

Planning and Regulatory, G.Mansfield
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By email: Robert.Byrne@planning.nsw.gov.au

Dear Mr Byrne

**NOTIFICATION OF DEVELOPMENT APPLICATION PORT OF NEWCASTLE P/L
USE OF DYKE POINT SHED CARRINGTON (DA8062)**

I refer to your email of 24 November, 2016 advising Council that the Port of Newcastle Pty Ltd has submitted a development application for the use of the Dyke Point Shed located at Carrington as a storage area for cargo and inviting Council to comment on the development.

Council officers have reviewed the Statement of Environmental Effects (SEE) submitted in support of the application and the following comments are offered for your consideration:

1. Proposed development

According to the SEE, the existing shed will be used as a 'port facility', (as defined) to store a range of cargo. Short term storage of cargo in the shed may occur either before or after transport by ship. Furthermore, it is proposed to lease all or part of the shed to *'various tenants for various lengths of time'*. It is noted some cargo may be stored at the site for up to two years which would appear to be contrary to the concept of short term storage.

Having regard to the above circumstances and the objectives of the SP1 Special Activities zone, it is recommended that if the application is recommended for approval by the Department an appropriate condition is imposed that requires the shed is only used storage purposes associated with a port facility, as defined under State Environmental Planning Policy (Three Ports) 2013.

Plans and elevations of the shed were not included in Appendix B of the SEE. It is recommended the applicant is required to provide these drawings prior to determination of the application.

2. Noise impact

The application is supported by a Noise Impact Assessment (NIA) prepared by Vipac Engineers and Scientist Limited. Previous development applications for proposed uses of the Dyke Point Shed have been controversial because of its proximity to residential and hotel developments and concerns raised regarding potential noise impacts, particularly at night. As such, it is recommended the submitted NIA is reviewed by an appropriately qualified acoustic engineer to ensure the assumptions made are valid and the recommendations are appropriate and workable.

2. Flooding

The site is subject to flooding. This hazard is not acknowledged or considered in the SEE. It is noted that condition 3.5 of the development consent (DA2006/2166) granted by Council in July 2007 to establish a superyacht commercial building and refit facility required the whole of the proposed structure (i.e. the shed) below the flood planning level being constructed in materials and finishes that are resistant to damage from floodwaters/tidal waters.

It is recommended the applicant is required to provide supplementary information regarding this matter prior to determination of the application.

3. Stormwater and drainage

According to the SEE, stormwater from the shed is collected in an underground reticulated system and released into the harbour. It is recommended clarification is sought from the applicant as to whether the above stormwater disposal system complies with the stormwater management plan approved for the site under condition 3.4 of DA2006/2166.

4. Fire safety

The SEE does not include, as stated, a fire safety certificate in Appendix D. It is recommended the applicant is required to provide the certificate prior to determination of the application.

5. Traffic management and parking

The SEE does not include, as stated, a traffic management plan in Appendix E. It is recommended the applicant is required to provide the above plan prior to determination of the application.

The SEE is silent on the number of on-site parking spaces available for use by staff and visitors of the future tenants of the shed. It is recommended clarification is sought from the applicant regarding this matter. The location of these parking spaces should also be indicated on the required development plans.

10. Development contribution

The SEE interpretation of the Ministerial Direction regarding development contributions is incorrect; a section 94A levy can be imposed on development in the Port Lease Area. While clause 4 of the direction refers to development on land within the Lease Area, clause 6 and the subsequent note make it clear the Direction is only applicable to complying development applications issued by Council (and accredited certifiers).

As the Minister is the consent authority for all development in the Lease Area, the Minister is still obliged to consider the requirements of Councils Section 94A Development Control Plan, 2009 (Updated May, 2015). In this case, as the carrying out of the proposed development does not involve any costs it is exempt from a levy under clause 7 of the Plan.

If you require further clarification of any matter raised in this letter, please contact me on (02) 4974 2767 or gmansfield@ncc.nsw.gov.au.

Yours faithfully

A handwritten signature in black ink, appearing to read 'G. Mansfield', written in a cursive style.

Geof Mansfield
PRINCIPAL PLANNER (DEVELOPMENT)