



New South Wales Government
Independent Planning Commission

TRANSCRIPT OF PROCEEDINGS

RE: 106 BOURKE STREET, CARRINGTON ENGINE HOUSE
ALTERATIONS AND ADDITIONS (DA 22/6312)

DEPARTMENT MEETING

COMMISSION PANEL: ANNELISE TUOR (Chair)

OFFICE OF THE IPC: STEPHEN BARRY
NIMA SALEK
HEATHER WARTON

DPE KEIRAN THOMAS
REPRESENTATIVES: MICHELLE NILES
CHRISTOPHER ELDRED

LOCATION: VIA VIDEO CONFERENCE

DATE: 12.30PM, FRIDAY, 16 DECEMBER 2022

TRANSCRIBED AND RECORDED BY APT TRANSCRIPTIONS

MS ANNELISE TUOR: Good afternoon and welcome. Before we begin, I would like to acknowledge that I'm speaking to you from Cammeraygal land and I acknowledge the traditional owners of all the country from which we virtually meet today and pay my respects to their Elders past and present. Welcome to the meeting today to discuss the DA for 106 Bourke Street, Carrington Engine House Alterations and Additions, DA 22/6312 currently before the Commission for determination. The applicant, The Port of Newcastle Operations Pty Limited, is seeking approval for alternations and additions to an existing building at 106 Bourke Street, Carrington being the former Carrington Hydraulic Engine House. The proposal comprises the construction of an access ramp, internal alterations and additions and remediation works to the former engine house building and heritage and rotation works to the former cranes associated with the former engine house.

My name is Annelise Tuor and I'm the Chair of the panel. We are also joined by Stephen Barry and Nima Salek from the Office of the Independent Planning Commission and Heather Warton who is assisting the Commission. From the Department we have Keiran Thomas, Michelle Niles, Christopher Eldred. That's covering everyone from the Department? 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 of this matter and will form one of several sources of information upon which the Commission will base its determination. It is important for the Commission to ask questions of attendees and to clarify issues whenever it is considered appropriate. If you are asked a question and not in a position to answer, please feel free to take the question on notice and provide any additional information in writing which we will then put up on our website. I request that all members here today introduce themselves before speaking for the first time and for all members to ensure that they do not speak over the top of each other to ensure accuracy of the transcript. So we'll now begin. So we've sent out an agenda and the - I understand that the Department has sent through a presentation so we'll get started with that.

MR KEIRAN THOMAS: Thank you. It's Keiran Thomas, Director of Regional Assessments. My Senior Planner Chris Eldred is going to provide the presentation today. Thanks, Chris.

MR CHRISTOPHER ELDRED: Thank you, Keiran. Just share the slides. Has that come through?

MS TUOR: Yes, it has.

MR ELDRED: Apologies, I'm just getting my screen sorted.

MS TUOR: It's all right.

MR ELDRED: Okay. So this development application relates to the proposed works to the Carrington Engine House adjacent former Crane Bases in Carrington which is located within the Newcastle Local Government Area. The site is known as 106
10 Bourke Street, Carrington and is located approximately 300 metres east of the intersection of Bourke Street and Young Street and is located within the Port of Newcastle lease area.

The application seeks consent for the construction of an access ramp to provide universal access from outside the engine house to the main engine room. Internal alterations and additions and remediation works to the former engine house building including reinforcement works to the existing subfloor and construction of a new concrete slab within the engine room, treatment of the subfloor to encapsulate the known contamination hazard, installation of mechanical ventilation and lighting within
20 the subfloor to be powered by the new solar panels to be erected on the engine house roof and heritage interpretation works for the former crane base as associated with the engine house as well as further interpretation works within the engine house forecourt.

The Department received one public submission from the City of Newcastle Council during the exhibit period and one public submission significantly after the exhibition period had closed. Further to this, three agency submissions that we received from Heritage NSW who did not object to the development and provided general terms of approval. Subsidence Advisory NSW did not object to the development and stated that general terms of approval were not required and the EPA responded but provided
30 no substantive comments.

The City of Newcastle did not object to the development but sought clarification on issues including the development consistency with flood planning controls for the area. The Council also requested the payment of section 7.12 development contributions. The public submission was received from an interest group and provided comments that were largely outside the scope of this application. The Department requested the applicant to respond to the issues raised in the Council's submission and also requested additional information including a detailed site investigation that considered the potential contamination of the site.
40

The applicant responded with a response to submissions package that comprised a detailed response to the submission and agency advice, a detailed site investigation into contamination, a cost summary report as well as information outlining why contributions are not payable and information to outline the consistency of the development with Council's flood planning controls. Council provided further comments on the RTS package which outline the applicant had used out-of-date information in regards to flooding to inform their response as well as detailing what the current flooding controls are applicable to the site. The Council further requested a revised cost summary report to be prepared by our quantity surveyor to outline the costs associated with these works.

10

So we can see here the works that are proposed. The concrete slab is highlighted in the blue area, the access ramp highlighted in green and the façade - particularly the façade showing the access ramp highlighted within yellow. The Department has considered the proposal and the submissions received and considered it is approvable subject to conditions of consent. The key issues with the proposal are heritage, contamination, development contributions and the future land use of the engine house.

Firstly, in terms of the heritage the Department notes that the development would not result in any significant impacts to the heritage significance of the Carrington Hydraulic Engine House or the former crane bases. The access ramp involves minimal work to the heritage fabric and can be constructed to be an independent structure. The access ramp provide universal access to the engine house that is currently not available. The suspended concrete slab floor whilst it will result in the removal and/or obscuring of heritage fabric would result in an approved outcome for the engine room as it would allow the repairing of the eroded subfloor structure, encapsulation of the known hazards and create a level accessible floor for the potential future re-use of the building.

20

The proposed solar panels would not be visible from the public domain and would allow for the ongoing management of the building and could be removed in the future if mains power were to be connected to the building. The heritage interpretation works were proposed at the request of Heritage New South Wales and would acknowledge and interpret the heritage significance of the Carrington Engine House and the hydraulic crane bases.

30

Secondly, in terms of the contamination identified within the Carrington Engine House and the suitability of the proposed works to render the building habitable, the applicant provided a detailed site investigation report that identified exceedances of both health investigation levels and ecological investigation levels for a commercial or industrial criteria of some contaminants. The treatment and encapsulation of the contaminated

40

areas as proposed would render the engine room habitable subject to a long-term environment management plan. The Department has recommended conditions that a long-term environmental management plan be prepared and that a clearance certificate for the engine room be required post-construction works.

10 Thirdly, in terms of the development contributions the Department has determined that the development does not trigger the threshold for the payment of contributions as the majority of the works associated with development are in the preparation for the adaptive re-use of a heritage item or to enable access by people with a disability. In reference to clause 208 of the Environmental Planning and Assessment Regulations these costs must not be included in the determination of the cost of the development. Other costs associated with the development being for the heritage interpretation works do not trigger the minimum threshold of \$100,000 under the City of Newcastle 7.12 plan.

20 Fourthly, in terms of the land use of the Carrington Engine House building the Department determined that the approval of no land use was appropriate in this instance as the applicant is undecided on a specific future land use for the building, the works are seeking to address a current constraint on the building and to allow future re-use and allow the building to be habitable and allow prospective tenants to view the space. Approving a specific land use could have implications with respect to building class under the Building Code of Australia and subsequent building standards that would need to be achieved. Overall, we consider the proposed development is appropriate and the development would not adversely impact the heritage significance of the site and is compatible with the contaminated nature of the building.

30 Finally, it has come to the attention of the Department that the applicant listed on the application form is EJE Architecture and not the Port of Newcastle. Given this, the Department has prepared a revised recommended development consent correctly identifying EJE Architecture as the applicant. Thank you.

40 MS TUOR: Thank you very much. So we've got a few questions. I think we might - rather than the order that we've got in the agenda we might start off just with the - essentially permissibility of the current land use. So I understand that you're not proposing any change or specifying a future land use but we just wanted to clarify exactly what the existing land use is and consequently what the permissibility of the application is? As I understand the application as described is for alterations and additions to an electricity generating building; however, the use of the building for that purpose seemed to stop in about 1967 and it hasn't actually been used for a very long time since and the schedule of uses that are permissible on the site it's very limited in the SEPP. So we're just a little bit confused and seeking clarification on that point.

MR ELDRED: Yes. So in regards to the land use currently - latest approved use would be for the electricity generating work. Since 1967 the building has been left unused and falling into disrepair. At this stage the applicant's not proposing any new land use.

MS TUOR: And because it's been - that use hasn't been since 1967 there's no issue about abandonment, et cetera, et cetera, it's saying that that was the last approved use so, therefore, that's the use that it's currently classified as?

10

MR ELDRED: Yes. And electricity generating works are still permitted within the SP2 zone.

MS TUOR: Heather, did you want to ask anything further on that?

MS HEATHER WARTON: I looked at this issue and I thought perhaps it might be better characterised as a port operations building and facilities because - which is a permissible use in the SP1 special activity zone because it's not really - and when you use the words, you know, alterations, additions to the electricity building it sounds like the building is being used for that use currently, which obviously it isn't. I thought perhaps it might be better to categorise it as perhaps administration and port operations building and facilities and also port facilities are still open for use as well.

20

That was just to make it like really clear-cut. Only because of the - to my mind, the fact that it's not actually currently an electricity generating station so how can you be - you're not altering it for that use, I guess is the implication. And also I thought it might be wise when we get to the issue of the 7.12 contributions to also put in there something about adaptive re-use as well. I don't think that you're relying on the adaptive re-use clause for permissibility but I thought it might be useful because it does seem to be that the aim of the application is, as you have said clearly in your presentation just now, it's a further - as part of an adaptive re-use I just thought that might be useful as well.

30

MR THOMAS: Maybe we could take it on notice. I'm hesitant to do that without giving an answer now but just so we fully understand exactly what the question is around the definition of use. It would be good if we could get the question and then respond in writing once we've had a chance to get to the bottom of exactly what you're asking.

40 MS TUOR: So you want us to put the question in writing, is that what you're saying?

MR THOMAS: Yes, I think that's usually the process if we ask to take something on notice the Commission will send us the question in writing and then we can give you a proper response.

MS TUOR: Yes. All right. And maybe we should just get onto the 7.12 issue next. So as I understand it, the 7.12 is not - there's no requirement for 7.12 because it's essentially the adaptive re-use of a heritage building and then other works wouldn't be over the hundred thousand dollar threshold and I think that was the point that Heather was making was potentially just making it clear that, you know, in the description of the works, et cetera, that it is for the adaptive re-use of the building or it's staging
10 towards the adaptive re-use of the building. Heather, did you want to say anything more on that?

MS WARTON: Yes, that was my - that was my point. If we're going to the basis for the exemption is for adaptive re-use of the heritage building, so to my mind, somewhere along the line you have to say in the approval, and it's clear in the SCE, I think, and it's clear in the application that this is the case but somewhere in the mind, in the actual consent or in the approval you need to use the words adaptive re-use for a heritage building, because they're saying on the one hand there's no use but we know
20 that they are working towards adaptive re-use of the heritage building and this is part of the works towards that end. So it was more just somewhere in the approval that that should be made clear was my point.

MS MICHELLE NILES: We can update the draft consent and send through a revised version.

MS WARTON: Yes, that was just my point. I think it's like clear that it is and when you look at the SCE it talks a lot about - and the CMP it talks a lot about what they're trying to do with the building and so on and that this is part of a continuation of works that have already been undertaken so I've got no problem with the actual intent, it was
30 just making clear in the consent that that's what was proposed. And in terms of my other issue about the permissibility, it was just like were you saying it was port facilities, was that the line item in the schedule in the SEPP that you're saying is permissible or are you saying it was administration and port operations and facilities? I was just wondering what was the actual permissible use with reference to the land use table that you're relying on. That was really the question.

MS NILES: Yeah, we'll respond to that as part of - as part of our response to the notice response.

40

MS WARTON: I've got no problem with the outcome, it's just that I wanted to understand the actual line item in the land use table that you're fitting it under.

MS NILES: Yep. Understood.

MS TUOR: All right. So the next area was just - I think it's linked together is flood and contamination and this is probably going to sound very, very basic but just in terms of the flood level, I think it's 2.5 and then the work - the level of the slab and where the works are being encapsulated, just confirmation that there's no issue about -
10 which I understand that slab and et cetera is below the flood planning level, so just any issues to do with potential leaching or something of contamination if the flood and the encapsulated material is below the flood planning level.

MR ELDRED: So the finished floor level of the slab would be above 2.5 metres. The current - the engine room floor currently is quite a lot higher than the outside level. Regards to the subfloor, the applicant's proposing to treat that with a PVC glue, a spray to encapsulate it in place as well as all the contaminated fabric will be stored within the subfloor and also sprayed to encapsulate it.

20 MS TUOR: So that PVC spraying would prevent any leaching if water were to go into that area?

MR ELDRED: I'm not sure if the applicant's just simply mentioned that but we can take that on notice.

MS TUOR: Okay. So any other questions on contamination or flooding?

MS WARTON: I would like - I saw there was a condition about the other works like the electrical - electrical switches and so on, cabling, has to be below the flood level.
30 The applicant was initially arguing that the flood planning level was 2.3 and not 2.5. I Just wasn't sure if the applicant - and the condition says 2.5 so are they aware of that condition that that has to be at 2.5 and not 2.3?

MR ELDRED: Yes, the applicant reviewed the draft conditions and provided no further comments.

MS WARTON: Okay.

MS TUOR: All right. Well, maybe then we should just get onto the conditions.
40 We've had a very quick look at them. So there's a couple of high level things that we just wanted to discuss with you. One is that the consent appears - you know, it's

obviously a standard template and it appears to have quite a number of conditions that are probably not relevant to this application which is fairly minor. So things like the conditions in relation to staging, et cetera. So I suppose we just wanted to check whether it's your standard procedure to just maintain all the standard conditions or do you - or is it appropriate to go through and sort of excise the ones that don't necessarily relate to this development given the nature of what's proposed?

10 MS NILES: The conditions provided are standard for the Department consents but we're happy to go through and see if there's any rationalisation we can do with the conditions.

MS TUOR: Right. Thanks. And then the other one was just again, I suppose, a question in terms of your standard procedure. The GTAs from the Heritage Council are included in your - I think it's your A1 condition - A2 condition but they're not specifically referred to. There's a condition requiring that they be complied with. So is that standard procedure that you wouldn't actually have them as a schedule attached to the consent or incorporate them into the consent just in terms of having one document that is easily accessible?

20 MS NILES: I believe this is the general way that the Department does the GTA consents, having them as part of A2, a reference to those GTAs in A2. Happy to go through and see if - if it's the Commission's preference that they be a schedule or the conditions be individually inputted into the consent we can have a look at that.

MS TUOR: Yes. I think it just makes it more user-friendly and easier if you've got it all in one document.

MS NILES: Yes. Is there a preference to schedule versus conditions embedded?

30 MS TUOR: No preference I don't think.

MS NILES: Okay.

MS TUOR: Whatever's easiest.

MS NILES: Yep.

40 MS TUOR: So they were the high level questions. I think what we'll do is just send over a notated version because there were just a few cross-referencing things and, Heather, did you want to just sort of expand on - - -

MS WARTON: Yes, there were just a few cross-referencing errors which I know is very easy to have, you know, condition E10 isn't E10, it should be E12 or vice versa or whatever. Just they're really typos. The only other thing is the long-term environmental management plan, one of the conditions says it's to be approved by the certifier and the other condition says it's to be approved by the Planning Secretary, so the ongoing condition references the Planning Secretary so I presume it's the Planning Secretary but that maybe should be clarified in terms of what was the intent. You mentioned like that plan in your presentation and there was another condition that references section of the Act that doesn't apply, that only applies to SSD. Section 9, I think, was about ongoing - ongoing - what's the word - something to do with like investigation or making sure compliance is met. Compliance reporting I think it was. Yes, but otherwise the things are just like very minor and typos.

MS NILES: Yep, we can go through and clear up any typos and clarify E10 versus F2 as well - - -

MS WARTON: Yes, yes.

MS NILES: - - - for the monitoring.

MS WARTON: Yes.

MS TUOR: All right. Well, I think Steve or Nima, did you have any other questions that you wanted to ask?

MS NIMA SALEK: Not from me.

MR STEPHEN BARRY: Just in terms of the questions on notice, it may be more efficient if we deal with some of those questions about the conditions through the - I guess, our interaction about conditions in the event of the panel decides to approve the application, maybe needed that one rather than doing it through questions on notice, is that okay with everyone?

MS NILES: Yes.

MS TUOR: All right. So no further questions from you? Okay. Thank you very much for your time.

MR THOMAS: Thank you.

MS NILES: Thank you. Have a good afternoon.

MEETING CONCLUDED

[12.58pm]