dinning (Chair) would constitute the Commission for the purpose of exercising its functions with respect to the Application.
3. The Department concluded in its Assessment Report (**AR**), dated August 2025, that the mod application is approvable, subject to its recommended conditions.

1.1 Statutory Context

4. On 30 June 2017 the then Minister for Planning granted development consent to development application (**DA**) DA 8137 under clause 8(a) of the former *State Environmental Planning Policy (Three Ports) 2013*, now section 5.6(a)(i) of *State Environmental Planning Policy (Transport and Infrastructure) 2021 (SEPP T&I)* for an open-air cargo storage facility.
5. Section 4.55(2) of the EP&A Act outlines that an application to modify a development consent may be made to the consent authority that granted that consent. As such, the mod application was made to Minister for Planning and Public Spaces (**Minister**) as the relevant consent authority.
6. The Minister's functions under section 4.55 of the EP&A Act were delegated to the Commission on 14 September 2011, in relation to applications lodged by applicants who have made reportable political donations. As the Applicant has disclosed a reportable political donation under section 10.4 of the EP&A Act, the Application has been determined by the Commission as the Minister's delegate.
7. The Department in its AR (Executive Summary) states it is satisfied that the proposed modification is within the scope of section 4.55(2) of the EP&A Act and does not constitute a new development application. The Commission agrees that the Project can be considered as a modification to DA 8137 (as modified) pursuant to section 4.55(2) of the EP&A Act.

2. The Application

2.1 The Site

8. The Project site (**Site**) is known as 109 Selwyn Street, Mayfield North, located in the Port of Newcastle's (**PoN**) Mayfield precinct within the City of Newcastle Council (**Council**) Local Government Area (**LGA**). The Site is located on land legally described as part Lots 51 and 54 in Deposited Plan (**DP**) 1229869 and part Lot 42 in DP 1191982. The Site is located on the south-western foreshore of the southern channel of the Hunter River, approximately five kilometres north-west of the Newcastle central business district (**CBD**) (AR paras 1.2.1 and 1.2.2), see **Figure 1**.

Figure 1 – The Site (star) and its context with Newcastle City (Source: ePlanning Spatial Viewer – mark ups by the Commission)



9. Existing development and land uses surrounding the Site consists of industrial, rail and port-related activities, including (AR para 1.2.3):
 - North: coal loading facilities and berths to the north;
 - South-east: open hardstand area and 'Mayfield Berth No.4' to the southeast,
 - South: 'Intertrade' site – the Department has issued Secretary's Environmental Assessment Requirements (**SEARs**) in relation to the Intertrade site, proposing to be developed as a logistics precinct for the storage of renewable energy components; and
 - West: Stolthaven bulk fuel terminal.
10. The nearest residential receivers to the Site are approximately 800 m to the south-west in the suburb of Mayfield East. **Figure 2** shows the location of the Site (purple shaded area) and surrounding land uses (AR para 1.2.4)

Figure 2 – The Site (purple shaded area) and surrounding land uses (Source: Applicant's Statement of Environmental Effects)



2.2 Site History

11. The Site forms part of the former BHP steelworks, which operated from 1915 until its closure in 1999. In April 2001, the then Minister for Urban Affairs and Planning approved DA 293-08-00 for remediation and development of a multi-use terminal. Although the approval included both a container terminal and general cargo handling facility, only the latter and its associated M4 berth are currently operational (AR paras 1.3.1 and 1.3.2).
12. Following its declaration as a remediation site by the EPA in June 2001, a remedial action plan was implemented to address contamination from the former steelworks. Remediation was completed in 2018 (excluding the former Koppers Berth), and the Site is now managed under Ongoing Maintenance Order No. 20142802, requiring compliance with the Contaminated Site Management Plan under DA 293-08-00 (AR para 1.3.3).
13. In July 2012, the Mayfield Concept Plan (MP09_0096) (**MCP**) was approved, outlining port-related land uses across five precincts. The Site is located within the Container Terminal precinct. Vehicle access to the Site has since been modified, with the new access road constructed as Exempt Development under the Transport and Infrastructure SEPP (AR paras 1.3.4 and 1.3.5).

2.3 Approval History

14. Development consent for DA 8137 was granted on 30 June 2017 under Part 4 of the EP&A Act by the Minister's delegate. The consent approved the use of an existing hardstand area as port facilities for freight storage, including the loading and unloading of freight on the Site (AR para 1.4.1).

15. Prior to the determination of this mod application, DA 8137 was modified twice:
- DA 8137-MOD 1 was approved by the Department as delegate of the Minister for Planning and Public Spaces on 23 June 2020 to expand the cargo storage area of the Site from 12 hectares to 18.6 hectares, and permit an additional cargo type, being roll-on and roll-off cargo such as motor vehicles.
 - DA 8137-MOD 2 was approved by the Commission as delegate of the Minister for Planning and Public Spaces on 8 February 2024 to allow for commencement of operations on remediated portions of the Site.

2.4 The Project

16. The current mod application seeks to modify DA 8137 to permit the storage of Lithium-ion batteries (**LIBs**) which are a Class 9 Dangerous Good under the Australian Dangerous Goods Code (**ADG Code**). Dangerous Goods are not currently permitted to be stored on the Site.
17. The key aspects of the Project are set out in **Table 1** and a complete description of each component of the Project and the Site are set out in the Department's AR at Appendix C of this report.

Table 1 – Key aspects of the Project (Source: AR Table 2)

Aspect	Description
Storage capacity	600 LIBs with up to 300 received monthly.
Use	The LIBs would be stored temporarily on the Site, prior to transportation to standalone grid-scale battery energy storage system (BESS) projects across NSW. The Applicant has confirmed that receipt, storage, installation and operation of the BESS systems on third party sites would be subject to separate approval(s). During times when LIBs are not being stored, the Site would be used for storage of bulk cargo, as per the existing approvals in place for the Site.
Duration	LIBs are to be stored for a maximum period of 12 months on the Site.
Battery state of charge	LIBs to be stored in accordance with manufacturer's specifications.
Works	No physical works are proposed.
Hours of operation	24 hours, seven days a week operation of the Site as per existing approvals.
Jobs	The Project is expected to generate 18 additional operational jobs at the PoN to manage the storage, unloading and loading of LIBs.

3. Material Considered by the Commission

18. In this determination, the Commission has given consideration to:
- submissions received through the Commission's and Department's public consultation processes as set out in [Appendix A – Community Consultation Report](#);

- material and planning framework as set out in [Appendix B – Commission’s Considerations](#); and
- Department’s whole-of-government assessment as set out in [Appendix C – Department’s Assessment Report](#).

4. Reasons for the Decision

19. The Department’s AR identified the Project’s key assessment issues to be potential hazards and risks, and traffic and transport.

4.1.1 Hazards and risks

20. There is potential risk associated with the storage of LIBs, which are Class 9 Dangerous Goods under the ADG Code. Risks largely relate to the quantity of LIBs, their length of storage, and interaction with surrounding dangerous goods and/or hazardous material. The Applicant provided a Preliminary Hazard Analysis (**PHA**) as part of its mod application to determine the risk of storing LIBs to people, property and the environment. The PHA found that the proposed modification would not pose significant risk to workers at the Site and surrounding developments (AR paras 6.2.1 and 6.2.2).
21. The PHA recommended mitigation measures to further reduce risks, including setting separation distances and maximum State of Charge (**SOC**), management of damaged LIBs, and implementation of a Battery Storage Management Plan (**BSMP**). The PHA recommended LIBs be separated from buildings, boundaries, combustible vegetation and materials by three metres, and from other batteries by one metre (AR para 6.2.3).
22. The Department’s AR (para 6.2.4) notes the Applicant advised that the LIBs to be imported to the Site will have varying SOC. Accordingly, the PHA recommendation to limit SOC to a maximum of 30% would be impractical for their storage on-site. The Applicant further clarified that the maximum 30% SOC of LIBs recommended by the PHA is relevant only to air transportation. As the LIBs will be transported by sea, the SOC’s will vary based on manufacturer’s specifications, which are beyond the Applicant’s control.
23. To address the SOC issue, the Commission notes the Applicant amended the Project to permit LIB storage on the Site as per manufacturer’s specifications. The amendment to the Project included the submission of a revised PHA by the Applicant to the Department.
24. The updated PHA notes LIBs have the potential for rapid heating or thermal runaway causing fire and explosion and that there are several causes of thermal runaway, mainly relating to the operation and charging of LIBs. LIBs stored on Site would not be operational, linked or charged on Site and the risk of a rapid heating event occurring would arise from a latent LIB fault or damage to a LIB. The updated PHA assessed the impacts of a heat radiation event causing injury and fatalities to staff and visitors on the Site and surrounding developments, and damage to property, ultimately concluding the storage of LIBs with no maximum SOC would not change the distances at which injury, fatalities and damage to property could occur from a thermal runaway event (AR paras 6.2.5 and 6.2.6).
25. The Department’s AR (para 6.2.8) notes the Applicant consulted Fire and Rescue NSW (**FRNSW**) as part of its assessment of the proposed modification. FRNSW advised that as the LIBs have limited charge, the safety risks are primarily from a chemical spill if they are damaged during transit. FRNSW advised that LIBs should be stored away from external ignition sources, and mitigation measures should be implemented to reduce risks.

26. Although the Site is located near facilities involved with handling and transportation of dangerous goods, including a bulk liquids facility (30 m to the west), ammonium nitrate handling and transportation (200 m to the south-east) and an operating freight rail corridor, the Department's AR (para 6.2.10) states that the storage of LIBs would pose no adverse impact to these existing operations as appropriate LIB storage separation distances will be provided within the Site. The Applicant advises that, in the event of LIBs igniting, an Operational Environmental Management Plan (**OEMP**) for the Site would be implemented and FRNSW contacted. The Applicant further advised that FRNSW did not recommend any specific firefighting requirements to manage the storage of LIBs and acknowledged the requirements of the *Dangerous Goods (Road and Rail Transport) Act 2008* in relation to transporting LIBs, as required by the EPA.
27. Subsequent to its advice to the Applicant, FRNSW released a position statement in December 2024 (**position statement**) on open yard storage of BESSs. The position statement made a number of recommendations relating to maximum storage clusters and separation of LIBs, minimum separation distances of LIBs from fire sources, access for fire fighting vehicles and SOC. Consequently, the Applicant provided additional information via an addendum PHA which addressed the removal of a maximum SOC for LIBs, and FRNSW's separation distances for their storage. The Addendum PHA further notes that in the assessment of separation distances, the updated PHA has assessed a worst-case scenario of a thermal runaway event causing a fire and the resultant radiant heat consequences. Such a scenario is independent of the SOC of a LIB, with its SOC being more relevant during charging and discharging processes, which would not occur at the Site. The updated PHA notes that maintaining storage separation distances determined by the consequence assessment will mitigate impacts of LIBs with varying SOC, and the storage of the LIBs in accordance with manufacturer's recommendations, and providing appropriate separation distances between LIBs, would ensure fire risks are minimised (AR, paras 6.2.12 to 6.2.14).
28. The PHA Addendum assessed the potential LIB storage area based on the separation distances recommended by the position statement. Accordingly, the proposed separation distance between LIBs and the boundary / other project cargo was increased from 3 m to 6 m. A maximum of 55 clusters (50 m x 50 m) and 10 partial clusters (less than 50 m x 50 m) were assessed as capable of being accommodated on the Site (when only LIBs are stored i.e. a maximum LIB storage scenario). The Department finds the updated PHA has been prepared in accordance with the relevant 'Hazardous Industry Planning and Papers' and provides a comprehensive assessment of the potential hazards associated with the Application. The Department consequently supported the recommendations of the updated PHA and PHA Addendum (AR paras 6.2.15 and 6.2.16).
29. Subject to the implementation of the updated PHA's recommendations, the Department's AR (para 6.2.17) states that the Site can accommodate the storage of LIBs with safe separation distances from other cargo and without fire risk to adjoining land uses or sensitive receivers. The Department also notes the Applicant has considered the position statement on battery storage and has demonstrated compliance with the recommended measures.

Commission's findings

30. The Commission agrees with the Department's assessment that the storage of LIBs presents potential risks primarily associated with the quantity of LIBs, the duration of storage, and proximity to other hazardous materials. These risks have been comprehensively assessed through the Applicant's updated PHA and PHA addendum. The Commission also notes the Department's assessment of the mod application has been completed in consultation with its Hazards Team.
31. The Commission notes that the updated PHA assessed worst case thermal runaway scenarios and concluded that removing the SOC requirement would not alter the impact distances for injury or property damage. The Applicant has addressed FRNSW's position statement recommendations, including increased separation distances and cluster limitations, and that the Department considers the PHA approach conservative and robust.
32. The Commission agrees with and has imposed the Department's recommended conditions requiring implementation of the updated PHA and its addendum, and the storage and handling of LIBs to be undertaken in accordance with the following Fire and Rescue NSW position statements:
 - Open Yard Storage of Battery Energy Storage Systems (BESS), dated 5 December 2024, and
 - Emergency Plan Requirements at Sites Having Lithium Batteries, dated 5 December 2024.
33. Conditions further include the requirements for appropriate LIB storage separation distances and a protocol for managing and monitoring damaged batteries through a BSMP. A Battery Fire Emergency Plan (**BFEP**) is also required to be prepared by the Applicant, including an Emergency Services Information Package in accordance with FRNSW's *Emergency services information and tactical fire plan* to assist emergency responders and effectively manage the hazards associated with LIB storage on the Site. The BFEP must be incorporated into the BSMP, with the BSMP subsequently required to form part of the Site's OEMP.
34. The Commission has imposed additional requirements to ensure FRNSW is consulted in the preparation and review of relevant components of the BSMP and the BFEP. The BFEP must be prepared by a suitably qualified fire safety engineer and include details of fire safety measures, firefighting equipment and provisions for firefighting to be made available on-site, to the satisfaction of FRNSW. Additionally, the BFEP must align with FRNSW's position statement, *Emergency plan requirements at sites having lithium batteries* (dated 5 December 2024),
35. The Applicant will be required to implement all measures, recommendations and requirements outlined in the BFEP following its approval by the Secretary as part of the BSMP, and prior to the commencement of LIB storage on the Site. A copy of the approved BSMP will also be required to be provided to FRNSW.
36. The Commission is of the view that these additional requirements, combined with the Department's recommended conditions, will ensure a comprehensive and risk-informed approach to managing the hazards associated with LIB storage on the Site.

4.1.2 Traffic and transport

37. The mod application will create an additional five heavy vehicle movements within the surrounding road network. The traffic movements generated fall within the total traffic movements permitted by the existing MCP approval. The Commission notes TfNSW did not object to the proposed modification and stated that it would not result in significant impact to the surrounding road network. The Department considers the additional vehicle movements will have a minimal impact to the operation of the existing road network (AR paras 6.3.1 to 6.3.6).
38. The Commission has considered the Department's assessment of potential traffic and transport impacts and agrees that the mod application's potential traffic and transport impacts do not warrant refusal of the mod application, with minimal impacts arising.

4.1.3 Conclusion

39. After consideration of all other issues identified by the Department in its AR, the Commission is satisfied that any potential land use planning impacts arising have been adequately addressed, and/or can be mitigated and managed through conditions imposed via the modified development consent.
40. The Commission finds that the Project is consistent with the State and local strategic planning framework and satisfies applicable statutory provisions and that approval is consistent with the public interest. The Commission has therefore determined to approve the Application subject to the conditions in the instrument of modification found at [Appendix D – Instrument of Modification \(DA 8137-MOD 3\)](#) requiring the Applicant to:
- prevent, minimise and/or offset adverse social and environmental impacts;
 - set standards and performance measures for acceptable environmental performance;
 - require regular monitoring and reporting; and
 - provide for the ongoing environmental management of the development.
41. The Commission's reasons for the decision are as given in this report dated 23 September 2025.



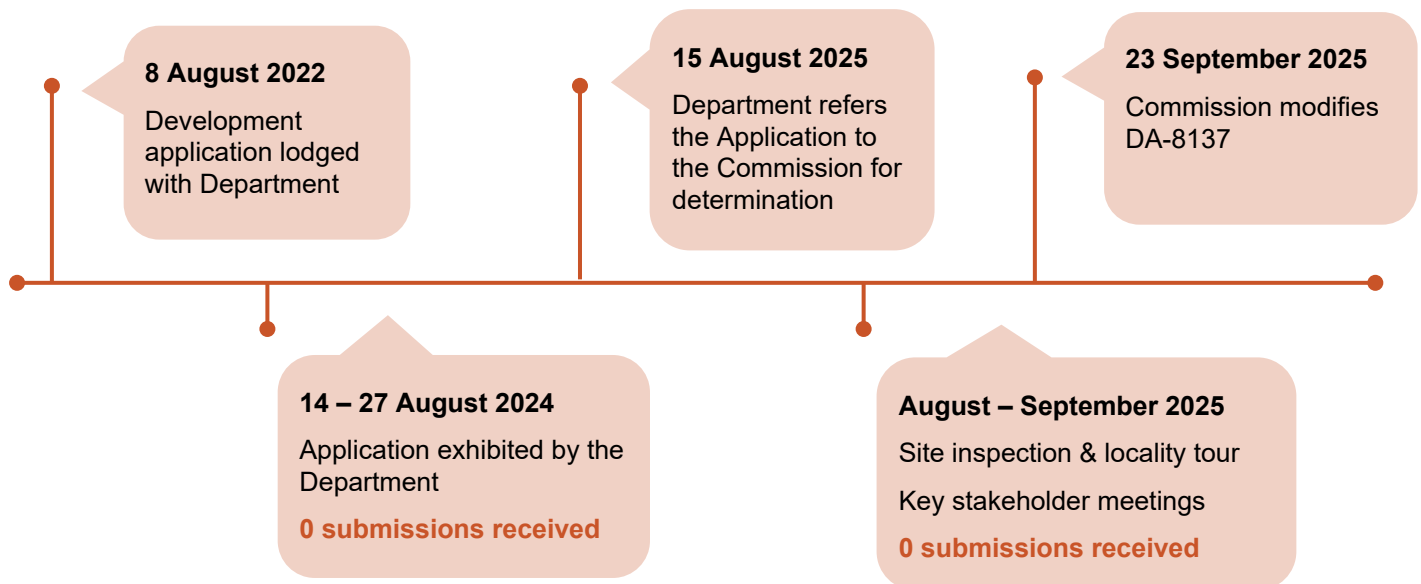
Sarah Dinning (Chair)
Member of the Commission

Appendix A – Public Consultation

Public consultation overview

A summary of the SSD application timeline and key engagement milestones are outlined below.

Appendix A – Figure 1: Engagement timeline



Department’s public exhibition of the Project

During its assessment of the Project the Department publicly exhibited the Application, notifying landowners and occupiers near the Site, and each person who made a submission in relation to the original development application. No public submissions were received by the Department on the Application.

The Department also consulted with the City of Newcastle Council (**Council**) and relevant government agencies, receiving comments from Council and advice from the following agencies:

- Biodiversity, Conservation and Science Group (now Conservation Programs, Heritage and Regulation) of the NSW Department of Climate Change, Energy, the Environment and Water (**NSW DCCEEW**);
- NSW Environment Protection Authority (**EPA**); and
- Transport for NSW (**TfNSW**).

The Commission’s public consultation

Meetings

The Commission held meetings with the Department and the Applicant, on the dates shown in *Appendix B – Material Considered by the Commission*. Transcripts from these meetings were made publicly available on the Commission’s website. Council was invited to meet with the Commission but declined, stating “[...] such a meeting is not necessary as City of Newcastle has no outstanding issues to raise for discussion as all our previous issues raised have been addressed”.

Site inspection and locality tour

The Commission carried out a site inspection and locality tour on 2 September 2025. Three of the Applicant's representatives also attended the site inspection. Notes from this visit, including photographs and location details, were made publicly available on the Commission's website.

Written submissions

The Commission invited written submissions from the public between 22 August and 5 September 2025. Notifications were sent to the same individuals previously contacted by the Department and an advertisement was placed in the *Newcastle Herald* newspaper. No written submissions were received.

Appendix B – Commission’s Considerations

Summary of material considered by the Commission

Appendix B – Table 1: Material considered by the Commission

Document	Date
Statement of Environmental Effects, including all relevant attachments and supplementary information provided by the Applicant to the Department	Various
Submissions and Agency advice	Various
Applicant’s response to submissions	16 September 2024
Modification Report	2 May 2025
Updated Preliminary Hazard Analysis	2 May 2025
Addendum Preliminary Hazard Analysis	9 July 2025
Applicant’s response to questions on notice	10 September 2025
Department’s advice on draft conditions and response request for information	10 September 2025
Department’s response to Commission’s request for information	16 September 2025

Planning Framework

Strategic Context

Appendix B – Table 2: Strategic context

Strategic context	Commission’s consideration
<i>Hunter Regional Plan 2041</i>	The Commission agrees with the Department that the Project is consistent with the strategies, plans and policies outlined in Table 3 of the Department’s AR. In particular, the Commission notes the Project will contribute to the ongoing use of the PoN and assist with increasing its trade capabilities, creating a positive economic impact locally and within the broader Hunter region.
<i>Greater Newcastle Metropolitan Plan 2036</i>	
<i>Port Master Plan 2040</i>	
<i>NSW Freight and Ports Plan 2018-2023</i>	
<i>Net Zero Plan Stage 1: 2020- 2030</i>	

Statutory Context

Appendix B – Table 3: Statutory context

Statutory Context	Commission’s consideration
Permissibility	The Site is zoned <i>SP1 Special Activities (SP1 Zone)</i> under SEPP T&I. <i>Port facilities</i> are permitted with development consent within the SP1 Zone.
Scope of Modification	The Department states it has reviewed the scope of the proposed modification and considers that it can be characterised as other modification under section 4.55(2) of the EP&A Act, as the proposed modification: • is substantially the same development as the development as approved; • would not involve any further disturbance outside the Site; and • the relevant Council has not objected. The Department is satisfied the proposed modification is within the scope of section 4.55(2) of the EP&A Act and does not constitute a new DA. The Commission agrees with the Department’s position.

Consent authority	As detailed in Section 1.1 of this report, the Commission is the delegate of the Minister for Planning and Public Spaces and exercised the functions of the consent authority on that basis.
Objects of the EP&A Act and Ecologically Sustainable Development	The Commission has considered the Objects of the EP&A Act and is satisfied that the modification application is consistent with those Objects. The Commission finds that the modification application is consistent with ESD principles and would achieve an acceptable balance between environment, economic and social considerations.
Other approvals and authorisations	The EPA advised the Department the Project would not require an environment protection licence (EPL) under section 42 of the <i>Protection of the Environment Operations Act 1997</i> for storage of LIBs. An existing EPL applies to the Site (AR para 4.2.1). Section 2.98 of <i>State Environmental Planning Policy (Transport and Infrastructure) 2021 (T&I SEPP)</i> applies to development adjacent to a rail corridor if the proposed development is likely to have an adverse effect on rail safety or involves the use of a crane in air space above the rail corridor. The southwest corner of the Site is adjacent to a freight rail corridor which is managed by the Australian Rail Track Authority (ARTC). The Department notified ARTC but did not receive a response on the proposed modification. LIBs would be unloaded from trucks using forklifts, avoiding the need for cranes, and stored away from the rail corridor boundary (AR paras 4.2.2 to 4.2.4). The Department's assessment confirms the storage of LIBs does not pose adverse safety impacts and the rail corridor and/or its airspace. Section 2.98 of SEPP T&I is therefore not applicable to the Project (AR para 4.2.5).
Mandatory considerations	Commission's consideration
Relevant environmental planning instruments (EPIs)	Appendix B of the Department's AR assesses the Project against applicable provisions of relevant EPIs, which the Commission has considered as part of its determination: • <i>State Environmental Planning Policy (Transport and Infrastructure) 2021; and</i> • <i>State Environmental Planning Policy (Resilience and Hazards) 2021.</i>
Relevant Development Control Plans	Appendix B of the AR provides an assessment of the modification application against the relevant provisions of the Newcastle Development Control Plan 2023 (DCP). The Commission has considered this assessment as part of its determination.
Any planning agreement or draft planning agreement	Not applicable to the Project.
Likely impacts of the development	The likely impacts of the modification application have been considered in section 4 of this report. The Commission finds the Project, subject to the imposed conditions of the modified development consent, will not create significant impact on the natural and built environment, or significant social and economic impacts that outweigh the positive benefits that would be realised through the modification of development consent.
Suitability of the Site for development	The Site is suitable for the following reasons: • the Site is able to physically accommodate the Project without significant impacts arising on the natural and built environment, or the creation of adverse social-economic impacts within the locality; • the Project is generally consistent with the objectives of the SP1 zone and the current approved use of the Site; • no building works are required to facilitate the proposed modification;

	• the Project is an orderly and economic use of land; and • impacts on surrounding land uses have been minimised to the fullest extent possible, with some potential impacts also capable of being mitigated through conditions of the modified development consent.
The public interest	The Commission has considered the public interest in deciding to modify development consent DA-8137. In doing so, the Commission has evaluated the likely impacts of the Application and considered relevant ESD principles. The Project is consistent with the public interest.

Appendix C – Department's Assessment Report

Link: [Department's Assessment Report](#)

Appendix D – Instrument of Modification (DA 8137-MOD 3)

Link: [Instrument of modification DA8137-Mod-3](#)



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