

Our Ref: 6759
Your Ref: DA 24/14866 (PAN. 474259)
13 November 2024

Jake Simpson
Planning Officer
Department of Planning, Housing & Infrastructure
Locked Bag 5022
Paramatta NSW 2124

Re: Request for Information Response - DA 24/14866 – 20 Selwyn Street, Mayfield East

Dear Jake,

Please find below a response to the RFI from Department of Planning, Housing & Infrastructure dated 24th October 2024 & 5th November 2024 and the RFI provided by City of Newcastle Council dated 4th November 2024.

CITY OF NEWCASTLE COUNCIL

Flood Management

The SEE does not acknowledge the subject land is flood prone land. However, the Section 10.7 Planning Certificate (issued by CN on 07/02/2024) and submitted by the applicant with the DA, confirms the site is flood prone land.

A review of CN's flood data indicates the land has only minor inundation in the northeast part of the site in the 1% AEP flood event. The site is however almost wholly inundated, to varying degrees, in the probable maximum flood (PMF) with Risk Categories ranging on site from Nil to H3 (requires refuge or safe evacuation) and H3 to H6 in parts of nearby Selwyn and George Streets.

CN recommends the consideration of this DA rely on a current Flood Information Certificate. The DA should also be provided with a site-specific Flood Impact Assessment (FIA) that address the appropriate flood management measures including Section B1(b) Flood Management of the Newcastle Development Control Plan (NDCP) 2023.

The principal environmental planning instrument for the development is State Environmental Planning Policy (Transport and Infrastructure) 2021, however it is silent on flooding matters. Accordingly, CN recommends the applicant's FIA address Clauses 5.21 and 5.22 of the Newcastle Local Environment Plan 2012 which provide guidance regarding flooding. The FIA (and architectural plans) are to detail finished floor levels of all proposed structures.

RESPONSE

The site is located within a very low risk flood prone area as detailed in the extract below.



The proposed use as a storage yard for scaffold and location of demountable buildings with 2 staff members is deemed to be a very low intensity use of the site. We would recommend that Council can condition the consent to ensure that the FFL of the demountable are a minimum AHD RL of XXX if desired. The activity proposed is away from the George Street portion of the site and the higher flood impact. As outlined in C-4 a Refuge is only required for L3 or higher however the proposed works are outside of this area. We believe the request to undertake a Flood Impact Assessment for such a minor use of the site is excessive and an unneeded delay in obtaining approval and excessive costs incurred by our client for the proposed use.

NCC DCP 2023 Section B1 (b) Flood Management

3.0 Objectives

1. *Guide the development of flood prone land, applying balanced strategies to economically, socially and environmentally manage risk to life and property.*
2. *Set aside appropriate areas to convey and/or store flood waters.*
3. *Ensure development, when considered both individually and as an instance of cumulative development trends, will not cause unreasonable adverse flooding impacts in other locations.*
4. *Implement the principles of the (NSW) Department of Planning and Environment's Flood risk management manual: the policy and manual for the management of flood liable land (2023) to development as applicable.*

As detailed in the objectives we believe a balanced strategy that is economical needs to be applied based on the proposed use and the area of the site to be used. The proposed works creates 2 roof areas of impervious area equating to 3% of the overall site with the residue of the site remaining permeable and not changing the existing situation

NLEP 2012 Clauses 5.21 & 5.22

The DA proposed 2 refuges in the form of the demountable buildings and the area of the proposed works is on the very far fringe of the low impact flood area this combined ensure that there is no elevated risk to life if the development is approved as proposed.

The proposed works will not alter the existing flood behaviour as the vast majority of the site remains permeable and in its existing state. The proposed sandstone block at the front of the depot are a landscape feature and not a retaining wall so the site grades remain the same. The scale of the development will create 140m² of impermeable roofing equating to 3% of the site which will not alter the current absorption of any rainwater or flood waters.

Clause 5.22 (2) states that this clause only applies to sensitive and hazardous development of which a depot is not or that the land that in the event of a flood may cause a particular risk to life and require evacuation. As previously detailed the area of the proposed works is not within the dangerous Hazard Category area of the site and overall the site is located at the fringe of the very low mapped flood area so its possible to egress to the north of the site or Industrial drive and be outside of the flood area. If required a gate can be conditioned in the consent for the northern portion of the fencing adjacent Industrial Drive.

Stormwater Management

CN considers the submitted Stormwater Management Plan (SWMP) to be insufficient, and recommends the applicant be required to submit additional or amended details to be submitted to address the following:

a) Detail the full extent and surface finish of all hardstand areas including, scaffold storage, car and truck parking and vehicle manoeuvring areas and the proposed 'Informal parking area'.

Revised plans now clarify that the hardstand within the site is compacted gravel and permeable. This is how their previous storage yard functioned without issue so they wish to continue with the same surface.

b) Details of stormwater capture, water quality treatment, detention (if required to match pre-development flow rates) and disposal from all hardstand areas identified in a) above.

The site remains largely impervious with only 140m² of roof proposed. The site is 4028.6m² in size so the proposal changes the permeability of the site by 3.4%. The DCP calculations require 2000L site storage and we have proposed 12,000L storage. Any overflow however unlikely due to drawdown and irrigation of the landscaping is directed to a 600 x 600 pit where it will percolate and exit as controlled sheet flow and infiltrate. The system being significantly oversized more than caters for the stormwater requirements whilst providing a environmentally sensitive solution to get water back into the ground in a controlled manner.

c) Details of tank overflow disposal (noting the current proposed 600mmx600mmx300mm sump with weep holes is not consistent with CN's suitable methods).

As previously detailed the rainwater reuse tanks provide over 10,000L excess storage for the two roof areas. The proposed stormwater management method when considered against the developed area and the size of the site is suitable considering the use of the site.

d) Considers all areas and depths of proposed fill associated with the proposed 1000mmx500mm sandstone block retaining walls and site regrading for hardstand areas identified in a) above.

The sandstone block walls are a landscape feature and not a retaining wall. There is no filling proposed.

e) Details works required in Selwyn Street, in the vicinity of the driveway crossings, to ensure proper function of the existing swale drain and associated pits and pipes.

The low key nature of the proposed depot to store scaffolding and the 2 on site staff support the low key use of the site with the vast majority of the site remaining permeable and perimeter existing trees remaining protected and intact. The proposed driveway aprons would include headwalls and pipes to ensure the functionality of the swale drainage remains. A detailed 138 application would provide these details and can be conditioned in the Consent if required.

The amended SWMP must be prepared having regard to the NDCP2023 and not the repealed NDCP2012.

Updated Stormwater Management Plan provided and maintains the assessment under DCP 2023 as initially undertaken. Additional information added to clarify sandstone landscape feature and not retaining and still maintains post flows are well below predeveloped flows.

Vehicle Access, Parking and Manoeuvring Management

CN considers the submitted Traffic and Parking Assessment (TPA) to be insufficient, and recommends the applicant be required to submit additional or amending details to address the following:

a) Details (with scaled and dimensioned plans) of the full extent of car and truck parking and vehicle manoeuvring areas including the proposed 'informal parking area' for staff and vehicles and associated visitor parking.

b) Maximum vehicle size to be confirmed. The SEE says Heavy Rigid Vehicles, however the TPA nominates 'semi trailer'.

c) Confirms vehicle entry and exit point and directions of traffic.

d) Confirms heavy vehicle access and parking complies with AS2890.2 - Off-street

commercial vehicle facilities (not AS2890.1).

e) Nominates any designated loading/unloading bays.

f) Provides vehicle swept paths for all entry and exit manoeuvres and details of the full extent of driveway crossings and any associated pavement widening on Selwyn Street. Plans are to show both existing edges of the asphaltic concrete seal on Selwyn Street and the existing marked centreline.

g) If traffic on site is to be two-way, provide swept paths showing clearance between opposing heavy vehicles.

The TPA is to be revised to address the NDCP2023 and not the repealed NDCP2012.

The proposal includes additional road openings, the design and construction of which is subject to statutory requirements under the Roads Act 1993 (RA) and the Environmental Planning and Assessment Act 1979. These road openings can be addressed by way of condition.

RESPONSE

Updated TMP provided with HRV turning paths. Traffic is one way as shown on the TMP with no semi trailer access required.

Public Domain

The shortcomings of the documentation submitted for this DA does not allow for a reasonable understanding of the extent of public domain works that may be required. CN requests an opportunity be provided to recommend appropriate public domain works when an amended TPA and SWMP have been provided.

RESPONSE

The public domain works remains minimal as the site is basically being fenced and gravel added along with demountable buildings to allow for storage of scaffold on the site. A large portion of the site remains undeveloped and limited services are proposed or required by the site. The TMP has now detailed concrete driveway aprons and headwalls and pipes under each driveway which will have details provided as part of the 138 application.

Land Contamination - State Environmental Planning Policy (Resilience and Hazards) 2021

As the site adjoins mapped contaminated sites, it is anticipated it will be potentially contaminated. Chapter 4 of the SEPP requires a consent authority prior to assess prior to determination whether the land is contaminated, and if the land is contaminated to be satisfied that it is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

The documentation available for review with this application includes no data or consideration of the site contamination. CN's recommends the applicant be required to submit a Preliminary Site Investigation to assist the consent authority with its review under the SEPP.

RESPONSE

The site is proposing very little disturbance with elevated demountable and no service trenching required. Other than pad footing for the demountable piers there is no excavation proposed on site. The request for contamination testing seems onerous as the site has been vacant and surplus TfNSW land since the lots creation. The proposed work does not require turning of soil or removal of soil and is merely importing and compacting gravel to create vehicle hardstand areas.

A search of the NSW EPA contaminated land record notices failed to identify any contamination in the immediate area. If Council is aware of contamination within the immediate area a understanding of the type of contamination would help understand the likelihood of the subject site also being subject to contamination. Adjoining BHP sites have been subject to extensive use over the decades along with advanced remediation implemented with the majority of the contamination caused by the use of the land and therefore by being an adjoining neighbour separated by physical buffers the only potential contamination would be aerial and therefore unlikely for the subject site

As outlined in the Draft NSW Contaminated Land Planning guidelines Appendix 1 Table 1 there is no historical use of the site listed that has had the potential to cause contamination and as the site is isolated and surrounded on 3 sides by roads its unlikely that any adjoining site have had the potential to contaminate the site.

Appendix 1 - Potentially contaminating land uses, activities, industries and chemicals

The following tables list potentially contaminating activities, industries and the chemicals typically associated with them. There is some overlap between the two tables, which are taken from different sources. The lists are not exhaustive but provide guidance for an initial evaluation of possible contamination at a site.

Table 1: Some activities that may cause contamination	
• acid/alkali plant and formulation	• landfill sites
• agricultural/horticultural activities	• metal treatment
• airports	• mining and extractive industries
• asbestos production and disposal	• oil production and storage
• chemicals manufacture and formulation	• paint formulation and manufacture
• defence works	• pesticide manufacture and formulation
• drum re-conditioning works	• power stations
• dry cleaning establishments	• railway yards
• electrical manufacturing (transformers)	• scrap yards
• electroplating and heat treatment premises	• service stations
• engine works	• sheep and cattle dips
• explosives industry	• smelting and refining
• firefighting training and use of firefighting foams	• tanning and associated trades
• fuel storage	• waste storage and treatment
• gas works	• wood preservation
• iron and steel works	

Biodiversity - Biodiversity Conservation Act 2016

CN notes a drainage line is located on the eastern border of the development site which could/may provide habitat to a variety of species. The applicant's SEE in Section 2.2.6 and 5.29 provides only limited consideration of biodiversity values and may not be sufficient to address the requirements of the Biodiversity Conservation Act 2016. We recommend the application is amended to enable the consideration of threatened species or ecological communities, or their habitats, and if present the extent to which the habitat is likely to be removed or modified as a result of the proposed development.

RESPONSE

As detailed within the SoEE the subject site is a highly altered site that when under the previous ownership of TfNSW was regularly slashed and maintained by them as evident in the two images below and therefore maintain little ecological value. The area clearing threshold of 0.25 ha is not achieved and therefore does not trigger any BDAR.

There are no mapped natural watercourses within the site and as shown on the site detail survey no evidence of a drainage line unless Council is referring to the swale drain within the road reserve. The perimeter tree plantings are maintained and the weeds and regrowth central to the site has no ecological significance and the area subject to the development application is not of a scale that triggers any BDAR.

A proposed development could be considered as unlikely to have any significant impact on biodiversity values if it:

- will not clear or remove native vegetation, other than a few single-standing trees with no native understorey in an urban area
- will not clear or remove native vegetation, other than planted native vegetation that is not consistent with a plant community type known to occur in the same Interim Biogeographic Regionalisation of Australia (IBRA) subregion, such as street trees, trees in a car park, or landscaping
- will have negligible adverse impact on threatened species and ecological communities, considering habitat suitability, abundance, habitat connectivity, movement of species, water sustainability, and non-natural features such as non-native vegetation and human-built structures
- will have negligible adverse impact on protected animals because of impacts on flight path integrity.

As detailed above even if the proposed works did trigger a BDAR the proposal meets the above items for a waver.

As shown in the aerial image below the site has been slashed and maintained with the perimeter vegetation being fenced off and kept in its original state outside of the developable area as part of the DA.



Contributions

The subject site is within the Newcastle LGA and is subject to CN's Section 7.12 Development Contributions Plan (2022). CN recommends an appropriate condition of consent is imposed which requires the applicant to pay a development contribution to Newcastle City Council. Based on an identified Estimated Development Cost (EDC) of \$477,400 and a 1% levy of the EDC the required contribution is \$4,774.00.

RESPONSE

Noted

Department of Planning, Housing and Infrastructure

Response to letter received 24th October 2024

Item 1

Clarification of the type of material that the driveway and hardstand areas are constructed. Section 3.2 of the Statement of Environmental Effects (SEE) states that no concrete hardstand is proposed within the site and that compacted gravel would be used for driveways and storage areas. However, the Site Plan - Landscape Concept Plan DA02 21/8/23 Issue A (Appendix D of the SEE) shows a concrete driveway.

RESPONSE

Plans have been updated to clarify compacted gravel within the site for driveways and storage areas and concrete driveway aprons for works within the public domain.

Item 2

Sections 3.2.1 and 3.2.2 of the SEE states that the demountable buildings are constructed to Australian Standards. Provide details of the relevant Australian Standards that the construction of the demountable buildings are compliant with.

RESPONSE

A.S 1170 (Structural Design Standard), A.S 3500 (plumbing & Drainage Standards) & A.S 4055-2012, these standards specify the compliance for wind actions and resistance where as the National Construction Code ensures that all building works relating to demountable and portable buildings are designed to comply with structural safety & fire safety. It is illegal for any of these building forms to be supplied in Australia without the manufacture and supplier issuing a compliance certificate and therefore the consenting authority can condition the consent that the certificates be provided to the Certifier as part of the occupation certificate process.

VEA has provided a cover letter detailing the relevant Australian standards and tie down methods

Item 3

Details of how the demountable buildings are secured to the ground to provide stability to the building's occupants and workers within the site. The information must include drawings illustrating the method that the buildings are secured.

RESPONSE

Vision Engineers Australia has provided a footing and toe down details as requested.

For Region A2, Terrain Category 2 applications only: 1. Tie-down footings (minimum 3 evenly spaced along the front and back wall, minimum 450 Dia x 900 deep for standalone footing, 20MPa concrete. M10 threaded bar cast into footing, fix to bearer with steel angle + 1/M10 bolt & washer and M10 nut to threaded bar. Provide silicon seal around washers to RHS/SHS bearers.

Inspections will be undertaken as part of the Construction Certificate and final Occupation documentation and provided to the Certifier detailing compliance and inspection by a suitably qualified Structural Engineer.

Item 4

Details of the fencing that would be installed on the perimeter of the site.

RESPONSE

Galvanised chain wire fencing is proposed for the perimeter fencing for security purposes 2.4m high as detailed in the Landscape Plans.

Item 5

The Traffic Assessment (Appendix C) states that based on the traffic generating potential of business parks, the peak traffic generating for 1000sq.m GFA of building/storage areas is between 7-8 vtph. However, no details of the number of light and heavy vehicle movements that are generated by the proposal are provided. You are requested to provide details of the traffic movements generated on a daily basis (total vehicles and light and heavy vehicles).

RESPONSE

HRV will access the site approximately 5 times per week whilst 6 light vehicles will access the site 2 times per day. As detailed within the SoEE 2 employees will be on site with staff driving directly to site each day for work.

Item 6

No details are provided of traffic routes used by the heavy vehicles. In particular it is unknown if Selwyn Street and the Industrial Drive underpass would be utilised and its suitability as a heavy vehicle route.

RESPONSE

The scaffold business services maintenance and access to coal loaders within the port of Newcastle and therefore vehicles will utilise the signalised intersection of George Street to the north of the site and traffic movements will be north and east of the site

Item 7

Section 3.0 of the Acoustic Report (Appendix E) states that the site is within an established rural residential area with minimal industrial or traffic noise. Please clarify this statement as the site is adjacent to a State Road (Industrial Drive) and a rail line (servicing Port Waratah Coal Services) and is located in an area with industrial, port and residential land uses.

RESPONSE

A revised report is provided correcting the error. All modelling remains as previously detailed with the error purely being a typing error by the Author.

As discussed this application is now extremely time critical with the scaffolding companies current yard sold by its owners and now time critical to relocate and store the equipment to allow the company to operate and maintain the employment of its staff. Any assistance in fast tracking this application would be greatly appreciated

If you wish to discuss any of the above in greater detail, please do not hesitate to contact me.

Yours Sincerely



Jason Harman