



Raven Street Warehouse and Distribution Centre

Development Application Assessment Report (DA-110646)

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Glossary

Abbreviation	Definition
Applicant	Port of Newcastle Operations Pty Ltd
CIV	Capital Investment Value
Council	Newcastle City Council
DA	Development Application
Department	Department of Planning, Industry and Environment
Development	The development as described in the SEE and RTS for the Raven Street Warehouse and Distribution Centre
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
LEP	Local Environmental Plan
Minister	Minister for Planning and Public Spaces
Planning Secretary	Secretary of the Department of Planning, Industry and Environment
RTS	Response to Submissions letter titled <i>Raven Street Warehouse and Distribution Centre – DA-110646 Response to Submissions</i> by EJE Architecture dated 13 August 2021
SEE	Statement of Environmental Effects titled <i>Proposed Warehouse and Distribution Centre</i> prepared by EJE Architecture dated 21 May 2021
SEPP	State Environmental Planning Policy

Executive Summary

This report details the Department of Planning, Industry and Environment's (the Department) assessment of a development application (DA-110646) for the Raven Street Warehouse and Distribution Centre. The Applicant, Port of Newcastle Operations Pty Ltd (the Applicant), proposes to construct and operate a warehouse and distribution centre in the Port of Newcastle lease area within the Newcastle local government area.

The Applicant has advised the purpose of the proposed development (the development) is to support the operations of the Port of Newcastle and would ultimately be occupied by a Port related land use. However, at this stage, there are no specific tenants associated with the development. The Applicant is seeking to respond to demand for this type of development within the Port area by securing a development consent and providing future tenants with minimal lead time to occupy a site and commence operations.

The site is located approximately 5.2 kilometres to the north of the Honeysuckle foreshore area of the Newcastle central business district, and approximately 2.5 kilometres to the north-west of the residential suburb of Stockton. The site comprises 10,388 square metres of industrial land which is zoned SP1 Special Activities pursuant to State Environmental Planning Policy (Three Ports) 2013.

The Port of Newcastle is the largest port on the eastern seaboard of Australia with over 2,200 trade vessels annually and is a significant export location for bulk commodities such as coal, ore and grain. Up to 164 million tonnes of cargo pass through the port annually.

The development has a capital investment value of \$5,097,036 and is expected to generate 27 construction jobs and an estimated 50 operational jobs.

Statutory Context

The Minister for Planning and Public Spaces is the consent authority for the development under clause 8(a) of the State Environmental Planning Policy (Three Ports) 2013 as the development is located on land within the Port of Newcastle Lease Area. However, as the Applicant disclosed a reportable political donation under section 10.4 of the *Environmental Planning and Assessment Act 1979* (the EP&A Act), the Independent Planning Commission is the consent authority for the application under the Minister's delegation of 14 September 2011.

Engagement

The Department exhibited the development application and supporting documents from Monday 28 June 2021 until Monday 12 July 2021. During the exhibition period, the Department received no submissions from the public, and received advice from NSW Fire and Rescue and Newcastle City Council who sought clarification on several issues including vehicle access and sewage management.

The Department requested the Applicant address the matters raised by Newcastle City Council and the Department in a Response to Submissions report.

Assessment

The Department's assessment of the development has fully considered all relevant matters under section 4.15 of the EP&A Act, the objects of the EP&A Act and the principles of ecologically sustainable development. The Department has identified the key issues for assessment are vehicle access and driveway design, sewage management, stormwater management and acid sulfate soils.

Vehicle Access and Driveway Design

The initial driveway design sought to utilise the existing site driveway. Due to the design and alignment of the existing driveway, heavy vehicles exiting the site to the left could not do so without crossing into the oncoming traffic lane. Amendments to the driveway design and a restriction to left in / left out movements have resolved the driveway and access issue and these requirements have formed part of the recommended development consent.

Sewage Management

At present, the site is unsewered. Hunter Water as the local sewer operator confirmed that connection to the sewer main is not possible. As such, the Applicant has proposed a pump out onsite sewage management system. These systems are common within the locality due to difficulties providing sufficient irrigation or absorption areas for traditional onsite systems.

Stormwater Management

The Applicant's initial stormwater management plan excluded a significant area of the site from the proposed stormwater management system for the development. The stormwater management plan was subsequently amended to ensure that all development generated surface water flows are managed appropriately through the harvesting and controlled discharge of stormwater. These requirements form part of the recommended development consent.

Acid Sulfate Soils

Field testing has identified the presence of acid sulfate soils which are located approximately 1.5m below ground level. The development has the potential to encounter acid sulfate soils during the construction of building footings and the installation of utility services. An acid sulfate soils management plan was provided with the Statement of Environmental Effects which provides appropriate management control recommendations for the development. The implementation of the ASSMP forms part of the recommended development consent.

Summary

The Department's assessment concludes the impacts of the development can be mitigated and/or managed to ensure an acceptable level of environmental performance, subject to the recommended conditions of consent. Consequently, the Department considers the development is in the public interest and is approvable, subject to conditions.

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1 Introduction

1.1 The Department's Assessment

- 1.1.1 This report details the Department of Planning, Industry and Environment's (the Department) assessment of development application DA-110646 (the application), lodged by the Port of Newcastle Operations Pty Ltd (the Applicant). The Applicant seeks approval for the construction and operation of a warehouse and distribution centre (the proposed development) which is located on land legally described as Lot 152 DP 1202468, Raven Street, Kooragang (the site), in the Port of Newcastle (PON) Lease Area, which is located within the Newcastle local government area (LGA) (see **Figure 1**).
- 1.1.2 The proposed development (the development) involves the construction of a single building to operate as a warehouse and distribution centre (W&DC). The W&DC will comprise two adjoining units with associated office facilities, landscaping, car parking, driveways and manoeuvring areas capable of supporting B-double semi-trailers. The Department notes that at this stage, the Applicant has not identified any specific tenants for the development.
- 1.1.3 The Department's assessment has considered all documentation submitted by the Applicant, including the Statement of Environmental Effects (SEE), Response to Submissions (RTS) and advice from government agencies and Newcastle City Council (Council). The Department's assessment also considered the legislation and planning instruments relevant to the site and the development.
- 1.1.4 This report describes the development, surrounding environment, relevant strategic and statutory planning provisions and the issues raised by Council and the Department. The report evaluates the key issues associated with the development and provides recommendations for managing any impacts.

1.2 Development Background

- 1.2.1 Newcastle harbour is the largest and oldest export port on the eastern seaboard of Australia, with over 2,200 trade vessels visiting the port every year and export activities dating back to 1799. The port is a significant export location for bulk commodities such as coal, ore and grain, with up to 164 million tonnes of cargo passing through the port annually.
- 1.2.2 The development site on Raven Street is undeveloped and has historically been utilised for general material storage. The Applicant considers the site is under utilised and has identified an opportunity to construct a warehouse and distribution centre in anticipation of a future user/s of the development.

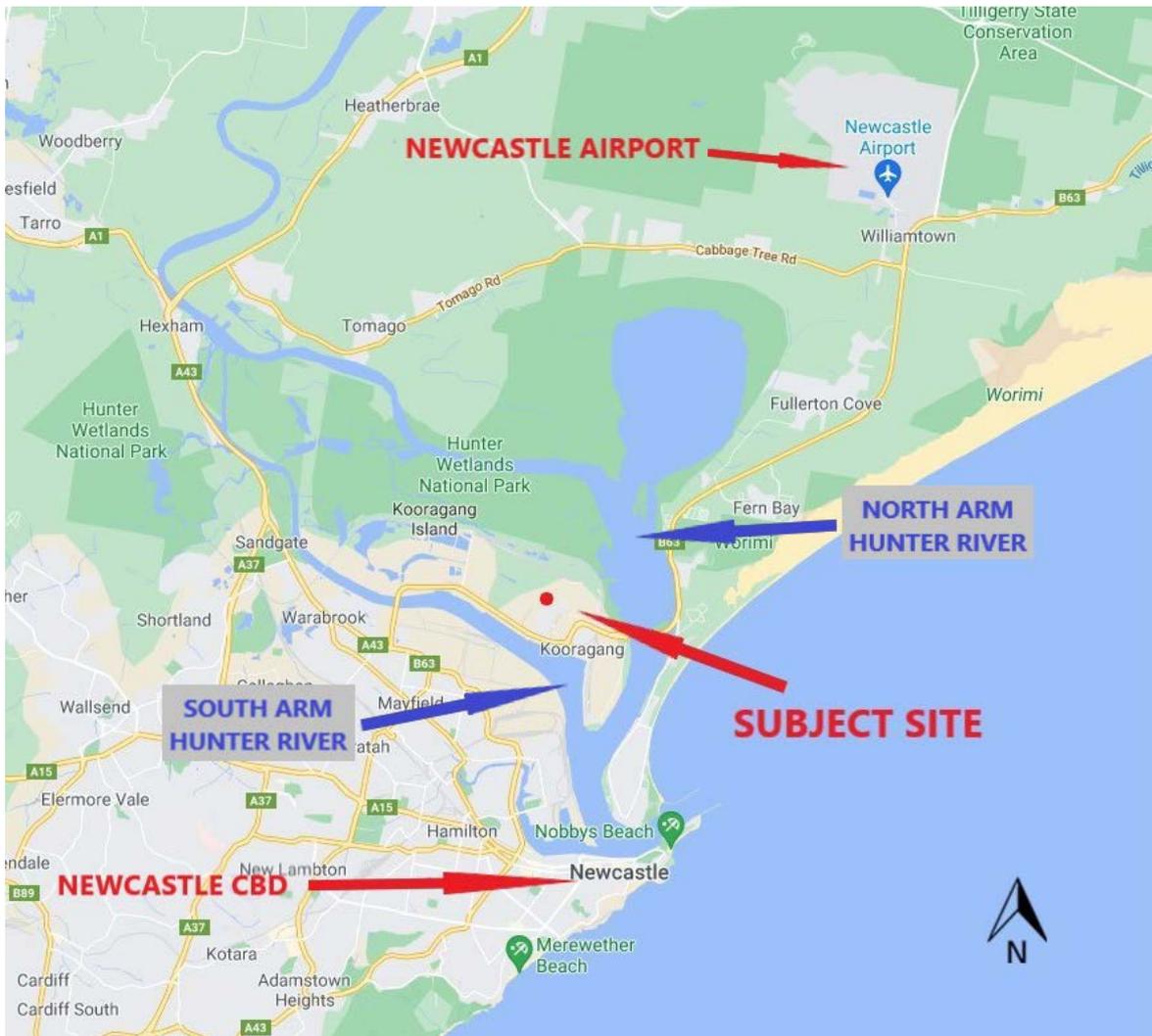


Figure 1 | Regional Context

1.3 Site Description

1.3.1 The site is located on Raven Street, Kooragang, which is on Kooragang Island and approximately 5.2 kilometres (km) to the north of the Honeysuckle foreshore area of the Newcastle central business district, and approximately 2.5 km to the north-west of the residential suburb of Stockton. The site comprises 1.046 hectares (ha) of SP1 Special Activities zoned land pursuant to State Environmental Planning Policy (Three Ports) 2013 (Three Ports SEPP) (see **Figure 2**) and is located within the Port of Newcastle Lease Area as identified on the Lease Area Map in the Three Ports SEPP.

1.3.2 The irregular shaped site is generally flat with a minor slope running downhill from the north to the south. Due to the historical disturbance of the site there are no notable natural features or vegetation present on the site.

1.4 Surrounding Land Uses and Road Network

1.4.1 The locality around the site is predominately industrial in nature and includes operations such as Cargill's vegetable oil production facility to the south. An electricity distribution facility, Cleanaway waste services, the Boral Concrete Facility and Boral Recycling (recovers construction and

demolition waste) are located to the west. Port related activities such as coal loading, including the Port Waratah Coal Services, operate to the north and east of the site (see **Figure 2**).

- 1.4.2 Vehicular access to the site is via Raven Street which is a two-lane private road which services the surrounding industrial areas and provides access to the State road network of Teal Street / Cormorant Road (via Egret Street) which is the main connector road between the Newcastle central business district (CBD) to the south and the Newcastle Airport / RAAF Williamtown precinct to the north.

1.5 Restrictions on the Site

- 1.5.1 The site is burdened by a 20 metre (m) wide right of carriageway (RoC) which runs along the entire length of the western boundary of the site to provide unrestricted access to the Port Waratah Coal Services coal handling land immediately north of the site (see **Figure 3**).
- 1.5.2 The RoC is proposed to be utilised by the Applicant as a driveway access off Raven Street to service the development. The development footprint (building, car parking, landscaping) is located outside of the RoC to provide unimpeded access.



Figure 2 | Local Context

2 Development

2.1 Description of the Development

2.1.1 The major components of the development are summarised in **Table 1** and shown in **Figure 4** and **Figure 5**, and described in full in the SEE and RTS report included in **Appendix A**.

Table 1 | Main Components of the Development

Aspect	Description
Development Summary	<ul style="list-style-type: none"> • Construction of a single building to operate as a W&DC, comprising two adjoining units with associated office facilities, landscaping, car parking, driveways and manoeuvring areas
Site area and development footprint	<ul style="list-style-type: none"> • The site is 1.046 ha in area • Development footprint of 9,660 m² • Building footprint of 2,995 m²
Building Dimensions	<ul style="list-style-type: none"> • 121.4 m long, 28.0 m wide (warehouse only), 39.7 m wide (including Office 2)
Earthworks, civil works and services extension	<ul style="list-style-type: none"> • Minor earthworks to establish level building pad and grading for civil services • Extension of standard civil services including reticulated water and stormwater
Construction timeframe	<ul style="list-style-type: none"> • 8 - 10 months
Construction traffic	<ul style="list-style-type: none"> • 26 trips per day comprising 20 cars and 6 heavy vehicles
Operational traffic	<ul style="list-style-type: none"> • 234 trips per day (approximately 12% heavy vehicles)
Hours of operation	<ul style="list-style-type: none"> • 24 hours, 7 days per week
Capital investment value	<ul style="list-style-type: none"> • \$5,097,036
Construction employment	<ul style="list-style-type: none"> • 27 jobs estimated
Operational employment	<ul style="list-style-type: none"> • 50 jobs estimated

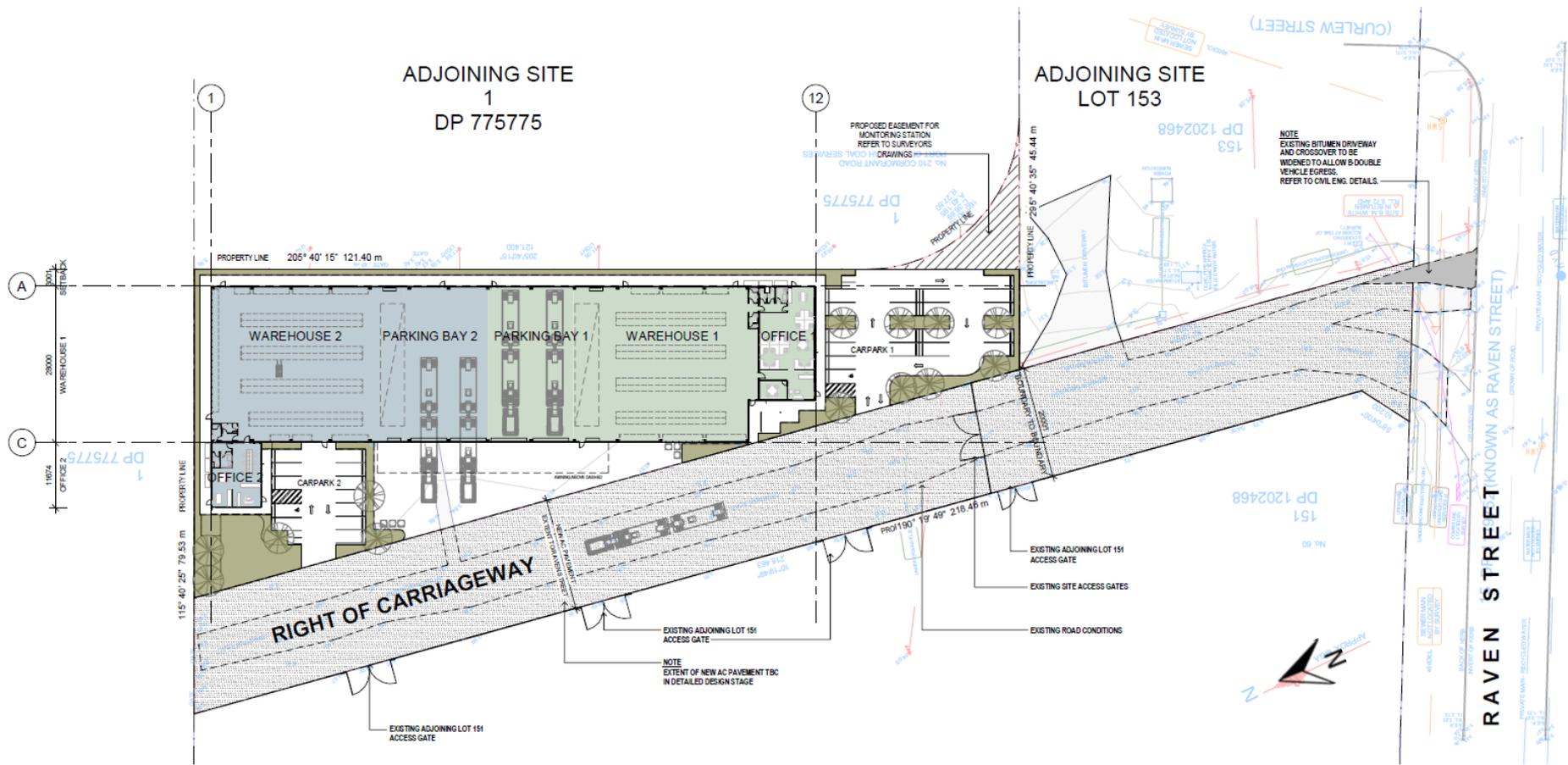


Figure 4 | Site Layout



Figure 5 | Building Perspective from South-West

2.2 Applicant's Need and Justification for the Development

2.2.1 The Applicant has identified that there is demand for W&DC type developments within the Kooragang area, and that the development is seeking to respond to this demand by developing land within the locality. Industrial tenants are wanting to enter the market with minimal lead time to occupy a site and commence operations and this necessitates a need for property owners and developers to obtain development approvals prior to the leasing and marketing stage.

3 Strategic Context

3.1 Hunter Regional Plan 2036

- 3.1.1 The Hunter Regional Plan 2036 (HRP) is a 20-year blueprint for the future of the Hunter region by providing an overarching framework to guide future detailed land use plans, development proposals and funding decisions.
- 3.1.2 The HRP identifies the PON as being a vital hub for exporting agricultural produce and coal to external markets and notes that increasing numbers of visitors are arriving to Newcastle on cruise ships which utilise the PON (the Department acknowledges that cruise ship movements with passengers have not been possible in recent times during the COVID-19 pandemic, but anticipates these activities will resume). The HRP expresses the importance of improving connectivity between freight routes and the PON, which in turn will improve freight movements to global markets and drive regional economic growth. The HRP identifies a need for the PON's facilities and services to remain responsive to changes in markets and demands.
- 3.1.3 Direction Two acknowledges that the PON has the capacity to generate associated industries with subsequent employment benefits and promotes the diversification of operations at the PON and enhanced connectivity.
- 3.1.4 Direction Four promotes the development of freight facilities that leverage the PON and its associated freight transport network.
- 3.1.5 The Department has considered the strategic context of the development against the objectives of the HRP and is satisfied that the establishment of a W&DC is consistent with the intent of the HRP as the development supports the diversification of land within the PON area and provides a particular focus on supporting potential freight oriented operations.

3.2 Greater Hunter Metropolitan Plan 2036

- 3.2.1 The Greater Hunter Metropolitan Plan 2036 (GHMP) is intended to support the overarching strategic planning framework established by the HRP.
- 3.2.2 One of the key outcomes of the GHMP is the creation of a workforce which is skilled and ready for the new economy. This outcome is to be supported by increasing domestic and global trade capabilities at the PON, and the diversification of activities, including the establishment of the Newcastle Cruise Terminal.
- 3.2.3 The Department has considered the strategic context of the development against the objectives of the GHMP and is satisfied that the establishment of a W&DC is consistent with the intended outcomes of the GHMP. The development supports the diversification of land within the PON and provides a particular focus on supporting potential freight-oriented operations without constraining existing and future land uses within the PON.

4 Statutory Context

4.1 Part 4 Development

4.1.1. The development is located at Kooragang in the PON lease area, as identified under the Three Ports SEPP, and:

- is permissible with development consent under the Three Ports SEPP
- has a capital investment value (CIV) of less than \$100 million
- is not designated development under Schedule 3 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation).

4.1.2. Accordingly, the development does not meet the criteria for State significant development as outlined in clause 27 of the Three Ports SEPP and is subsequently classified as a Part 4 development under the *Environmental Planning and Assessment Act 1979* (EP&A Act).

4.2 Permissibility

4.2.1. The site is zoned SP1 Special Activities under the Three Ports SEPP. Warehouse and distribution centres are an innominate use permissible with consent in the SP1 zone. The development meets the objectives of the SP1 zone in that it seeks:

- to facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land
- to maximise the use of waterfront areas to accommodate port facilities and industrial, maritime industrial, freight and bulk storage premises that benefit from being located close to port facilities
- to enable the efficient movement and operation of commercial shipping and to provide for the efficient handling and distribution of freight from port areas through the provision of transport infrastructure
- to provide for port related facilities and development that support the operations of the PON
- to encourage employment opportunities.

4.3 Consent Authority

4.3.1. As the development does not meet the applicable criteria to be classified as State significant development or exempt and complying development, the proposal is deemed to be an application under Part 4 of the EP&A Act. Under clause 8(a) of the Three Ports SEPP, the Minister is the consent authority for Part 4 applications on land within the Lease Area of the Port.

4.2.2. On 14 September 2011, the then Minister for Planning and Infrastructure delegated functions to determine Part 4 applications to the former Planning Assessment Commission (now known as the Independent Planning Commission (Commission)) where:

- there are more than 50 public submissions in the nature of objections, or
- the relevant local council has made an objection, or
- a political disclosure statement has been made.

4.3.2. Council did not object to the development and no objections were received during the exhibition period. However, reportable political donations were made by the Applicant within the last two years.

4.3.3. Accordingly, the development is to be determined by the Commission under delegation.

4.4 Mandatory Matters for Consideration

4.4.1. Section 4.15 of the EP&A Act sets out matters to be considered by a consent authority when determining a development application. The Department's consideration of these matters is set out in **Section 5** and **Appendix B**.

4.4.2. Under section 4.15 of the EP&A Act, the consent authority, when determining a development application, must take into consideration the provisions of any environmental planning instrument (EPI) and draft EPI (that has been subject to public consultation and notified under the EP&A Act) that apply to the development.

4.4.3. The Department has considered the development against the relevant provisions of several key EPIs including:

- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Three Ports) 2013
- State Environmental Planning Policy (Koala Habitat Protection) 2021
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- State Environmental Planning Policy No. 33 – Hazardous and Offensive Development
- State Environmental Planning Policy No. 55 – Remediation of Land
- draft State Environmental Planning Policy (Remediation of Land) (draft Remediation SEPP)

4.4.1. The Newcastle Local Environmental Plan 2021 and Newcastle Development Control Plan 2012 (NDCP) do not apply to the site under the Three Ports SEPP.

4.4.2. Detailed consideration of the provisions of all EPIs that apply to the development is provided in **Appendix C**. The Department is satisfied the development generally complies with the relevant provisions of these EPIs.

4.5 Public Exhibition and Notification

4.5.1. In accordance with section 2.22 and Schedule 1 to the EP&A Act, the development application and any accompanying information of a development application (which is not designated development, nominated integrated development, threatened species development or State significant development) are required to be publicly exhibited for at least 14 days.

4.5.2. The application was on public exhibition from Monday 28 June 2021 until 12 July 2021. Details of the exhibition process and notifications are provided in **Section 5.1**.

4.6 Objects of the EP&A Act

4.6.1. In determining the application, the consent authority should consider whether the development is consistent with the relevant objects of the EP&A Act. These objects are detailed in section 1.3 of the EP&A Act.

4.6.2. The Department has fully considered the relevant objects of the EP&A Act, including the encouragement of Ecologically Sustainable Development (ESD), in its assessment of the application (see **Table 2**).

Table 2 | Considerations Against the Objects of the EP&A Act

Object	Consideration
<i>(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,</i>	The development will promote: <ul style="list-style-type: none"> • the proper management and development of suitably identified land • improved social and economic welfare of the State through the creation of 27 construction jobs and up to 50 operational jobs • a suitable environment through appropriate environmental management during construction and operation.
<i>(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,</i>	The Department has considered ecologically sustainable development (ESD) in its assessment of the development (see Section 4.7). The Department is satisfied the development can be carried out in a manner that is consistent with the principles of ESD.
<i>(c) to promote the orderly and economic use and development of land,</i>	The operation of the site will promote the economic use of land and be consistent with the heavy industrial character of the land which is compatible with the overall character of the locality as a working port facility.
<i>(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities,</i>	The site has been subject to historical disturbance along with the broader locality with no existing vegetation located within the site. No biodiversity values have been identified due to the disturbed nature of the site.
<i>(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),</i>	No impacts to built and cultural heritage have been identified due to the historical disturbance of the site and locality.
<i>(g) to promote good design and amenity of the built environment,</i>	The Department considers that the development promotes acceptable design and amenity in a locality that has been historically and currently dominated by heavy industrial and general industrial land uses.
<i>(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,</i>	The Department has recommended a number of conditions of consent to ensure the construction and maintenance of the development is undertaken in accordance with the relevant legislation, guidelines, policies and procedures.
<i>(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,</i>	The Department referred the development to relevant government agencies and Council during the exhibition period and invited them to comment. The Department has given due consideration to their advice.
<i>(j) to provide increased opportunity for community participation in environmental planning and assessment.</i>	The Department publicly exhibited the development application as outlined in Section 4.6 . Property owners within the vicinity of the development were directly notified in writing.

4.7 Ecologically Sustainable Development

4.7.1. The EP&A Act adopts the definition of ESD found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- (a) *the precautionary principle*
- (b) *inter-generational equity*
- (c) *conservation of biological diversity and ecological integrity*
- (d) *improved valuation, pricing and incentive mechanisms.*

4.7.2. The potential environmental impacts of the development have been assessed and, where potential impacts have been identified, mitigation measures and environmental safeguards have been recommended. This has included for example providing suitable stormwater and sewage management infrastructure in place which will protect downstream environments such as the Hunter River from potential pollution.

4.7.3. As demonstrated by the Department's assessment in **Section 6** of this report, the development is not anticipated to have any adverse impacts on native flora or fauna, including threatened species, populations and ecological communities, and their habitats as the site is devoid of vegetation and there is no vegetation clearing proposed. As such, the Department considers that the development would not adversely impact on the environment and is consistent with the objectives of the EP&A Act and the principles of ESD.

5 Engagement

5.1 Consultation by the Department

5.1.1. The Department undertook consultation with relevant local and State authorities as well as affected landowners during the exhibition of the application and SEE and throughout the assessment of the development. These consultation activities included:

- making the application and SEE publicly available from Monday 28 June 2021 until 12 July 2021 on the NSW Planning Portal
- notifying landowners in the vicinity of the site about the public exhibition by letter
- notifying and inviting comment from relevant State government authorities and Council.

5.2 Submissions and Advice

5.2.1. During the exhibition period, the Department received no submissions from the public and received advice from Fire and Rescue NSW and Council.

5.2.2. A summary of the government advice is provided below. A link to the full copy of the advice is provided in **Appendix 1**.

Key Issues - Public Authorities

5.2.3. **Newcastle City Council** did not object and sought further clarification on several issues which included the development's consistency with the SP1 zone objectives, stormwater management within the RoC and the suitability of existing vehicular access arrangements to support the development. Council also noted that the site is within the protected airspace of RAAF Williamtown, requested the payment of section 7.12 contributions and sought clarification on how the development would be provided with a sewer service as it was not currently serviced.

5.2.4. **Fire & Rescue NSW** did not object but noted that there may be a future requirement as part of the construction certificate or occupation certificate stages to require an Initial Fire Safety Report which may be provided to the Certifier.

5.2.5. **Safework NSW** advised it did not intend on providing comment on the development.

5.3 Response to Submissions

5.3.1. On 13 August 2021, the Applicant provided a Response to Submissions (RTS) on the issues raised by the public authorities during the exhibition of the development (see **Appendix A**).

5.3.2. The RTS was provided to Council to consider whether it adequately addressed the issues raised. Council was satisfied with the information provided by the Applicant and recommended a number of conditions including for example - section 7.12 contributions, car parking and access, stormwater management and sewage management. Further consideration of Council's comments can be found in the Department's assessment of issues in **Table 3**.

5.3.3. The Department has considered the issues raised in advice from public authorities and the RTS in its assessment of the development.

6 Assessment

6.0.1. The Department has considered the SEE, the issues raised by public authorities and the Applicant's RTS in its assessment of the development. The Department considers the key assessment issues to be vehicle access and operational traffic.

6.0.2. A number of other issues have also been considered. These issues are considered to be relatively minor and are assessed in **Table 3**.

6.1 Vehicle Access & Operational Traffic

Vehicle Access

6.1.1. Vehicle access to the site is currently via an existing split driveway (comprising a 15 m and 5 m wide driveway) which connects the site to Raven Street. The driveway continues the full length of the western site boundary as it is utilised as an access right of carriageway (ROC) to the adjoining northern property.

6.1.2. Concerns were raised by Council and the Department regarding the ability of heavy vehicles to successfully exit the site without creating potential safety impacts with other road users due to heavy vehicles needing to cross into the incoming traffic lane on Raven Street to exit the site.

6.1.3. As part of the RTS, the Applicant updated the development plans to widen the eastern driveway from 5 m to 13.8 m at the kerb and upgrade the existing pavement to meet the loads of heavy vehicles. Due to the restricted width of the site frontage (28.8 m) and the width of Raven Street, the Applicant stated in the RTS that heavy vehicles will only be permitted to enter and exit the site (to and from Raven Street) via a left in, left out movement.

6.1.4. New swept path diagrams were also provided which demonstrated that with the upgraded driveway, and left in / left out movement, B-double heavy vehicles would be able to safely and efficiently enter and exit the site without crossing into the incoming traffic on Raven Street or creating a potential traffic conflict scenario within the site (see **Figure 6**).

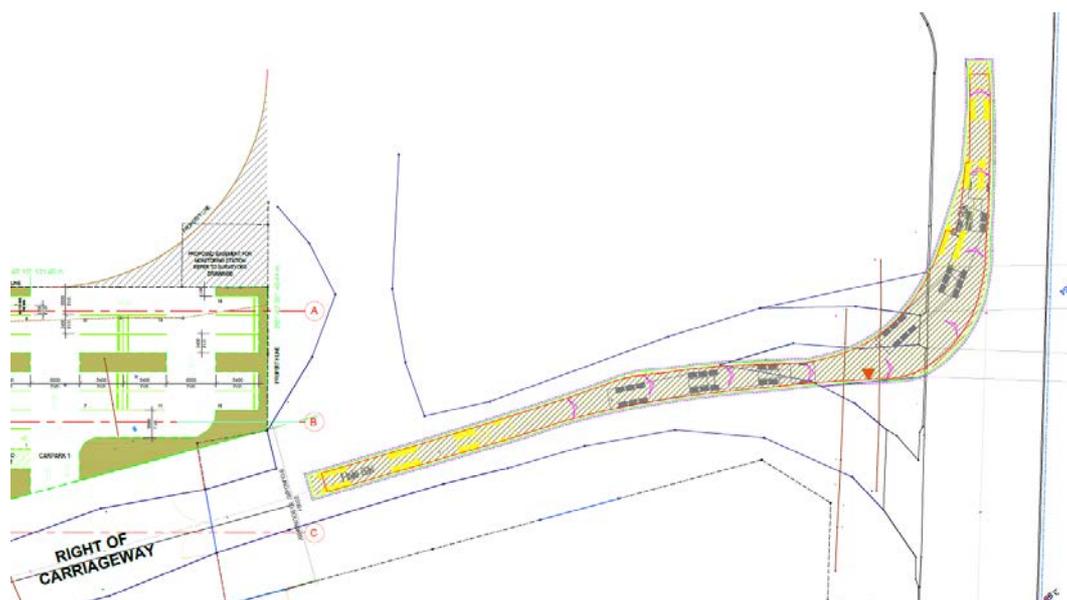


Figure 6 | Heavy Vehicle Swept Path – Exit onto Raven Street

- 6.1.5. Council confirmed it was satisfied with the information provided in the Applicant's RTS to widen the driveway and reconstruct the existing pavement and recommended conditions of consent for the driveway and crossover to be constructed in accordance with Council's standards.
- 6.1.6. The Department notes the existing site entrance alignment creates manoeuvring difficulties for heavy vehicles entering and exiting the site and there are limited opportunities to alter the entrance layout or the width of Raven Street.
- 6.1.7. The Department is satisfied that through the widening of the existing driveway, pavement upgrades and restriction to heavy vehicle movements, the development can provide appropriate access to and from the site. The Department notes that the amendments are supported by Council and the Department has recommended conditions of consent to ensure the driveway is upgraded to an appropriate standard and that heavy vehicles are restricted to left in / left out movements only. The Department's assessment concludes the revised driveway design is appropriate and is unlikely to result in potential traffic conflict for site and road network users alike.

Operational Traffic

- 6.1.8. The development will generate additional traffic during site operations which have the potential to impact the road network in the locality. With no known tenant to determine potential operational traffic related impacts, the Applicant carried out a Traffic Impact Assessment (TIA) in accordance with relevant Transport for NSW Guidelines which predicts worst case operational traffic generation using collated data from similar types of developments. The TIA submitted predicted 234 vehicle movements per day (vmpd) which would consist of approximately 12% of heavy vehicles.
- 6.1.9. The Department notes that Raven Street is a private road. Cormorant Road / Teal Street is the main public road (dual carriageway) in the locality and is the primary access between the Newcastle CBD and Newcastle Airport (see **Figure 2**).
- 6.1.10. Traffic data provided in the TIA indicated that existing daily traffic flows for Raven Street were in the order of 750 vmpd and for Cormorant Road, approximately 25,900 vmpd. The TIA concluded that the predicted operational traffic from the development represents an increase of less than 1% on the public road network which would result in minimal change to intersection performance at the roundabout where Cormorant Road and Teal Street merge (they are the same road carriageway).
- 6.1.11. The Department notes that Council did not raise any concerns in relation to operational traffic.
- 6.1.12. The Department is satisfied that the predicted operational traffic impacts for the development have been appropriately identified and that the local public road network has sufficient capacity to cater for a minimal increase in additional traffic flows and no upgrades to the local road network are required. The Department's assessment has concluded that the development will not negatively impact the local road network.

6.2 Other Issues

The Department's assessment of other issues is provided in **Table 3**

Table 3 | Assessment of Other Issues

Issue	Findings	Recommendations
Sewage Management	<ul style="list-style-type: none"> • The site is not currently connected to any reticulated sewer network. • Council sought clarification from the Applicant in relation to how sewage on the site was to be managed. • The Applicant provided confirmation from Hunter Water (as the local water and sewerage provider) that a sewer connection was not available to the development, and as such an onsite sewage management system (OSSM) would be required to be installed. • The Applicant has noted that all properties within the area are equipped with pump out OSSM systems and has proposed that a similar system would be installed subject to the requirements of Council. • The Department notes that the Applicant will be required to seek further approval for the installation and operation of the OSSM under section 68 of the <i>Local Government Act 1993</i> (LG Act). • The Department's assessment has concluded that suitable arrangements for the sewage servicing of the development are available. 	<p>Require the Applicant to:</p> <ul style="list-style-type: none"> • seek approval to install and operate an OSSM system in accordance with section 68 of the LG Act prior to the commencement of operations.
Stormwater Management	<ul style="list-style-type: none"> • The Applicant proposed a stormwater management system (SMS) for the site which included a combination of rainwater harvesting (24 kilolitres (kL) capacity), hardstand surface water collection to an underground detention tank (186 kL capacity) and a 20 m² biofiltration basin discharging into Council's existing piped stormwater network. • The Department and Council noted approximately 1,650 m² of the driveway (southern portion) was excluded from being captured by the SMS and therefore requested the Applicant amend the SMS to ensure all surface water within the development (including the previously excluded area) would be captured and managed. • As part of the RTS the Applicant submitted, an amended SMS which included the provision of a 120 m² swale and 23 m² biofiltration basin to capture runoff from the previously excluded area prior to discharging into the existing piped stormwater network. • Following review of the RTS, Council advised its previous concerns had been addressed and recommended conditions of consent in relation to the technical design of the SMS. However, Council noted that the location of the drainage swale along part of the western boundary would obstruct the two existing access gates into the adjoining property to the west. • The Department notes that the Applicant's RTS states the adjoining western property does not have right of access to the existing Right of Carriageway and as such, the proposed swale would not impede access. • The Department is satisfied that with the construction and operation of the proposed SMS, site generated rainwater and surface water will be appropriately managed onsite prior to 	<p>Require the Applicant to:</p> <ul style="list-style-type: none"> • Install and operate the proposed SMS in accordance the submitted civil design package and in consultation with Council.

Issue	Findings	Recommendations
	<p>discharge into the piped stormwater network. The Department notes that the amendments are supported by Council and the Department has recommended conditions of consent to ensure the SMS is constructed and operated to an appropriate standard.</p> <ul style="list-style-type: none"> • The Department's assessment has concluded that with the implementation of appropriate conditions of consent, the development can appropriately manage site generated stormwater without impacting adjoining properties. 	
Acid Sulfate Soils	<ul style="list-style-type: none"> • As part of the SEE, the Applicant prepared an Acid Sulfate Soils (ASS) Management Plan as soil testing on the site identified the presence of ASS from 1.5 m below ground level. • The ASS Management Plan recommended a suite of management measures including lime treatment or excavation and removal should ASS be encountered during building works. • The Department notes that Council did not raise any concerns in relation to ASS management. • The Department is satisfied that the management measures proposed in the ASS Management Plan represent best practice and ASS can be successfully managed with the implementation of the ASS Management Plan during construction. A condition of consent is therefore recommended requiring the Applicant to implement the Plan. • The Department's assessment concludes that with the implementation of appropriate conditions of consent, the development can appropriately manage ASS. 	<p>Require the Applicant to:</p> <ul style="list-style-type: none"> • implement the submitted ASS Management Plan during construction works.
Other Issues	<p>Council raised several other issues during the Department's consultation process which included:</p> <p><u>Zone Objectives:</u></p> <ul style="list-style-type: none"> • Council noted that without a known tenant the Applicant is speculating that the future occupation of the site will be consistent with the relevant objectives of the SP1 zone, noting that it is ultimately a matter for the consent authority to satisfy. • The Department acknowledges that tenants may change over the life of the development which may increase or reduce the development's consistency with the objectives of the zone, depending on the activities being carried out by the end user. • The Department notes that while the Applicant does not have a tenant/s for the development, consent has been sought for a W&DC and the Department's assessment (as outlined in paragraph 4.2.1) has concluded that the proposed development, being the construction and operation of a W&DC is consistent with the objectives of the SP1 zone. <p><u>Cranes and Tall Structures:</u></p> <ul style="list-style-type: none"> • The site is within the protected airspace of the RAAF Base in Williamstown and that any mobile crane or structure with a height exceeding 30 m requires prior approval of the Air Base Command Post at RAAF Base Williamstown. • Council has recommended a condition of consent requiring the Applicant to seek this approval. • The Department is satisfied that based on the information presented in the Applicant's SEE and RTS, impacts on protected airspace are unlikely. However, in the event that any cranes or structures brought to the site for construction exceed 	<p>Require the Applicant to:</p> <ul style="list-style-type: none"> • obtain the relevant approvals before installing cranes or structures that exceed 30 m • pay the relevant section 7.12 contributions to Council.

Issue	Findings	Recommendations
	<p>30 m in height, the Department has recommended a condition requiring the Applicant to obtain the relevant approval from the Air Base Command Post.</p> <ul style="list-style-type: none"> The Department's assessment has concluded that the development is unlikely to have any impacts on the protected airspace of the RAAF Base at Williamtown. <p><u>Section 7.12 Local Infrastructure Contributions:</u></p> <ul style="list-style-type: none"> Council has requested a condition of consent to require the Applicant to pay contributions in accordance with Council's <i>Section 7.12 Newcastle Local Infrastructure Contributions Plan 2019</i>. The Department is satisfied that the contributions plan applies to both the development and site and has included Council's recommended condition of consent requiring the Applicant to pay contributions prior to the commencement of construction. 	

7 Evaluation

- 7.1.1. The Department's assessment of the application has fully considered all relevant matters under section 4.15 of the EP&A Act, the objects of the EP&A Act and the principles of ecologically sustainable development. The Department has considered the development on its merits, taking into consideration strategic plans that guide development in the area, the EPIs that apply to the development, advice received from the relevant public authorities, including Council.
- 7.1.2. None of the State government agencies, Council or the community have objected to the development and the Department has sought to address any issues raised through consultation with both Council and the Applicant.
- 7.1.3. The Department's assessment of the development identified vehicle access and driveway design, sewage management, stormwater management and acid sulfate soils as the key issues for consideration. The Department has liaised extensively with Council on many of these issues resulting in several improvements to the design of the development to further minimise potential impacts. The key design amendments have been to the driveway design to improve heavy vehicle movements to and from the site, and to the stormwater design to ensure all site generated stormwater is appropriately managed before being discharged off-site.
- 7.1.4. The Department concludes the development would be managed to an acceptable level of environmental performance and has recommended a range of conditions to support this. The recommended conditions include provisions to require the construction of the driveway access and stormwater management system in consultation with Council. The Department has also recommended conditions for the payment of development contributions.
- 7.1.5. Overall, the Department's assessment has concluded the development would:
- provide additional industrial infrastructure within the Port of Newcastle area
 - generate up to 27 construction jobs and 50 operational jobs
 - be consistent with the strategic direction of the Kooragang and Port of Newcastle areas.
- 7.1.6. Following on from its assessment of the development, the Department considers the development is approvable, subject to conditions of consent. This assessment report is hereby presented to the Independent Planning Commission for determination.

Prepared by:
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Endorsed by:



17 September 2021

Joanna Bakopanos
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Endorsed by:



21 September 2021

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Energy, Resources and Industry

Appendices

Appendix A – List of Documents

The Department has relied upon the following key documents during its assessment of the proposed development:

Statement of Environmental Effects

- Statement of Environmental Effects – ‘Proposed Warehouse and Distribution Centre’, prepared by ADW Johnson Pty Ltd dated May 2021

Submissions

- All submissions received from relevant public authorities and Council

Response to Submissions

- Response to Submissions prepared by EJE Architecture dated 13 August 2021

Statutory Documents

- Relevant considerations under section 4.15 of the EP&A Act (see **Appendix B**)
- Relevant environmental planning instruments, policies and guidelines (see **Appendix C**)

All documents relied upon by the Department during its assessment of the application may be viewed at: <https://www.planningportal.nsw.gov.au/daex/under-consideration/raven-street-warehouse-and-distribution-centre-da-110646>

Appendix B – Considerations under Section 4.15 of the EP&A Act

Matters for Consideration under Section 4.15 of the EP&A Act

Matter	Consideration
a) the provisions of: <ul style="list-style-type: none"> i.) any environmental planning instrument, and 	The Department has considered the relevant environmental planning instruments in its assessment of the development. Details of the assessment is provided in Appendix C .
<ul style="list-style-type: none"> ii.) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and 	The Department has considered the relevant draft environmental planning instruments in its assessment of the development. Details of the assessment is provided in Appendix C .
<ul style="list-style-type: none"> iii.) any development control plan, and 	The Newcastle Development Control Plan 2012 (NDCP) does not apply to the site in accordance with Section 1.00 of the NDCP as the site is located within the PON lease area.
<ul style="list-style-type: none"> iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and 	The Applicant has not entered into a planning agreement under section 7.4 of the EP&A Act.
<ul style="list-style-type: none"> iv.) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates, 	The Department has assessed the development in accordance with all relevant matters prescribed by the regulations, the findings of which are contained in this report.
b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	The Department has considered the likely impacts of the development in detail in Section 6 of this report. The Department concludes that all environmental impacts can be appropriately managed and mitigated through the recommended conditions of consent.
c) the suitability of the site for the development,	The development is permissible with consent and the site is suitable for occupation by the development as it is located on suitably zoned SP1 Special Uses and is located within an existing heavy industrial precinct.
d) any submissions made in accordance with this Act or the regulations,	All matters raised in submissions have been summarised in Section 5 of this report and given due consideration as part of the assessment of the development in Section 6 of this report.
e) the public interest.	The development would generate up to 27 jobs during construction, 50 operational jobs and direct

Matter**Consideration**

\$5 million in capital investment in the Newcastle LGA. The environmental impacts of the development would be appropriately managed via the recommended conditions. The Department considers the development is in the public interest.

Appendix C – Consideration of Environmental Planning Instruments

To satisfy the requirements of section 4.15(1) of the EP&A Act, the following EPIs were considered as part of the Department's assessment:

- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Three Ports) 2013
- State Environmental Planning Policy (Koala Habitat Protection) 2021
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- State Environmental Planning Policy No. 33 – Hazardous and Offensive Development
- State Environmental Planning Policy No. 55 – Remediation of Land
- draft State Environmental Planning Policy (Remediation of Land) (draft Remediation SEPP)

State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)

The Infrastructure SEPP aims to facilitate the effective delivery of infrastructure across the State by improving regulatory certainty and efficiency, identifying matters to be considered in the assessment of development adjacent to certain types of infrastructure development, and providing for consultation with relevant public authorities about certain types of development during the assessment process.

The scale and location of the development does not trigger Schedule 3 of the ISEPP and referral to Transport of NSW was not required.

State Environmental Planning Policy (Three Ports) 2007 (Three Ports SEPP)

The Three Ports SEPP aims to provide a consistent and effective planning regime for development, re-development and protection of lands within the ports of Botany, Port Kembla and Newcastle. The Three Ports SEPP also specifies matters to be considered in determining to grant development consent and to ensure the land around the lease areas is maintained for port-relation and industrial land-uses.

The site is zoned SP1 Special Uses under the Three Ports SEPP and the development of a W&DC is permissible with consent in the zone. As identified in paragraph 4.2.1 of this report the Department is satisfied the development is consistent with the zone objectives.

Clause 22 – Earthworks lists a number of considerations that must be occur before granting development consent. The Applicant submitted an Acid Sulfate Soil Management Plan (ASSMP) due to the presence of acid sulfate soils approximately 1.5 m below ground surface. The Department has recommended conditions pertaining to the management of ASS.

State Environmental Planning Policy (Koala Habitat Protection) 2021 (Koala SEPP)

The Koala SEPP aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.

Clause 11 of the Koala SEPP applies to land with an area of at least one hectare that does not have a Koala Plan of Management. The Department is satisfied that there is no vegetation on the site (as confirmed by the Applicant) and therefore the development will have no impact on koalas or koala habitat.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP)

The aims of the Vegetation SEPP is to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

The Department is satisfied that there is no vegetation on the site (as confirmed by the Applicant) and therefore the development will have no impact on existing vegetation.

State Environmental Planning Policy No. 33 – Hazardous and Offensive Development (SEPP 33)

SEPP 33 aims to identify developments with the potential for significant off-site impacts, in terms of risk and/or offence. A development is defined as potentially hazardous and/or potentially offensive if, without mitigating measures in place, the development would have significant risk and/or adverse impact on off-site receptors.

Due to the unoccupied nature of the development a preliminary hazards report was not submitted with the application and is therefore considered not to be potentially hazardous development. The Department has recommended a condition to require all dangerous goods quantities stored within the development or transported to and from the development remain below the screening threshold quantities listed in the Department's *Hazardous and Offensive Development Application Guidelines - Applying SEPP 33* at all times.

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

SEPP 55 aims to provide a State-wide approach to the remediation of contaminated land. In particular, SEPP 55 aims to promote the remediation of contaminated land to reduce the risk of harm to human health and the environment by specifying:

- under what circumstances consent is required
- the relevant considerations for consent to carry out remediation work
- the remediation works undertaken meet certain standards and notification requirements.

The Applicant submitted both a Preliminary Contamination Assessment and a Detailed Contamination Assessment (DCA) with the application prepared by Qualtest Laboratory (NSW) Pty Ltd. The DCA included detailed fieldwork analysis which included the collection and analysis of soil samples from 11 boreholes and groundwater samples for two existing groundwater monitoring wells located on the site.

The DCA concluded that the site is suitable for the development but as a precaution an Unexpected Finds Procedure should be included in the Construction Environmental Management Plan. The Department has recommended its standard condition to address this.

Draft State Environmental Planning Policy (Remediation of Land) (draft Remediation SEPP)

The draft Remediation SEPP seeks to retain the key operational framework of the current SEPP 55, while also adding new provisions relating to changes in categorisation and introducing modern approaches to the management of contaminated land. The development has been assessed against SEPP 55 (see above), and the Department is satisfied the development would be consistent with the draft Remediation SEPP.

Appendix D – Recommended Instrument of Consent