



TRANSCRIPT OF MEETING

RE: 46 FITZROY STREET, CARRINGTON – MODIFICATION 1
(DA 10689 MOD 1)

DEPARTMENT MEETING

PANEL: JULIET GRANT (Chair)

OFFICE OF THE IPC: GEOFF KWOK
ISAAC CLAYTON

DEPARTMENT OF
PLANNING, HOUSING
& INFRASTRUCTURE: LOUISE DENSMORE
MEG D’SOUZA
RENAH GIVNEY

LOCATION: ZOOM VIDEOCONFERENCE

DATE & TIME: 3:00PM – 3:30PM
THURSDAY, 10th SEPTEMBER 2026

<THE MEETING COMMENCED

5 **MS JULIET GRANT:** Well good afternoon and welcome. Before we begin, I would like to acknowledge that I'm speaking to you from Garigal land, and I acknowledge the traditional owners of all the lands from which we virtually meet today and pay my respects to their Elders past and present.

10 Welcome to the meeting today to discuss Modification 1 of the development application for a proposed commercial building at 46 Fitzroy Street, Carrington, which is currently before the Commission for determination. The Applicant, Port of Newcastle, is seeking to modify the application to increase the building height to accommodate changes to the design of the level 4 plant room, introduce a backup generator and substation within the car parking area, reduce car parking from 172 to 170 spaces, and amend the design of the building façade and other associated
15 amendments to conditions.

20 My name is Juliet Grant, and I am the Chair of this single-member Commission Panel. I'm also joined by Geoff Kwok and Isaac Clayton from the office of the Independent Planning Commission.

25 In the interests of openness and transparency and to ensure the full capture of information, today's meeting is being recorded, and a complete transcript will be produced and made available on the Commission's website. This meeting is one part of the Commission's consideration and will form one of several sources of information upon which the Commission will base its determination.

30 It's important for the Commission to ask questions of attendees and to clarify issues wherever it's needed. If you are asked a question and not in a position to answer, you may take the question on notice. Following the meeting, the Commission will advise you in writing of any questions taken on notice that require a formal response. Any subsequent response or information provided to the Commission be published on our website.

35 I request that all participants here today introduce themselves before speaking for the first time, and for all members to ensure they do not speak over the top of each other, for accuracy of the transcript.

40 We can now begin. Given that we've done informal introductions, perhaps we can jump straight over to you. Louise, are you driving the boat? Yes.

45 **MS LOUISE DENSMORE:** Thanks, Juliet. Louise Densmore, Director of Regional Assessments. And I'm joined by members of my team, Meg D'Souza and Renah Givney, and I understand that Meg will be presenting to the Commission today a summary of our Assessment Report and recommendations.

MS MEG D'SOUZA: Happy for me to share my screen. Okay. Let me know if you can see that.

MS GRANT: Yes, thank you.

MS D'SOUZA: Okay.

MS GRANT: Oh, hang on, it's gone again.

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MS D'SOUZA: Ooh, ooh, sorry. Okay. Let me see ... Sorry, I'm just kind of chopping and changing between windows here. Let me try to share again. [Pause] Okay. That work? Okay. Great.

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All right. So, I'll be outlining the proposed modification to the commercial facility at 46 Fitzroy Street, Carrington, and the Applicant is Port of Newcastle. So, in terms of site context, so the site is located in the Port of Newcastle Lease Area. As a result, the Minister was originally declared the consent authority under section 5.6 of the Transport and Infrastructure SEPP. The site is surrounded by residential development and commercial development, industrial development to the north, east and south. And sorry, that's residential development to the east.

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As you can see, there are heavy industrial businesses directly to the north and south of the site. And the Newcastle town centre is around 2 kilometres further south of the site. So, regarding the approved development, on the 2nd of February 2022, the IPC approved the DA for the construction of the four-storey commercial building for port-related office uses, including a café, 172 car parking spaces, and landscaping. The application has not been modified previously. And it should be important to note that under chapter 5 of the Transport and Infrastructure SEPP, no height or GFA controls apply to the site. And the original application was assessed against the Newcastle LEP and DCP as a guide.

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So, in terms of the delegation, the Applicant has made a reportable political donations declaration, so the IPC may determine that the application as the Minister's delegate. The proposed modification involves increasing the height, the building height, to accommodate changes to the design of the level 4 plant room, introduce a backup generator and substation within the car parking area, reduce the car parking spaces from 172 to 170, amend the design of the building façade, provide a recalculation of the GFA, and other associated amendments to the conditions.

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So, in terms of consultation, the Department publicly exhibited the proposal from the 2nd of April until the 15th of April 2026. Two public submissions were received, which are both objections. They raised concerns with traffic, parking and access, the urban heat island effect in regards to landscaping, and potential noise impacts. Council provided comments in relation to the lift overrun. The Response to Submissions was provided on the 1st of May to address these matters.

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And I'll now elaborate on the Department's assessment. So, there are several key issues that were assessed after the receipt of the public submissions, Council's advice, and a review of the application. So, the first matter is the lift overrun. So, the Modification proposes increasing the building height from 20.8 metres to 22.1 metres to accommodate the increase in the level 4 lift plant size. This was requested to accommodate design changes identified during the detailed design stage.

Council requested that the Applicant provide justification for the increased size of the plant room, as it would occupy a large portion of the rooftop relative to the scale of the approved building. In the RTS, the Applicant confirmed that the lift design was updated to service all levels of the building, including the plant room, in accordance with Australian Standards. This resulted in the need for a height increase to allow the lift to service the plant room level in addition to the commercial levels. The additional height of the lift shaft was determined by the manufacturer, which specified a minimum internal clearance of approximately 4.39 metres to accommodate the lift system. This requirement informed the design of the lift overrun height.

The Department is satisfied with the proposed height increase and the expansion of the rooftop plant, as the proposal would only result in minimal changes to the building's visual appearance, built form and the overall bulk and scale. The height increase is relatively minor at 1.3 metres, which is a 6.25% increase above the approved height. It's limited to the lift overrun and associated plant room and does not alter the height of the main building. And the lift overrun is centrally located on the rooftop and set back a minimum of approximately 6.7 metres from the building edges, which reduces its visibility from surrounding streets and publicly accessible areas.

So, the next item that was assessed was the changes to the façade. So, the modification seeks to amend the material schedule to remove the feature masonry construction from the building. The change affects a minor portion of the ground level façade of tenancy one to the north of the entry doors. Noting that the ground floor is recessed under the other floors and the building is set back from the public domain and partially screened by landscaping and car parking, its visibility from surrounding streets and publicly accessible locations is limited. The masonry feature wall is proposed to be changed to off-form concrete, which is an approved material used elsewhere on the building façade, ensuring consistency with the established architectural palette.

We are satisfied that the proposed amendment to the material schedule is minor in scale and does not result in unacceptable visual impacts to the overall aesthetic or built form, noting the building remains well articulated with a range of appropriate materials.

So, the next item was operational noise. The modification seeks approval for the use of a backup generator, which is to be built within the car parking area at the rear of the main building and away from the Fitzroy Street and Denison Street frontages. And it will be screened by a 2.4-metre-high fence.

The Applicant confirmed that the generator would only be operational during test procedures or power outages. And the Applicant also provided an updated Noise and Vibration Impact Assessment to assess the noise impacts produced from the generator. The closest sensitive receiver is the residential property at 59 Denison Street, which is diagonally opposite from the location of the generator on the site. The Noise and Vibration Impact Assessment concluded that the noise anticipated to be generated would not exceed the relevant noise trigger levels for sensitive receivers in accordance with the relevant policies and standards.

The Department is satisfied that the proposed backup generator will have a negligible impact on operational noise in the surrounding area, and considers the proposed modification acceptable subject to compliance with the criteria provided in the noise and vibration impact and the conditions of consent.

In terms of other matters. So, the Department's assessment of other issues mainly relates to concerns raised in public submissions or other minor matters. And so, that includes traffic and parking where concerns were raised by public submissions in relation to the reduction in parking spaces. However, the Department had no issues with this reduction because the Modification still results in the application providing 38 spaces above the parking demand, as required under the Newcastle LEP. And the Department is satisfied there will be no impact on parking availability on surrounding roads.

With regards to the GFA, the Applicant also provided a recalculation of the gross floor area to reflect an updated calculation methodology that is consistent with the standard definition of GFA under the Newcastle LEP. There are no changes to the scale of floor plate or development yield proposed.

So, overall, the Department is satisfied that the Modification is acceptable as the proposed amendments are minor in scale and would not result in any unacceptable or visual, environmental or amenity impacts. And the Department has recommended various amendments to the conditions, including updated references to building height, GFA, parking spaces, and plans and technical reports.

And that's it.

MS GRANT: Terrific. Thank you so much. You covered off a couple of the queries that Isaac, Geoff and I had been speaking about previously, but there's a couple of questions before we get onto the conditions that we just wanted to seek some clarification.

That gross floor area, could you just go back two steps and explain how it comes to be that there's different definitions, whether the legislation has changed or where there's a reference to something different. How was that triggered?

MS D'SOUZA: Yes. So, it wasn't specifically actually identified in the [unintelligible] initially, it was kind of noted when, you know, doing the final review of numbers. The Applicant confirmed – well, I guess, the actual plans that were provided with the original DA were quite high level, and I guess kind of assuming that because there were no GFA controls that applied to the site, I guess that wasn't, there was no kind of formal number provided or – like, there was a number provided, but I guess there was no kind of control that applied. And I think during the detailed design stage, when it came to actually providing the, I guess, the final designs to the certifier, there needed to be more kind of, I guess, certainty as to what the GFA proposed was. So, I guess the architect provided more of an accurate kind of calculation as opposed to the more preliminary plans that were provided initially with the DA.

MS DENSMORE: Our understanding, Juliet, is that the Applicant has become aware that the calculation originally made didn't reflect the plans, and obviously also needed to do that recalculation as proposing the Modification. So, as part of that process, they'd be moving into certification stages, and they would be realising that they need to make certain that those numbers are accurate to enable certification. So, it's our understanding that's how it came about. It did require the Department to interrogate that a little bit. But that's our understanding and we're comfortable with where the calculation has landed.

MS GRANT: Okay, thank you. In terms of the generator, so I understand the closest sensitive receiver you mentioned was 59 Denison Street and that landowner didn't make a submission to the Department's public notification, if that's correct.

MS D'SOUZA: Yes, that's correct, yes.

MS GRANT: So, in terms of that generator, do you have an understanding – and I understand that it's for emergency backup in power outages, but it also, there's a reference there to testing. Did the Proponent give any indication of when that likely testing scenario might be? Presumably it's Monday to Friday, working hours, or are there any, is there any further information about when they might do that testing?

MS D'SOUZA: No, that wasn't actually provided by the Applicant. Yes, I would have to take that on note and kind of follow up to confirm that.

MS GRANT: Do we have any of the conditions or does the Noise and Vibration Report make any assumptions that perhaps the consent's framed to rely on that updated Noise and Vibration Report, would there be, are there some parameters in there that might specify when that testing should occur?

MS D'SOUZA: Off the top of my head, yes, look, I can't really confirm. I don't think they do refer to testing. I think the Noise and Vibration Impact Assessment mainly refers to, I guess, just the noise actually generated from the operation of the generator. So, yes, I will have to take that on note just to confirm that.

MS GRANT: Okay. And perhaps if you could turn my mind to whether if there isn't information about when that testing is proposed, whether we should be potentially including a condition that specifies appropriate timing for that testing to occur. I mean, obviously, an unscheduled outage we have no control over, but the testing we do.

MS D'SOUZA: Yes, yes, definitely.

MS GRANT: Okay. Another question about that generator in terms of the height and specifying the minimum RL for that in terms of the flooding protection. Just wondering if you've got an indication of what that looks like in terms of overall height, how big the generator is and then its elevated, and then also in relation to that, how that relates to the 2.4-metre fence. So, is the fence – does the fence also need to be raised, or if the generator's raised and the fence isn't, what does that do for any noise attenuation or screening?

MS D'SOUZA: Yes.

MS DENSMORE: Juliet, we might take that one on notice. We will need to have a look at the plans to understand that. Offhand we don't have that information available, but we can re-interrogate those plans and come back with a response. So, your question it appears is around the, I guess, the overall size of that generator and its relationship to the height of the fence and whether it would be shielded or concealed in a way. Is that right?

MS GRANT: Yes, I guess there's two parts to it. If we're raising the generator to meet that requirement, what's the overall height and what does that look like. And then yes, how does that then relate to the 2.4-metre fence, and is that 2.4 metres then suitable now that we're actually raising the, if the generator's raised.

MS DENSMORE: We are happy to provide that subsequently after the meeting.

MS GRANT: Thank you. I think that's from my notes before we move onto the conditions, everything. Geoff and Isaac, is there anything else I've forgotten or that you would like to ask?

MR GEOFF KWOK: Thanks, Juliet. I'll just quickly ask and tack onto the question that you asked just now about the fencing around the generator. Whether the fencing is intended for visual mitigation only or if it's also there for the purpose of noise mitigation. That wasn't clear in the assessment. So, I just wanted to check because if the fencing isn't being raised with the generator above the AHD, the 2.7 metres, then assuming the fence isn't covering all or most of the generator, that it might not have the same outcome in terms of noise mitigation as if it was raised with it. So, yes, I just wanted to get clarification as to whether it was just there for visual mitigation purposes or for noise mitigation as well.

MS DENSMORE: So, I defer to my team, but if we are unable to provide that answer now, we will also take that on notice. I mean, that's a relevant question and we're happy to respond. Team.

MS D'SOUZA: Yes, look, I think we'd have to take that on notice.

MS GRANT: Okay. Thank you. In terms of the recommended conditions and changes to that conditions set, I presume that's been run past by the Applicant. Did they have any comments on that?

MS D'SOUZA: Yes. No, they didn't have any comments.

MS GRANT: Okay. Okay. Is there anything, I guess the only other matter, you touched on at the beginning of your presentation perhaps, but the initial assessment obviously was a different IPC panel, are there any matters that were raised in that initial assessment that are pertinent to this – to the elements of this modification?

MS D'SOUZA: Oh, look, I wouldn't say that there are any kind of matters that stick out, really.

5 **MS DENSMORE:** They did raise similar matters in relation to operating noise, and there's a number of items in the Statement of Reasons provided, but we're happy to review that and come back to you. I don't have those offhand, but I do recall seeing a number of relevant items. I guess, in terms of whether they have an influence on a decision or a previous decision made is likely where that's coming from, we would need to refresh ourselves on that particular report.

10 **MS GRANT:** Okay.

15 **MS D'SOUZA:** I would make the comment as well that, having actually visited the site too, it's just keeping in mind that it is, you know, the Port of Newcastle and an industrial area as well, it was quite – the other kind of facilities surrounding the site did have quite a lot of noise emanating from their operations. So, I think in general, you know, it has that kind of industrial environment as well, and residential is kind of located away from, I guess, where the generator will be located as well, so I guess we did keep that in consideration.

20 **MS GRANT:** Yes, understood, thank you. Is there anything else that anybody would like to raise while we've got the opportunity?

25 **MS DENSMORE:** Only to say that, just upon reviewing the plans, so it does appear that the fence along the same sideline as the backup generator is 2.1. But we would need to have a look to see what the Noise Assessment Report and also the purpose of that generator and the relationship to that fence is. So, we'll return to you with that information regarding the backup generator and the fence.

MS GRANT: Thank you. Okay. Geoff, Isaac, anything else we need to cover?

30 **MR KWOK:** Nothing from me, Juliet, thanks.

MR ISAAC CLAYTON: Likewise, Juliet, nothing from me.

35 **MS GRANT:** Okay. Well, thank you all so much for sharing your time this afternoon. And we'll just confirm back to you those couple of matters that you might be able to just clarify for us. We're on a reasonably expedited timeframe on this one, so hopefully we can have the whole matter wrapped up really soon and move on. So, thank you again so much for your time this afternoon. Take care.

40 [Multiple say thank you/bye].

>THE MEETING CONCLUDED