

Development Consent

Section 4.16 of the Environmental Planning and Assessment Act 1979

As delegate of the Minister for Planning under delegation executed on 26 April 2021, I approve the Development Application referred to in Schedule 1, subject to the conditions specified in Schedule 2.

These conditions are required to:

- prevent, minimise, or offset adverse 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.



Glenn Snow

Director

Transport Assessments

Sydney

1 April 2022

File: EF21/17874

SCHEDULE 1

Application Number:	DA21/17874
Applicant:	Newcastle Port Corporation
Consent Authority:	Minister for Planning
Site:	Lot 110 DP 1191911, 106 Bourke Street, Carrington Dyke Point Helipad, Carrington
Development:	Use of twin-engine helicopters for marine pilot transfer operations

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DEFINITIONS

Applicant	Newcastle Port Corporation, or any person carrying out any development to which this consent applies
Conditions of this consent	Conditions contained in Schedule 2 of this document
Council	City of Newcastle Council
Department	NSW Department of Planning and Environment
Development	Development as described in Schedule 1 of this document
Environment	Includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings
EPA	NSW Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPL	Environment Protection Licence under the POEO Act
Feasible	Means what is possible and practical in the circumstances
Helipad	Dyke Point Helipad located at Lot 110 DP 1191911, 106 Bourke Street, Carrington subject to development consent DA 98/1262 (as amended) issued by City of Newcastle Council
Incident	An occurrence or set of circumstances that causes, or threatens to cause material harm and which may or may not be or cause a non-compliance <i>Note:</i> "material harm" is defined in this consent
Land	Has the same meaning as the definition of the term in section 1.4 of the EP&A Act
Maintenance activities	Routine, onsite aircraft maintenance undertaken in accordance with manufacturer's specifications and manuals, which may be scheduled or on an as-needed basis, to ensure the safe and continued operation of the twin-engine helicopter used for marine pilot transfer operations approved under this consent
Material harm	Is harm that: <ul style="list-style-type: none"> a) involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial, or results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000, (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment)
Minister	NSW Minister for Planning (or delegate)
Non-compliance	An occurrence, set of circumstances or development that is a breach of this consent
Operation	The carrying out of the approved purpose of the development.
Planning Secretary	Planning Secretary under the EP&A Act, or nominee
POEO Act	<i>Protection of the Environment Operations Act 1997</i>
Reasonable	Means applying judgement in arriving at a decision, taking into account: mitigation benefits, costs of mitigation versus benefits provided, community views, and the nature and extent of potential improvements.
Response to Submissions	The Applicant's response to issues raised in submissions received in relation to the application for consent for the development under the EP&A Act.
SEE	Statement of Environmental Effects prepared by ADW Johnson Pty Ltd and dated November 2021
Sensitive Receivers	Includes educational institutions (including preschools, schools, universities, TAFE colleges), health care facilities (including nursing homes, hospitals), religious facilities (including churches), child care centres and passive recreation areas (including outdoor grounds used for teaching). Receivers that may be considered to be sensitive include commercial premises (including film and television studios, research facilities, entertainment spaces, temporary accommodation such as caravan parks and camping grounds, restaurants, office premises, and retail spaces), and industrial premises as identified by the Planning Secretary

SCHEDULE 2

OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

- A1. In addition to meeting the specific performance measures and criteria in this consent, all reasonable and feasible measures must be implemented to prevent, and if prevention is not reasonable and feasible, minimise, any material harm to the environment that may result from the construction and operation of the development.

TERMS OF CONSENT

- A2. The development may only be carried out:
- (a) in compliance with the conditions of this consent;
 - (b) in accordance with all written directions of the Planning Secretary; and
 - (c) in accordance with the SEE and Response to Submissions.
- A3. Consistent with the requirements in this consent, the Planning Secretary may make written directions to the Applicant in relation to:
- (a) the content of any strategy, study, system, plan, program, review, audit, notification, report or correspondence submitted under or otherwise made in relation to this consent, including those that are required to be, and have been, approved by the Planning Secretary; and
 - (b) the implementation of any actions or measures contained in any such document referred to in condition A3(a) above.
- A4. The conditions of this consent and directions of the Planning Secretary prevail to the extent of any inconsistency, ambiguity or conflict between them and a document listed in condition A2(c). In the event of an inconsistency, ambiguity or conflict between any of the documents listed in condition A2(c), the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

USE OF HELIPAD

- A5. The conditions of this consent approve the use of twin-engine helicopters to undertake marine pilot transfer operations from the existing helipad.
- A6. Maintenance activities associated with the development may be undertaken at the helipad.

EVIDENCE OF CONSULTATION

- A7. Where conditions of this consent require consultation with an identified party, the Applicant must:
- (a) consult with the relevant party prior to submitting the subject document to the Planning Secretary for approval; and
 - (b) provide details of the consultation undertaken including:
 - (i) the outcome of that consultation, matters resolved and unresolved; and
 - (ii) details of any disagreement remaining between the party consulted and the Applicant and how the Applicant has addressed the matters not resolved.

COMPLIANCE

- A8. The Applicant must ensure that all of its employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this consent relevant to activities they carry out in respect of the development.

APPLICABILITY OF GUIDELINES

- A9. References in the conditions of this consent to any guideline, protocol, Australian Standard or policy are to such guidelines, protocols, Standards or policies in the form they are in as at the date of this consent.
- A10. However, consistent with the conditions of this consent and without altering any limits or criteria in this consent, the Planning Secretary may, when issuing directions under this consent in respect of ongoing monitoring and management obligations, require compliance with an updated or revised version of such a guideline, protocol, Standard or policy, or a replacement of them.

MONITORING AND ENVIRONMENTAL AUDITS

- A11. Any condition of this consent that requires the carrying out of monitoring or an environmental audit, whether directly or by way of a plan, strategy or program, is taken to be a condition requiring monitoring or an environmental audit under Division 9.4 of Part 9 of the EP&A Act. This includes conditions in respect of incident notification, reporting and response, non-compliance notification and independent auditing.

Note: For the purposes of this condition, as set out in the EP&A Act, "monitoring" is monitoring of the development to provide data on compliance with the consent or on the environmental impact of the development, and an "environmental audit" is a periodic or particular documented evaluation of the development to provide information on compliance with the consent or the environmental management or impact of the development.

INCIDENT NOTIFICATION, REPORTING AND RESPONSE

- A12. The Department must be notified in writing to compliance@planning.nsw.gov.au immediately after the Applicant becomes aware of an incident in relation to the development. The notification must identify the development (including the development application number and the name of the development if it has one), and set out the location and nature of the incident.
- A13. Subsequent notification must be given and reports submitted in accordance with the requirements set out in Appendix 1.

NON-COMPLIANCE NOTIFICATION

- A14. The Department must be notified in writing to compliance@planning.nsw.gov.au immediately after the Applicant becomes aware of any non-compliance in relation to the development.
- A15. The notification must identify the development and the application number for it, set out the condition of consent that the development is non-compliant with, the way in which it does not comply and the reasons for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.
- A16. A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.

REVISION OF STRATEGIES, PLANS AND PROGRAMS

- A17. Within three months of:
- (a) the submission of a ONCR under condition A33;
 - (b) the submission of an incident report under condition A12;
 - (c) the approval of any modification of the conditions of this consent; or
 - (d) the issue of a direction of the Planning Secretary under condition A2 which requires a review,
- the strategies, plans and programs required under this consent must be reviewed, and the Department must be notified in writing that a review is being carried out.
- A18. If necessary to either improve the environmental performance of the development, cater for a modification or comply with a direction, the strategies, plans and programs required under this consent must be revised to the satisfaction of the Planning Secretary. Where revisions are required, the revised document must be submitted to the Planning Secretary for approval within six weeks of the review.

Note: *This is to ensure strategies, plans and programs are updated on a regular basis and to incorporate any recommended measures to improve the environmental performance of the development.*

NOTIFICATION OF COMMENCEMENT

- A19. The Department must be notified in writing of the date of commencement of operation.

ACCESS TO INFORMATION

- A20. Within 7 days of commencement of operation, or such other time as agreed by the Planning Secretary, the Applicant must:
- (a) make the following information and documents (as they are obtained or approved) publicly available on its website:
 - (i) the documents referred to in condition A2 of this consent;
 - (ii) all current statutory approvals for the development;
 - (iii) all approved strategies, plans and programs required under the conditions of this consent;
 - (iv) regular reporting on the environmental performance of the development in accordance with the reporting arrangements in any plans or programs approved under the conditions of this consent;
 - (v) a comprehensive summary of the monitoring results of the development, reported in accordance with the specifications in any conditions of this consent, or any approved plans and programs;
 - (vi) a summary of the current stage and progress of the development;
 - (vii) contact details to enquire about the development or to make a complaint;
 - (viii) a complaints register, updated monthly;
 - (ix) audit reports prepared as part of any Independent Audit of the development and the Applicant's response to the recommendations in any audit report;
 - (x) any other matter required by the Planning Secretary; and
 - (b) keep such information up to date, to the satisfaction of the Planning Secretary.

COMPLIANCE REPORTING

- A21. Compliance Reports for the development must be carried out in accordance with the Compliance Reporting Post Approval Requirements.

- A22. Compliance Reports must be submitted to the Department in accordance with the timeframes set out in the Compliance Reporting Post Approval Requirements, unless otherwise agreed by the Planning Secretary. Noise measurements in the Compliance Reports must be prepared by a suitably qualified and experienced noise and vibration expert.
- A23. The Applicant must make each Compliance Report publicly available no later than 60 days after submitting it to the Department.
- A24. Notwithstanding the requirements of the Compliance Reporting Post Approval Requirements, the Planning Secretary may approve a request for ongoing annual operational compliance reports to be ceased, where it has been demonstrated to the Planning Secretary's satisfaction that an operational compliance report has demonstrated operational compliance.

PLAN OF MANAGEMENT

- A25. The Applicant must prepare a Helipad Operations Management Plan (HOMP) for the development. The HOMP must be submitted to the Planning Secretary for information within three months of commencement of operation of the development, unless otherwise agreed by the Planning Secretary. The HOMP must be endorsed by an independent and appropriately qualified aviation expert who has successfully completed an Aerodrome Reporting Officer course or the Helipad Landing Officer course or who has an Australian Commercial Helicopter Pilot Licence (or as otherwise agreed by the Planning Secretary) prior to its submission to the Planning Secretary for information. The Applicant must implement the properly endorsed HOMP.
- A26. The HOMP must address the following information, at a minimum:
- the objectives and context of the HOMP;
 - environmental policies and responsibilities involved in the operations;
 - relevant conditions of consent;
 - maximum daily and yearly number of flight movements;
 - approved operating hours;
 - approved Take-Off and Landing Area;
 - approved approach paths;
 - approved helicopters;
 - operating objectives and procedures, including:
 - environmental and safety checklists;
 - flight movement management including helicopter reception and dispatch;
 - flight safety (including access to on site weather information);
 - noise management and monitoring;
 - environmental management and monitoring;
 - maintenance activities;
 - incident management and emergency response;
 - complaints management and communication protocol; and
 - auditing and compliance.

REGISTER OF OPERATIONS

- A27. A register and flight movement log must be maintained that logs all movements to and from the helipad for twin-engine helicopters including confirmation of prior permission granted, dates, times, type of helicopter used, wind condition and flight path. A copy of the register shall be kept for a minimum of five years and must be provided to the Planning Secretary or Council on request.

NOISE LIMITS

- A28. The noise level from twin-engine helicopter movements associated with the helipad must not exceed the following:

Location	L _{AFmax} 24 Hours	7.00am to 10.00pm L _{Aeq}	10.00pm to 7.00am L _{Aeq}
At any residential or commercial premises and Sensitive Receivers	77 dB(A)	60.5 dB(A)	56 dB(A)

Noise from helicopters shall include noise from take-off and landing and any operations whilst on the helipad arising from start up, idle, power up and shutdown.

- A29. Maintenance activities must achieve the noise criteria outlined in the *NSW Industrial Noise Policy* (EPA, 2000). Note that verification of compliance with these criteria may require measurement of background noise levels in potentially-affected areas.

NOISE VERIFICATION AND MONITORING

- A30. Within three months of the commencement of operation of the development, operational noise monitoring must be undertaken to compare actual noise performance of the development against the noise limits in condition A28.
- An Operational Noise Compliance Report (ONCR) must be prepared by a suitably qualified and experienced noise and vibration expert. The ONCR must include, but not necessarily be limited to:
- (a) noise monitoring and compliance with the operational noise levels predicted in the SEE and the noise limits in condition A28; and
 - (b) confirm that further noise and vibration mitigation measures are not required for the operation of the development to comply with condition A28.
- A31. The ONCR monitoring must be undertaken:
- (a) for a period of seven continuous days when the development is operating (the Measurement Period), and an allowance made in the noise analysis to account for maximum usage capacity;
 - (b) during all hours of operation during the Measurement Period;
 - (c) at the representative monitoring locations identified in the SEE or at equivalent receptor locations as approved by the Planning Secretary.
- A32. In the event the monitoring results indicate a non-compliance with condition A28, the ONCR must investigate and identify noise and vibration mitigation measures required to achieve the noise limits set out in condition A28 at the affected sensitive receivers, including:
- (a) timing of implementation of such mitigation measures;
 - (b) a consultation strategy to seek feedback from directly affected landowners on noise and vibration from the development; and
 - (c) procedures for the management of noise and vibration complaints.
- A33. The ONCR must be submitted to the Planning Secretary for approval within 60 days of completing the operational noise monitoring and made publicly available.
- A34. The Applicant must implement the identified noise and vibration mitigation measures to the satisfaction of the Planning Secretary within one month of the date of the ONCR.

COMMUNITY CONSULTATIVE COMMITTEE

- A35. Within the first three months of operation, a Community Consultative Committee (CCC) must be established for the development in accordance with the Department's *Community Consultative Committee Guidelines: State Significant Projects* (2019). The CCC must begin to exercise functions in accordance with such Guidelines for the duration of operation, unless as otherwise agreed by the Planning Secretary.

Note: An existing CCC may be used for the development.

COMMUNITY COMMUNICATION STRATEGY

- A36. A Community Communication Strategy must be prepared to provide mechanisms to facilitate communication between the Applicant, the relevant Council and the community (including adjoining affected landowners and businesses, and others directly impacted by the development).
- A37. The Community Communication Strategy must:
- (a) identify people to be consulted during the operation of the development;
 - (b) set out procedures and mechanisms for the regular distribution of accessible information about or relevant to the development;
 - (c) provide for the formation of community-based forums, if required, that focus on key environmental management issues for the development;
 - (d) set out procedures and mechanisms:
 - (i) through which the community can discuss or provide feedback to the Applicant;
 - (ii) through which the Applicant will respond to enquiries or feedback from the community; and
 - (iii) to resolve any issues and mediate any disputes that may arise in relation to construction and operation of the development, including disputes regarding rectification or compensation.
- A38. The Community Communications Strategy must be submitted to the Planning Secretary for approval no later than three months after the commencement of operation.

A39. The Community Communication Strategy, as approved by the Planning Secretary, must be implemented for the duration of operation of the development, unless as otherwise agreed by the Planning Secretary.

MODIFICATION OF DEVELOPMENT CONSENT 98/1262

A40. The requirements of clause 97 of the EP&A Regulation are to be met, and a notification of modification of development consent DA 98/1262 is to be received by Council. The development consent DA 98/1262 is to be modified as follows:

Condition		Modification																	
4.4	The use of helipads being restricted to the nominated aircraft type (Hughes 500E);	Deleted																	
4.5	Prior to use of any aircraft type, other than the Hughes 500E, certification by a suitably qualified acoustic consultant being submitted demonstrating to Council's satisfaction that the helicopter(s) concerned is able to meet the noise limits specified in the conditions of this consent while operating within the design flight path;	Deleted																	
4.10	<p>The measured Lmax Contribution and contribution Leq from the operation of Dyke Point helipad (including takeoffs and landings) not exceeding the following limits when monitored at the location specified.</p> <table border="1"> <thead> <tr> <th>Location</th><th>Lmax 24 Hours</th><th>Leq 7am to 10pm</th><th>Leq 1pm to 7am</th></tr> </thead> <tbody> <tr> <td>At any residential or commercial premises</td><td>74 dB(A)</td><td>60.5 dB(A)</td><td>56 dB(A)</td></tr> </tbody> </table>	Location	Lmax 24 Hours	Leq 7am to 10pm	Leq 1pm to 7am	At any residential or commercial premises	74 dB(A)	60.5 dB(A)	56 dB(A)	<p>The measured Lmax Contribution and contribution Leq from the operation of single-engine helicopters at the Dyke Point helipad (including takeoffs and landings) not exceeding the following limits when monitored at the location specified.</p> <table border="1"> <thead> <tr> <th>Location</th><th>Lmax 24 Hours</th><th>Leq 7am to 10pm</th><th>Leq 10pm to 7am</th></tr> </thead> <tbody> <tr> <td>At any residential or commercial premises</td><td>74 dB(A)</td><td>60.5 dB(A)</td><td>56 dB(A)</td></tr> </tbody> </table>	Location	Lmax 24 Hours	Leq 7am to 10pm	Leq 10pm to 7am	At any residential or commercial premises	74 dB(A)	60.5 dB(A)	56 dB(A)	
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ADVISORY NOTES

- AN1.** All licences, permits, approvals and consents as required by law must be obtained and maintained as required for the development. No condition of this consent removes any obligation to obtain, renew or comply with such licences, permits, approvals and consents.
- AN2.** An "appropriately qualified and experienced noise and vibration expert" is defined as a person who possesses the qualifications to render them eligible for combined membership of the Australian Acoustical Society and Institution of Engineers Australia at grade member or is employed as a professional acoustic consultant or engineer by a firm eligible for membership of the Australasian Association of Acoustic Consultants

APPENDIX 1 WRITTEN INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS

A written incident notification addressing the requirements set out below must be emailed to the Department at the following address: compliance@planning.nsw.gov.au within seven days after the Applicant becomes aware of any incident in relation to the development. Notification is required to be given under this condition even if the Applicant fails to give the notification required under condition A13 or, having given such notification, subsequently forms the view that an incident has not occurred.

WRITTEN INCIDENT NOTIFICATION REQUIREMENTS

Written notification of an incident must:

- a. identify the development and application number;
- b. provide details of the incident (date, time, location, a brief description of what occurred and why it is classified as an incident);
- c. identify how the incident was detected;
- d. identify when the Applicant became aware of the incident;
- e. identify any actual or potential non-compliance with conditions of consent;
- f. describe what immediate steps were taken in relation to the incident;
- g. identify further action(s) that will be taken in relation to the incident; and
- h. identify a project contact for further communication regarding the incident.

INCIDENT REPORT REQUIREMENTS

Within 30 days of the date on which the incident occurred or as otherwise agreed to by the Planning Secretary, the Applicant must provide the Planning Secretary and any relevant public authorities (as determined by the Planning Secretary) with a detailed report on the incident addressing all requirements below, and such further reports as may be requested.

The Incident Report must include:

- a. a summary of the incident;
- b. outcomes of an incident investigation, including identification of the cause of the incident;
- c. details of the corrective and preventative actions that have been, or will be, implemented to address the incident and prevent recurrence; and
- d. details of any communication with other stakeholders regarding the incident.