

Director – Regional Assessments
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Department of Planning Industry and Environment
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46 FITZROY STREET, CARRINGTON (DA 10689) RESPONSE TO SUBMISSIONS

Date 24/09/2021

We refer to correspondence received from the Department of Planning, Industry and Environment (the Department) on 4 August 2021 in relation to the Part 4 development application at 46 Fitzroy Street, Carrington (DA 10689). Ramboll Australia Pty Ltd (Ramboll), on behalf of Port of Newcastle (PON), provides an updated DA Package in response to the Request for Further Information (RFI). The RFI included submissions from City of Newcastle and Ausgrid, and the previously received public submissions that formed part of previous correspondence from the Department (26 July 2021 and 4 August 2021).

The following documents are provided as part of the updated DA package:

- this covering letter
 - Appendix 1: revised Statement of Environmental Effects (SEE)
 - o updated Noise and Vibration Assessment (Appendix 10 of the revised SEE)
 - o updated Architectural Design Plans (Appendix 1 of the revised SEE)
 - Appendix 2: Green Travel Plan
 - Appendix 3: Preliminary Waste Management Plan (WMP)
 - Appendix 4: Addendum traffic advice – parking strategy
 - Appendix 5: Preliminary Construction Environmental Management Plan (CEMP)
 - Appendix 6: Preliminary Operational Plan of Management
 - Appendix 6: Traffic addendum – Denison Street capacity

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Ref Response to Submissions
DA-10689

1. Response to the City of Newcastle Council submission

Table 1-1 lists the matters raised by City of Newcastle on DA 10689 and how and/or where each item has been addressed in the updated DA package.

Table 1-1: Matters raised by City of Newcastle on DA 10689 and how they have been addressed

Matter raised	How addressed
<p>1. Zone Objectives – SP1 Special Activities of the Three Ports SEPP 2013</p> <ul style="list-style-type: none"> - Provide further detail regarding the statement that proposal would attract tenants including port related office-based tenants - The SEE has not demonstrated that the development is providing for special land uses not provided for in other zones. As the city centre abuts the harbour it is well placed to accommodate 'port related office-based businesses'. 	<p>Refer to Section 5.2.2 of the revised SEE.</p> <p>The desirable characteristics of the site are the proximity to the port operations. There are no other development sites within and around Carrington that are zoned to accommodate the development.</p> <p>The site is not immediately adjacent to the waterfront and commercial berths, unlike a large proportion of the land that is available in the same zone that would be utilised by heavier industrial activities. The site is not able to accommodate development that relies on direct water access, however, can provide for office-based premises that support the port and surrounding port related businesses. Further, due to such close proximity to residential areas the site would be less suited to other port related industrial uses.</p> <p>The site is suitable for a mix of tenancies being those that are directly related to the port and others that are support-based services and technical advisors for the port and surrounding businesses.</p> <p>Due to the location of the site relative to the Port, the proposal would be attractive to port related office-based businesses which benefit from being in close proximity to the operational areas of the Port. Evidence of this is apparent in the existing office-based tenancies nearby such as:</p> <ul style="list-style-type: none"> • TLE Electrical Newcastle (an electrical wholesaler) at 42 Fitzroy Street • HAZMAT Services (a professional services consultancy firm) at 45 Fitzroy Street • RPS Group (a professional services consultancy firm) at 45 Fitzroy Street • Broadspectrum Newcastle Regional Office (now part of Ventia), (an infrastructure services consultancy firm) at 45 Fitzroy Street • RCA Australia (a geotechnical and environmental consulting firm) at 92 Hill Street. <p>The benefit of the proposal site to the port and port related office-based businesses is that it is proximate to the operational areas of the port, whilst the city centre does not provide the same proximity and connection.</p>

Matter raised	How addressed
<p>2. Planning strategies –</p> <ul style="list-style-type: none"> - Port Master Plan 2040: none of the listed strategies, including the applicant's Port Master Plan 2040, specifically identify a need for a large commercial development as proposed on the subject site. - Newcastle LSPS: outlines the Commercial Centres Hierarchy in the Newcastle Local Government Area with the Newcastle City Centre servicing as the highest order strategic centre. - Newcastle Employment Lands Strategy 2019: states <i>'There is a large amount of commercial development capacity in the Newcastle City Centre, particularly around the Honeysuckle Precinct and in the western end of the City around the Newcastle Interstate Station.'</i> <p>It is recommended the applicant is required to demonstrate through an economic analysis that there is clear need for the proposed development and address potential impacts on the Newcastle City Centre and its role identified under the LSPS.</p>	<p>Refer to Section 5.6 of the revised SEE.</p> <p>In summary, the proposal facilitates new trades and supply chains by way of providing for the utilisation of vacant land with a development that is capable of responding to changing technology in relation to port activities and operations. The proposal also aligns with the diversification of the Carrington Precinct as discussed in the Port Master Plan 2040.</p> <p>The proposal would contribute to the availability of efficient and innovative port infrastructure to facilitate regional, state and national economic growth, a key mission statement in the Port Master Plan 2040 and will facilitate continued growth and development of existing and new trades in a sustainable manner.</p> <p>The proposed commercial development, comprised of offices, retail and café uses, is consistent with the Newcastle LSPS in that it would support the potential growth and diversification of the Port (Planning Priority 15 – Newcastle LSPS) and allow for increased job opportunities while minimising environmental and amenity impacts on surrounding lands, in particular the adjacent residences.</p> <p>Locations within the city centre do not provide the same proximity to the current and future port operations which is the goal of the development and why the proposed site has been selected.</p>
<p>3. Noise –</p> <ul style="list-style-type: none"> - The Noise and Vibration Assessment prepared by RAPT Consulting has not assessed the rooftop mechanical plant of the proposed building or the café against nearby sensitive receivers. It is recommended the applicant is required to provide supplementary information which addresses the above issue. 	<p>The updated noise and vibration assessment is included as Appendix 10 of the SEE, and results are included in the SEE (Section 6.8)</p> <p>The assessment has now considered the operational noise emanating from the café and rooftop mechanical plant.</p> <p>In summary, the revised assessment indicates that the proposal will not exceed acceptable noise levels during construction and operation.</p>
<p>4. Food and drink premises –</p> <ul style="list-style-type: none"> - The preparation of hot food in the proposed café will require the installation of a grease arrestor. Consideration will need to be given to the location of the arrestor to allow ease of access when maintenance and cleaning is required. Consideration will also need to be given to an internal garbage room associated with the café. The fit out of the café is to comply with Australian Standard 4674-2004 – 'Design, Construction and Fit-out of Food Premises'. 	<p>Refer to updated architectural plans at Appendix 1 of the SEE.</p> <p>The plan showing the café layout now includes a grease arrestor and waste area.</p>

Matter raised	How addressed
<p>5. Aboriginal Heritage -</p> <ul style="list-style-type: none"> - The site is not listed as a heritage item under the SEPP. Regardless of any statutory listing, the applicant's obligations under the <i>National Parks and Wildlife Act 1974</i> and the <i>Heritage Act 1977</i> with respect to unexpected archaeological finds still apply. - Accordingly, if excavation or any other below surface works are proposed it is recommended the applicant be required to address 'due diligence' regarding Aboriginal objects. 	<p>Refer to section 5.2.6, section 5.4 and section 5.7 of the SEE.</p> <p>As per section 5.7 of the SEE, the site was reclaimed prior to 1954. Since then, the site has been previously developed with a large concrete slab remaining from previous development. As the site has been subject to reclamation and is not a naturally formed landscape, there is limited potential for Aboriginal items to be present at the site.</p> <p>The minimal excavation works proposed to level the site for development will not be disturbing naturally formed landscapes that would be considered sensitive in their potential to accommodate Aboriginal artefacts.</p> <p>However, the preliminary Construction Environmental Management Plan includes an unexpected finds protocol in the unlikely event that a potential heritage object is unearthed.</p>
<p>6. Traffic and Parking</p> <ul style="list-style-type: none"> - It is recommended that a dedicated loading / service bay area be provided for this development catering for a minimum heavy rigid vehicle (HRV), such being designed in accordance with the appropriate standard. The facility is to be located clear of light vehicle activity to minimise potential conflict and improve staff / visitor safety. - The provision of a formal concrete pathway across the Denison Street frontage of the site and linking to the existing bus stop immediately north of the intersection of Cowper and Denison Streets is recommended. - An additional bus shelter should also be provided to cater for the likely increase in bus patronage. - It is recommended the applicant be required to give consideration to <i>On the Street: A plan to better manage parking in the Newcastle LGA</i>. - It is recommended the applicant is required to provide details of the boom gates. 	<p>Refer to the revised architectural plans and the addendum traffic advice – parking strategy prepared by SECA Solution at Appendix 4 to this letter. In summary:</p> <ul style="list-style-type: none"> - the architectural plans have been updated to allow for the loading bay at the south of the building to operate whist allowing vehicles to pass to exit the rear car park onto Fitzroy Street - the proposal provides the extension of the existing footpath along the length of the Denison Street frontage. This will improve pedestrian connectivity of the site to Cowper Street, including access to public transport - there is an existing bus shelter accommodating westbound buses in Cowper Street immediately east of the intersection with Denison Street, approximately 170 m from the Denison Street pedestrian access. The westbound stop would be more likely to benefit staff waiting for a bus once leaving work, where less staff are likely to be waiting on the eastbound route. Further, a noted purpose of the City of Newcastle's Local Infrastructure Contributions Plan is to assist Council to provide the appropriate public facilities which are required to maintain and enhance amenity and service delivery within the area; for which the respondent requests a condition of consent in the form of a monetary contribution later in their submission, addressed at the response to Council's point 9. Therefore, no additional bus shelter has been proposed.

Matter raised	How addressed
	<ul style="list-style-type: none"> SECA Solution has provided advice (Appendix 4 to this letter) responding to 'On the Street: A plan to better manage parking in the Newcastle LGA' The architectural plans have been updated with notations on the boom gates
<p>7. Street trees</p> <ul style="list-style-type: none"> The <i>Angophora costata</i> trees proposed in the Denison Street verge is not supported because of the proximity of the trees to overhead powerlines. Also, the provision of seating and garden beds in the road reserve in association with the development is not permitted. 	<p>The landscape master plan has been updated to include <i>Buckinghamia celsissima</i> which is an appropriate species in accordance with 'Council's Street Tree Technical Detail'.</p> <p>Seating has also been removed from Denison Street frontage.</p>
<p>8. Waste Management</p> <ul style="list-style-type: none"> It is recommended that the applicant be required to provide further details regarding estimated waste generation rates, bin storage area/s, types and sizes of bins, frequency of collection and proposed collection methodology. 	<p>A preliminary Waste Management Plan has been submitted with this revised DA package and is included in Appendix 3 to this letter.</p>
<p>9. Local infrastructure contribution</p> <ul style="list-style-type: none"> The Section 7.12 Newcastle Local Infrastructure Contributions Plan 2019 (Updated Dec 2020) applies to the subject site. According to the submitted cost summary report prepared by APLAS Group Pty Ltd the total development cost is \$28,445,100. Based on the total development cost and the required 1% levy a monetary contribution of \$284,451 is required to be paid to CN, if approval is granted to the application. 	<p>PON recommends the following condition:</p> <p><i>"Before the issuing of a construction certificate for any part of the development, a payment of a levy of 1% of the proposed cost of carrying out the development as stated in the SEE must be paid to Council under section 7.12 of the EP&A Act, or as otherwise agreed with the Planning Secretary."</i></p>

2. Response to Department of Planning, Industry and Environment submission

Table 2-1 lists the matters raised by Department of Planning, Industry and Environment dated 4 August 2021 and how each item has been addressed in the updated DA package.

Table 2-1: Matters raised by Department of Planning Industry and Environment and how they have been addressed

Matter raised	How addressed
Clarification and more detail regarding the café use, including whether the café will operate standalone or ancillary to the commercial component.	The café is proposed as an ancillary use to the commercial development. Refer to Section 3.3 (operational activities) of the revised SEE for details regarding the café.
Floor space ratio (FSR) update	Page 62 (now page 69) has been updated to reflect a FSR of 0.81:1 in the revised SEE.

Matter raised	How addressed
Update the documentation to address the requirements of the <i>State Environmental Planning Policy (Coastal Management) 2018</i>	Section 5.4 has been added to the revised SEE to address the requirements of the Coastal Management SEPP. Appropriate mitigation measures are provided in Section 6 of the revised SEE to align the proposal with the objective of this SEPP. These safeguard measures are included in the preliminary construction environmental management plan.
Provide a street (long) elevation between 53 Denison Street and south of Thales for the Denison Street frontage and between the north of Hi Vis and the south of Thales for the Fitzroy Street frontage to demonstrate how the proposal will fit within the surrounding context in regard to character, bulk and scale.	Refer to Figure 3-3 to Figure 3-6 of the revised SEE.
Review and consider the objectives of Council's strategic Parking Plan 2021-2030 titled <i>On the Street: A plan to better manage parking in the Newcastle LGA</i> to be addressed	Refer to Parking Strategy prepared by SECA at Appendix 4 of this letter.
Provide a Green Travel Plan to detail the site-specific options and policies available to encourage the most sustainable travel to and from the development	Refer to Green Travel Plan prepared by SECA at Appendix 2 of this letter.
Consideration of the pedestrian linkages from the development to Cowper Street North and its public transport options from both frontages, specifically addressing any gaps in footpaths.	Refer to section 3.5.1 of the revised SEE. Refer to response to Council item 6 in Table 1.1 of this RTS.
Identify any proposed infrastructure in proximity of the site to accommodate for the increase in public transport users. In this regard, consider Council's request for an additional bus shelter, in accordance with the City of Newcastle's Newcastle Transport Strategy's objectives and actions, and any pedestrian way upgrades.	Refer to response to Council item 6 in Table 1.1 of this RTS.
Consideration and identification of an area to be used as a service/loading bay (refer to Council's comments).	Refer to response to Council item 6 in Table 1.1 of this RTS.
Confirmation of the design and use of the boom gates/sliding gate and their containment within the property boundaries.	Refer to response to Council item 6 in Table 1.1 of this RTS.
Additional noise and vibration assessment of the café and the rooftop mechanical plant (refer to Council's comments).	Refer to response to Council item 6 in Table 1.1 of this RTS.
Confirmation of which (if any) electricity mains will be undergrounded, as per Ausgrid's submission.	Refer to Section 3.8.3 of the revised SEE. In summary, it is proposed the three of the existing poles (and all overhead high voltage and low voltage cables) along Fitzroy Street will be evaluated in consultation with the relevant regulators, potentially modifying the installation or relocating underground.

Matter raised	How addressed
Preparation and submission of a Preliminary Waste Management Plan	Refer to the attached preliminary WMP (Appendix 3 of this letter)
Preparation and submission of a Preliminary Construction Environmental Management Plan (CEMP) that includes the identification of management approaches to mitigate any environmental or amenity impacts.	Refer to the attached preliminary CEMP.
Preparation and submission of an Operational Plan of Management to support the proposal in context of the Three Ports SEPP. This should demonstrate how the proposed management of the facility and the occupants of the facility meet the specific aims and objectives of the Three Ports SEPP (specifically Aim (3)(g) and the objectives of the SP1 Zone).	<p>Refer to the attached preliminary Operational Plan of Management.</p> <p>The proposal meets the objectives of the Three Ports SEPP. This has been demonstrated through the various management plans prepared for the proposal, together with the revised SEE providing further justification of the proposal aligning with the SEPP and the other strategic plans relating specifically to the Port of Newcastle (refer to Section 5.2 and 5.6 of the revised SEE).</p> <p>Further, a key component proposed to be part of the marketing strategy for the development will centre around its pivotal location, being situated between the Newcastle CBD and the core Port area to the east. The location's proximity to the Port will be attractive to businesses that directly or indirectly service the Port and value being on the fringe of the CBD yet close to the port operations and the numerous amenities the Carrington area offers. The advertising and marketing material for the development will feature these benefits in an effort to attract appropriate port related businesses.</p>

3. Response to Ausgrid submission

Ausgrid's submission notes that Ausgrid's acceptance is based primarily on the proposal to underground the electricity mains as per the Services Assessment document, page 41 and to follow through with this as per Ausgrid's contestable works process.

Ausgrid also notes that if PON decides not to proceed with undergrounding the overhead mains adjacent to the development site, these existing mains will need to be assessed by a competent "Approved Service Provider Level 3 – Overhead line Designer" to confirm if the development complies with Ausgrid standard NS220 and AS/NZ:7000.

PON would determine during detailed design whether the mains would be undergrounded and will consult with Ausgrid to confirm the appropriate approvals and standards required.

4. Response to public submissions

The public submissions received during public exhibition of the DA raised concerns relating:

- Noise
- Traffic
- Consultation process
- Carparking
- Building facing Denison Street.

Noise

An updated Noise assessment by RAPT Consulting has been submitted with this response to assess noise emanating from the café and rooftop mechanical plant only (Appendix 10 of the SEE) and concludes that the proposal will not exceed acceptable noise levels during construction and operation.

The noise assessment also includes a revised assessment of traffic noise on Denison Street. The assessment concluded that peak hour flows would mean traffic noise levels on Denison Street could potentially increase by 2 dB(A) during AM peak and 3dB(A) during PM peak. These levels are generally regarded as indiscernible to the human ear.

Traffic

The impacts of the development on the surrounding residential area and the existing street network were assessed as part of the DA and further examined as part of this response.

SECA Solution has provided additional advice in response to the specific concerns raised during public exhibition regarding traffic on Denison Street and also reiterates existing conclusions that were provided with the DA. The Technical Design Note prepared by SECA Solution is at Appendix 7 of the SEE and in summary concludes:

- Denison Street currently operates with a level of service A, with less than 200 vehicles per hour per direction.
- Current morning peak traffic volumes on Denison Street are 105 vehicles per hour (51 northbound and 54 southbound).
- Current evening peak traffic volumes on Denison Street are 62 vehicles per hour (37 northbound and 25 southbound).
- The project may see an additional 65 trips in the morning peak hour, 55 of those southbound along Denison Street. Afternoon flows are less than this.
- Therefore, with the proposal, morning peak hour flows on Denison Street could see up to 170 vehicles per hour (109 of those vehicles travelling southbound), which still remains within the level of service (maximum 200 vehicles per hour).
- The above calculations have been based on desirable limits for local residential roads, despite Denison Street functioning as a collector road, due to its historic operation in providing access to various port industries that continue to operate within the Port Lease Area.

The traffic impact assessment was also very conservative in its calculations and applied all of the daily traffic demands to Denison Street to demonstrate the capacity of the road to accommodate a maximum scenario. It is highlighted, as part of this response, that flows associated with the Denison Street access may be more in the order of 60% of the development traffic demands and 40% anticipated along Fitzroy Street. This could see daily flows on Denison Street increase by only 367 trips per day as opposed to the maximum case scenario increase of 611 additional trips per day.

Therefore, the proposed dual access via both Denison Street and Fitzroy Street is acceptable from a traffic impact perspective and in terms of quality of life and safety, the proposal demonstrates that the road will operate well within the desirable limits of a residential street.

Further, a preliminary operational plan of management has been prepared and includes management of delivery and waste collection services which will enter through Denison Street and exit onto Fitzroy Street and daily workers encouraged to use Fitzroy Street to further reduce traffic on Denison Street. A Green Travel Plan has also been submitted as part of the response that forms part of the preliminary operational plan of management and supports active travel, making it easier for employees to get to and from the workplace with reduced dependence on private vehicles. Although the proposal has demonstrated the traffic impacts are acceptable, the two abovementioned plans provide further assurance of minimal impact from a traffic perspective.

Consultation

The public exhibition of the application was completed in accordance with requirements of the *Environmental Planning and Assessment Act 1979* by the Department. Further, PON undertook a letter box drop of a flyer notifying the surrounding residents and businesses of the public exhibition of the development. This response to submission document aims to address the concerns of the residents by providing clarifications around the potential for noise, traffic, parking and visual impacts.

Carparking

The proposed development provides more than the minimum car parking required for tenants and visitors of the building so to preserve the available on street parking for residents and other businesses in the area.

Building facing Denison Street

The building has been designed and sited to best respond to the existing conditions and opportunities of the site. The building has been strategically setback from the existing residential development along Denison Street as opposed to directly facing it to provide a transition between the residential and commercial bulk and scale. Section 6.1 of the SEE submitted with the DA gave due consideration to the existing environment, surrounding land uses, desired character and amenity of the area and it details the design considerations that have been considered during the design phase of the proposal. The proposal provides an appropriate transition in the built form along Denison Street without adversely disrupting the existing streetscape and character along this frontage. The large setback from Denison Street and use of this space as an open car park maximises the distance to the existing dwellings and preserves solar access, the acoustic environment and visual privacy. The proposed layout also provides greater opportunity for soft landscaping along Denison Street to enhance the view from Denison Street and provide a buffer between the residential land uses and adjoining commercial and industrial activities.

5. Conclusion

We trust that the above response adequately addresses the submissions raised. If you would like to further discuss we would be happy to arrange a meeting with you.

A handwritten signature in black ink that reads "B Sinclair".

Kind regards

Belinda Sinclair

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APPENDIX 1

REVISED STATEMENT OF ENVIRONMENTAL EFFECTS

APPENDIX 2

GREEN TRAVEL PLAN

APPENDIX 3

PRELIMINARY WASTE MANAGEMENT PLAN

APPENDIX 4

ADDENDUM TRAFFIC ADVICE – PARKING STRATEGY

APPENDIX 5

PRELIMINARY CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN

APPENDIX 6

OPERATIONAL PLAN OF MANAGEMENT

APPENDIX 7

TRAFFIC ADDENDUM – DENISON STREET CAPACITY