

Modification of Development Consent

Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*

The Independent Planning Commission, as delegate of the Minister for Planning and Public Spaces under the delegation executed on 14 September 2011, approves the modification of the development consent referred to in Schedule 1, subject to the conditions in Schedule 2.

(Name of Commissioner)
Member of the Commission

Sydney

2026

File: EF26/26305

SCHEDULE 1

Development consent:	DA 10689 granted by the Independent Planning Commission on 2 February 2022
For the following:	Construction of a commercial building for port-related uses with a café, landscaping, 172 car parking spaces, bike spaces, motorbike spaces, seating and communal spaces, a waste disposal area, water tanks and signage.
Applicant:	Port of Newcastle
Consent Authority:	Independent Planning Commission
The Land:	46 Fitzroy Street, Carrington [Lot 33 in DP 1078910]
Modification:	DA 10689 MOD 1 involving various internal and external amendments, including: • Increase building height from RL 20.800 to RL 22.100 to accommodate increased size / area of the Level 4 plant room • Revised GFA calculations (no increase in the building footprint, floor plates or development yield proposed) • Introduction of a generator within the parking area for back-up power • Introduction of a substation within the parking area • Reduction of carpark spaces from 172 to 170 spaces • Minor modifications to the building facade • Other miscellaneous amendments to conditions

SCHEDULE 2

The consent (DA 10689) is modified as follows:

- Schedule 1, Description of Development is amended by the insertion of the **bold and underlined** words/numbers and deletion of the ~~strike through~~ words/numbers as follows:

Development: Construction of a commercial building for port-related uses with a café, landscaping, ~~172~~ **170** car parking spaces, bike spaces, motorbike spaces, seating and communal spaces, a waste disposal area, water tanks and signage.

- Schedule 2, Part A – Administrative Conditions, Condition A2 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the ~~strike through~~ words/numbers as follows:

Terms of Consent

A2. The development may only be carried out:

- in compliance with the conditions of this consent;
- in accordance with all written directions of the Planning Secretary;
- generally in accordance with the SEE, Response to Submissions and additional information; ~~and~~
- in accordance with the section 4.55(2) modification application DA 10689 Mod 1 prepared by Ramboll, dated 12 February 2026 and the Response to Submissions dated 1 May 2026, and**
- in accordance with the approved plans in the table below:

Architectural Plans prepared by Rainsford Architecture + Design			
Dwg No.	Rev	Name of Plan	Date
<u>DA000</u>	Q <u>Z</u>	Cover Sheet	3/9/24 <u>January 2026</u>
<u>DA001</u>	Q <u>Z</u>	Notes & Schedules	3/9/24 <u>January 2026</u>
<u>DA004</u>	Q <u>Z</u>	Existing Conditions	3/9/24 <u>January 2026</u>
<u>DA006</u>	Q <u>Z</u>	Site Analysis	3/9/24 <u>January 2026</u>
<u>DA007</u>	Q <u>Z</u>	Concept Design <u>Context Plan</u>	3/9/24 <u>January 2026</u>
<u>DA100</u>	Q <u>Z</u>	Site Plan	3/9/24 <u>January 2026</u>
<u>DA101</u>	Q <u>Z</u>	Site Ground Plan	3/9/24 <u>January 2026</u>
<u>DA110</u>	Q <u>Z</u>	Ground Floor Level <u>Level</u> Plan	3/9/24 <u>January 2026</u>
<u>DA111</u>	Q <u>Z</u>	First Floor Plan <u>Level 01 Plan</u>	3/9/24 <u>January 2026</u>

<u>DA112</u>	Q <u>Z</u>	Second Floor Plan <u>Level 02 Plan</u>	3/9/21 <u>January 2026</u>
<u>DA113</u>	Q <u>Z</u>	Third Floor Plan <u>Level 03 Plan</u>	3/9/21 <u>January 2026</u>
<u>DA114</u>	Q <u>Z</u>	Roof Plan <u>Roof Plant</u>	3/9/21 <u>January 2026</u>
<u>DA200</u>	Q <u>Z</u>	Street Elevations	3/9/21 <u>January 2026</u>
<u>DA201</u>	Q <u>Z</u>	Elevations	3/9/21 <u>January 2026</u>
<u>DA202</u>	Q <u>Z</u>	Elevations	3/9/21 <u>January 2026</u>
<u>DA300</u>	Q <u>Z</u>	Sections	3/9/21 <u>January 2026</u>
<u>DA301</u>	Q <u>Z</u>	Sections	3/9/21 <u>January 2026</u>
<u>DA600</u>	Q <u>Z</u>	Materials Schedule	3/9/21 <u>January 2026</u>
<u>DA800</u>	Q <u>Z</u>	Shadow Diagrams – 21 st June 0900	3/9/21 <u>January 2026</u>
<u>DA801</u>	Q <u>Z</u>	Shadow Diagrams – 21 st June 1200	3/9/21 <u>January 2026</u>
<u>DA802</u>	Q <u>Z</u>	Shadow Diagrams – 21 st June 1500	3/9/21 <u>January 2026</u>
Survey Plan prepared by ADW Johnson			
Dwg No.	Rev	Name of Plan	Date
239553- DET-001-A	A	Plan of Detail Survey of Lot 33 DP 1078910	22/10/20
Landscape Plan prepared by Green Space Planning Co			
Dwg No.	Rev	Name of Plan	Date
<u>L01</u>	<u>B</u>	<u>Landscape Report</u>	<u>January 2026</u>
L001 <u>L02</u>	C <u>B</u>	Site Analysis <u>Plan</u>	10/08/2021 <u>January 2026</u>
L002 <u>L03</u>	C <u>B</u>	Landscape Master Plan <u>Ground Floor Landscape Plan</u>	10/08/2021 <u>January 2026</u>
L003 <u>L04</u>	C <u>B</u>	<u>Ground Floor</u> Plant Schedule	10/08/2021 <u>January 2026</u>
L004 <u>L05</u>	C <u>B</u>	First Floor <u>Landscape Plan</u>	10/08/2021 <u>January 2026</u>
L005 <u>L06</u>	C <u>B</u>	Second Floor <u>Landscape Plan</u>	10/08/2021 <u>January 2026</u>
L006 <u>L07</u>	C <u>B</u>	Third Floor <u>Landscape Plan</u>	10/08/2021 <u>January 2026</u>
Stormwater Management Plans prepared by Northrop			
Dwg No.	Rev	Name of Plan	Date

DA-C01.01	2	Cover Sheet, Drawing List and Locality Plan	9/4/21
DA-C02.01	2	Erosion and Sediment Control Plan	9/4/21
DA-C02.02	2	Erosion and Sediment Control Details	9/4/21
DA-C04.01	2	Civil Works Plan	9/4/21
DA-C09.01	2	Civil Details	9/4/21

(f) generally in accordance with the following documents:

- (i) Carrington Commercial Facility Statement of Environmental Effects prepared by Ramboll dated 24 September 2021;
- (ii) Detailed Site Contamination Investigation prepared by GHD dated March 2021;
- (iii) Landscape Design Report prepared by Green Space Planning Co dated ~~10 August 2021~~ **January 2026**;
- (iv) Arboricultural Impact Assessment prepared by Accurate Tree Assessment dated February 2021;
- (v) Concept Stormwater Management Plan prepared by Northrop dated ~~9 April 2021~~ **20 January 2026**;
- (vi) Services Assessment prepared by GHD dated March 2021;
- (vii) Noise and Vibration Assessment Revision ~~3~~ **4** prepared by RAPT Consulting dated ~~March 2021~~ **January 2026**;
- (viii) Traffic Impact Assessment prepared by SECA Solution dated 1 April 2021;
- (ix) Geotechnical and Mine Subsidence Report prepared by GHD dated April 2021;
- (x) 46 Fitzroy Street, Carrington (DA 10689) Response to Submissions prepared by Ramboll dated 24 September 2021;
- (xi) Phase 2 Analysis prepared by GHD dated 15 September 2021;
- (xii) Green Travel Plan prepared by SECA Solution dated 24 September 2021;
- (xiii) Preliminary Waste Management Plan prepared by Ramboll dated 24 September 2021;
- (xiv) Parking Strategy prepared by SECA Solution dated 7 September 2021;
- (xv) Preliminary Construction Environmental Management Plan prepared by Ramboll dated 22 September 2021;
- (xvi) Preliminary Operational Plan of Management prepared by Ramboll dated 23 September 2021;
- (xvii) Traffic Addendum Technical Design Note prepared by SECA Solution dated 13 September 2021;
- (xviii) 46 Fitzroy Street, Carrington (DA 10689) Response to Submissions Addendum prepared by Ramboll dated 1 November 2021;
- (xix) Design Specification NCC 2019 – Volume 1 prepared by Trevor R Howse dated 19 March 2021; and
- (xx) Design Specification Accessibility prepared by Trevor R Howse dated 19 March 2021.

3. Schedule 2, Part B – Prior to the issue of a Construction Certificate, Condition B10 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the ~~strike through~~ words/numbers as follows:

B10. The maximum height of the approved building/s must not exceed RL ~~20.8~~ **22.100** m AHD, including plant and lift overruns, communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like. Details confirming compliance must be submitted to the Certifier prior to the issue of any Construction Certificate.

4. Schedule 2, Part B – Prior to the issue of a Construction Certificate, Condition B11 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the ~~striketrough~~ words/numbers as follows:

B11. The GFA of the building must not exceed ~~6,432~~ **6,574** m² (excluding the additional ~~43~~ **38** car parking spaces in the calculation). Details confirming compliance prepared by a registered surveyor must be submitted to the Certifier prior to the issue of a relevant Construction Certificate.

5. Schedule 2, Part B – Prior to the issue of a Construction Certificate, Condition B15 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the ~~striketrough~~ words/numbers as follows:

B15. Prior to the issue of any relevant construction certificate for car parking and service vehicle parking / loading / unloading areas, evidence must be submitted to the Certifier that the operational access and parking arrangements comply with the following requirements:

- (a) all vehicles can enter and leave the Site in a forward direction;
- (b) ~~472~~ **170** on-site car parking spaces and 8 motorbike spaces are included for use during operation of the development and designed in accordance with the latest versions of AS 2890.1 and AS 2890.6;
- (c) the swept path of the longest vehicle entering and exiting the Site in association with the new work, as well as manoeuvrability through the Site, are in accordance with the latest version of AS 2890.2;
- (d) the safety of vehicles and pedestrians accessing adjoining properties, where shared vehicle and pedestrian access occurs, has been addressed; and
- (e) a 3m wide all-weather vehicle access is to be provided from the kerb and gutter to the building under construction, to reduce the potential for soil erosion. Sand shall not be stockpiled on the all-weather vehicle access.

6. Schedule 2, Part B – Prior to the issue of a Construction Certificate is amended by the insertion of the **bold and underlined** words/numbers and deletion of the ~~striketrough~~ words/numbers as follows:

Water-cooling air handling systems

B29. Before the issue of a construction certificate, all proposed water-cooling air handling systems are to be designed in accordance with the requirements of AS/NZS 3666.1:2002 - Air-handling and water systems of buildings - Microbial Control Part 1: Design, installation and commissioning. Full details are to be provided with the construction certificate documentation.

B30. Before the issue of a construction certificate, details are to be provided detailing the water treatment chemicals associated with the proposed water-cooling air handling system(s) are to be suitably bunded and covered to prevent escape of liquids into the stormwater system.

Backup Generator

B31. The proposed backup generator being situated at or above the flood planning level of 2.7 meters AHD. Full details to be included with the required Construction Certificate.

7. Schedule 2, Part E – Prior to Occupation Certificate / Commencement of Operation, Condition E7 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the ~~striketrough~~ words/numbers as follows:

E7. A Registered Surveyor is to certify that the GFA of the building does not exceed 6,432 **6,574** m² (excluding the GFA of the additional 43 **38** car parking spaces required to be included in the GFA calculation under the NDCP 2012) and the height of the building does not exceed RL ~~20.8~~ **22.100** m AHD. Details shall be provided to the Certifier demonstrating compliance with this condition prior to the issue of any Occupation Certificate.

8. Schedule 2, Part E – Prior to Occupation Certificate / Commencement of Operation is amended by the insertion of the **bold and underlined** words/numbers and deletion of the ~~striketrough~~ words/numbers as follows:

Water-cooling air handling systems

E54. Before the operation of the proposed water-cooling air handling system(s) the owner/occupier of the premises is to notify Newcastle City Council of all water-cooling air handling system(s). To arrange for notification of the installation of the water-cooling air handling systems, please contact Newcastle City Council's Environmental Health Services on (02) 4974 2000 or regulation@ncc.nsw.gov.au.

9. Schedule 2, Part F – Post Occupation / Ongoing Conditions, Condition F4 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the ~~striketrough~~ words/numbers as follows:

F4. The Applicant must ensure that noise generated by operation of the development does not exceed the noise limits in the Noise and Vibration Assessment prepared by RAPT Consulting dated ~~March 2024~~ **January 2026** (Revision 3 **4**) and any recommendations of the noise assessment required by Condition **Error! Reference source not found.**

10. Schedule 2, Part F – Post Occupation / Ongoing Conditions, Condition F5 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the ~~striketrough~~ words/numbers as follows:

F5. The Applicant must undertake short term noise monitoring in accordance with the *Noise Policy for Industry* where valid data is collected following the commencement of use of each stage of the development. The monitoring program must be carried out by an appropriately qualified person and a monitoring report must be submitted to the Planning Secretary within two months of commencement use of each stage of the development or other timeframe agreed to by the Planning Secretary to verify that operational noise levels do not exceed the recommended noise levels for mechanical plant identified in the Noise and Vibration Assessment prepared by RAPT Consulting dated ~~March 2024~~ **January 2026** (Revision 3 **4**). Should the noise monitoring program identify any exceedance of the recommended noise levels referred to above, the Applicant is required to implement appropriate noise attenuation measures so that operational noise levels do not exceed the recommended noise levels or provide attenuation measures at the affected noise sensitive receivers.

**End of modification
(DA 10689 MOD 1)**