

# Change of Use to Depot at 20 Selwyn Street, Mayfield East

Part 4 Development Application Assessment Report (DA24/14866)

1 April 2025





# Acknowledgement of Country

The Department of Planning, Housing and Infrastructure acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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Assessment Report

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Cover photo – aerial view of the site looking north (Source: Statement of Environmental Effects, 2024)

# Preface

This assessment report provides a record of the Department of Planning, Housing and Infrastructure's (the Department) assessment and evaluation of the development application to change the use of a site at 20 Selwyn Street, Mayfield East to a depot. The development site is located in the Newcastle City Council local government area (LGA).

The application has been lodged by Land Development Solutions Pty Ltd (the Applicant) under Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The report includes:

- the permissibility of the proposal and who the consent authority is
- an assessment of the proposal against government policy and statutory requirements, including mandatory considerations
- a demonstration of how matters raised by the community and other stakeholders have been considered
- an explanation of any changes made to the proposal during the assessment process
- an assessment of the likely environmental, social, and economic impacts of the proposal
- an evaluation which weighs up the likely impacts and benefits of the proposal, having regard to the proposed mitigations, offsets, community views and expert advice; and provides a view on whether the impacts are on balance, acceptable
- a recommendation to the decision-maker, along with the reasons for the recommendation, to assist them in making an informed decision about whether development consent for the proposal should be granted and any conditions that should be imposed.

The Department considers the proposal is in the public interest and concludes that it should be approved subject to conditions.

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# 1 Introduction

## 1.1 The development

Land Development Solutions Pty Ltd (the Applicant) on behalf of JBC Family Nominees Pty Ltd (the landowner) seeks consent for a change of use to depot and installation of demountable buildings at 20 Selwyn Street, Mayfield East.

An overview of the development is provided in Section 2.

## 1.2 Development location

The development is located on 20 Selwyn Street, Mayfield East approximately 4km northwest of Newcastle CBD. The site is legally known as Lot 1 DP 581002 and is located in the Newcastle local government area (LGA).

The site has a frontage of 151.790m to Selwyn Street and 138.548m to Industrial Drive and has an area of 4,028.6m<sup>2</sup>.

The subject site is located within a mixed industrial, commercial and residential area with a variety of business types. The development location is shown in Figure 1 and the site context in Figure 2.

The subject site is currently vacant and was purchased as surplus government land and does not currently contain any buildings or structures (several demountable buildings were moved onto the southern part of the site in early 2024 however they are not being used or occupied). The site is surrounded by roads on all sides with an established perimeter planting of mature Ficus trees along the northern and western frontages.

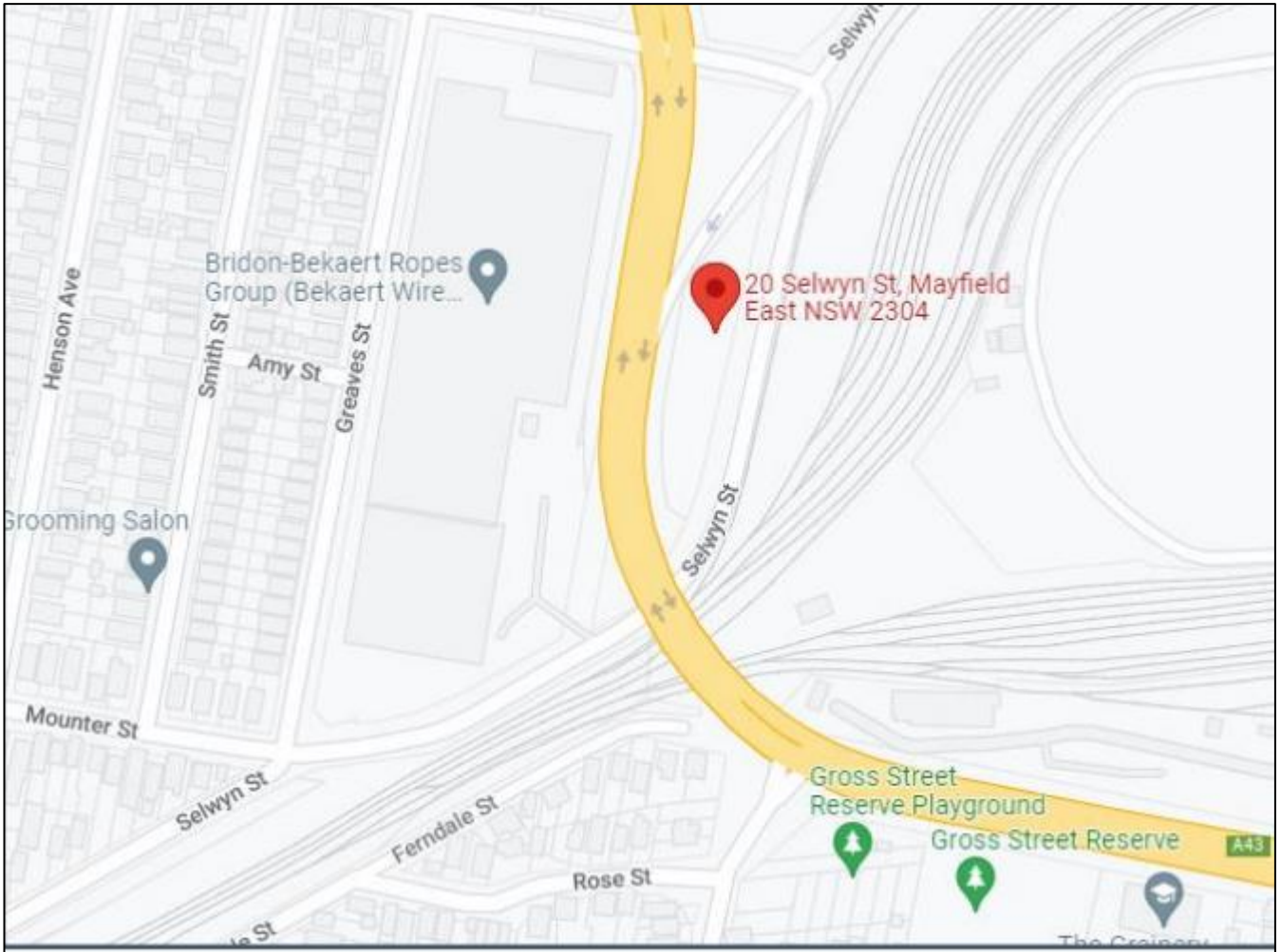


Figure 1 | Site location (Source: Statement of Environmental Effects, 2024)



Figure 2 | Site context - street view facing southwest on Selwyn Street, towards the site (Source: Statement of Environmental Effects, 2024)

### 1.3 Surrounding Context

The development site has frontage to Selwyn Street to the east and Industrial Drive to the west. Selwyn Street is a 2-lane local road connecting Maitland Road and Port Waratah. Industrial Drive (A43) is a six-lane major arterial road that connects Hamilton in inner city Newcastle with the Pacific Highway, New England Highway, and the M1 Pacific Motorway at Warabrook. It provides access to the Newcastle port areas of Port Waratah, Mayfield North and Kooragang Island and has a posted speed limit of 80km/h.

Land uses surrounding the development include transport infrastructure, industrial, port and freight facilities, commercial and residential.

To the east of the development are rail lines connected to the Morandoo and Pacific National Freight rail yards which helps transport coal to Port Waratah in the Carrington Precinct of the Port of Newcastle.

To the north of the development is the Mayfield Precinct of the Port of Newcastle which includes a range of heavy industrial operations including the Infrabuild steelworks plant.

The closest residential properties are approximately 100m to the south on Ferndale Street (Tighes Hill) and 200m west on Greaves Street (Mayfield East). Both Industrial Drive, freight rail lines and large industrial buildings (Bridon-Bekaert Ropes manufacturing works) are located between the development and the nearest residential properties.

Features of the surrounding locality can be seen in **Figure 3**.



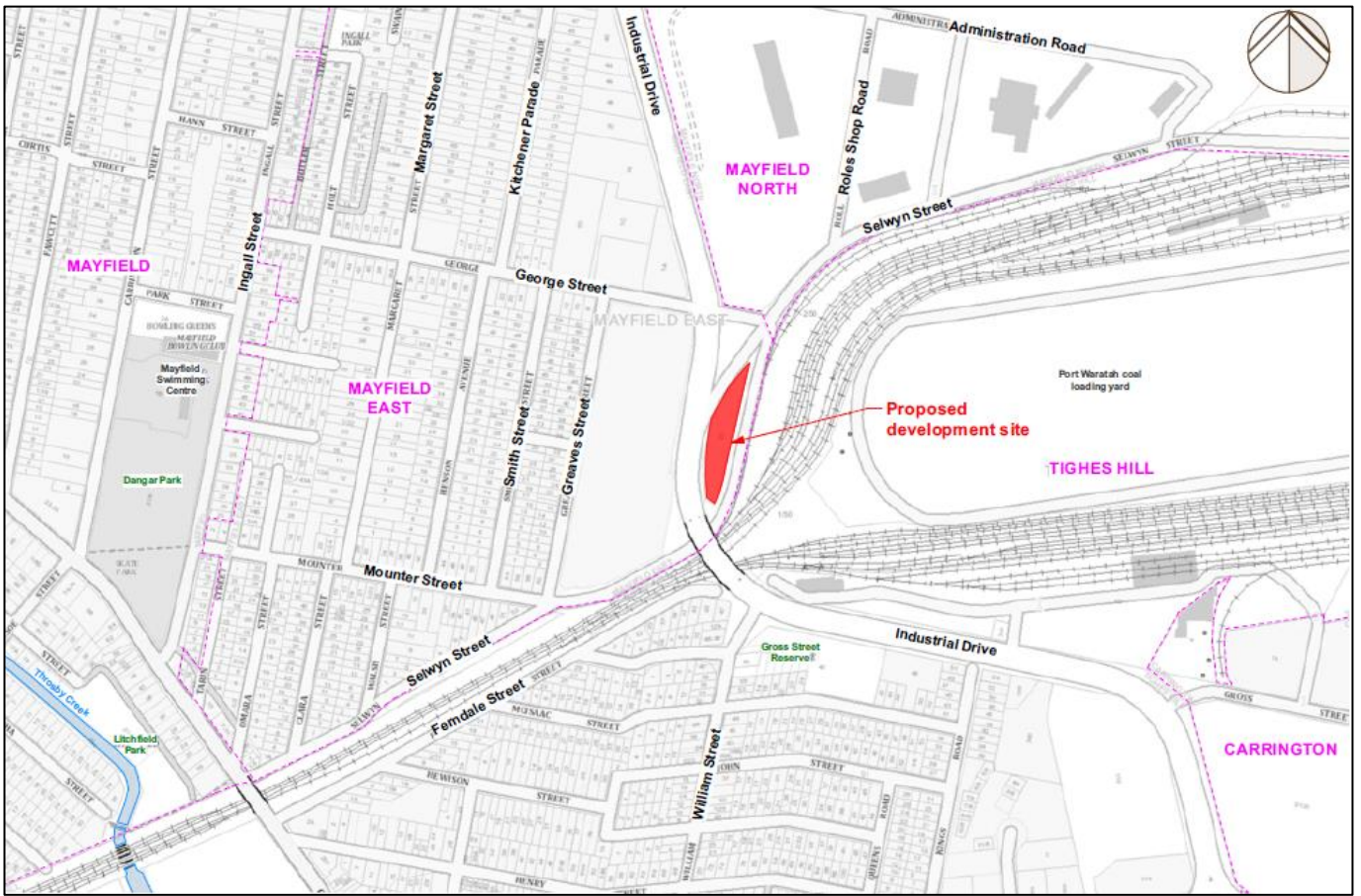


Figure 3 Surrounding context with Project Site shown in red (Source: Statement of Environmental Effects 2024)

## 2 Development

### 2.1 Key Aspects of the Proposal

The key aspects of the proposal are provided in detail in Chapter 3 of the Statement of Environmental Effects (SEE) and are outlined in **Table 1**:

**Table 1** | Key aspects of the proposal

Aspect	Description
<b>Summary</b>	The proposal seeks to obtain consent for change of use to a depot for the storage of scaffolding equipment. The northern portion of the site will be used for scaffold storage, and includes new concrete driveways, while a small area in the southern half of the site is proposed for parking spaces, however the remainder of the site will mostly remain open and unused. All buildings onsite will be demountable structures for offices, toilets and storage. A set of buildings will be located adjacent to the front boundary while the other set will be placed toward the rear of the site. A demountable sewer tank will be installed close to the office/toilet structures, with a private contractor to extract and dispose of sewage to a licensed facility.
<b>Site location</b>	Lot 1 in Deposited Plan Number 581002, Parish of Newcastle, County of Northumberland.
<b>Operational hours</b>	The depot will operate during normal business hours, 7am – 5pm during weekdays, with no operations occurring on weekends and public holidays.
<b>Traffic</b>	The site access is designed to cater for heavy rigid vehicle access with drive through access and open clear line of sight. Parking at the southern end of the site is proposed to accommodate 10 site operational vehicles. Additionally, 3 car parking spaces will be provided near the offices at the northern end of the site. Three vehicular access points each 6.0 metres wide are proposed for the site. The proposed development is expected to increase the generation of traffic by a maximum of 0.3% at signalised intersections on Industrial Drive / George Street and Industrial Drive / Ingall Street.

Aspect	Description
<b>Stormwater</b>	Rainwater reuse tanks will collect roof water for reuse within the site. Minimal hardstand is proposed as the majority of the storage area and driveway will consist of compacted gravel. Any hardstand areas will direct sheet flow to landscaped areas for infiltration. The proposed roof area covers 4.8% of the site leaving large open areas for infiltration and very little impervious areas.
<b>Contamination</b>	Minimal earthworks are proposed as the site is to be used for the storage of building material related to a port related operation. The proposed depot will consist of demountable buildings and all-weather vehicle access in the form of compacted gravel driveways and hardstand. Insignificant contamination is present in areas located within the southern portion of the site; however, no remediation is required as the site is considered to be suitable for the proposed use as a storage depot.
<b>Landscaping</b>	<p>The site will be fully fenced with 2400mm high mesh wire security fence. Fencing will also divide the parking and storage areas of the site. A 500mm high sandstone block retaining wall is also proposed along Selwyn Street.</p> <p>All existing trees on site are to be retained. Proposed plantings include:</p> <ul style="list-style-type: none"> <li>- Water Gums along the outside of the internal separation fence between the two sections</li> <li>- Weeping Callistemon near the office/toilet buildings</li> <li>- Dwarf Callistemons and Tanika Mat Rush along the front of the main office/toilet structures</li> <li>- Lomandra longifolia along the entire length of Selwyn Street between the retaining wall and boundary security fence.</li> </ul>

## 2.2 Development description

The development application seeks consent for the change of use of approximately half the existing site to a depot for the temporary storage of scaffolding equipment and the installation of 2 demountable structures (the Development).

The demountable structures include site offices, toilet facilities and storage with a deck and a covered work area connecting the offices at the front of the site. The proposal also includes the construction of 3 driveways for vehicle access. The site will be used to store scaffold equipment for storage, collection and distribution. Storage of vehicles will be located within the site outside of operational hours.

No excavation (except for building footings) or construction is proposed. A portion of the site will be retained and levelled with soil being imported to the site as needed. Gravel will be utilised for driveways and storage areas.

Details of the development are shown in Figure 4, Figure 5, Figure 6 and Figure 7.

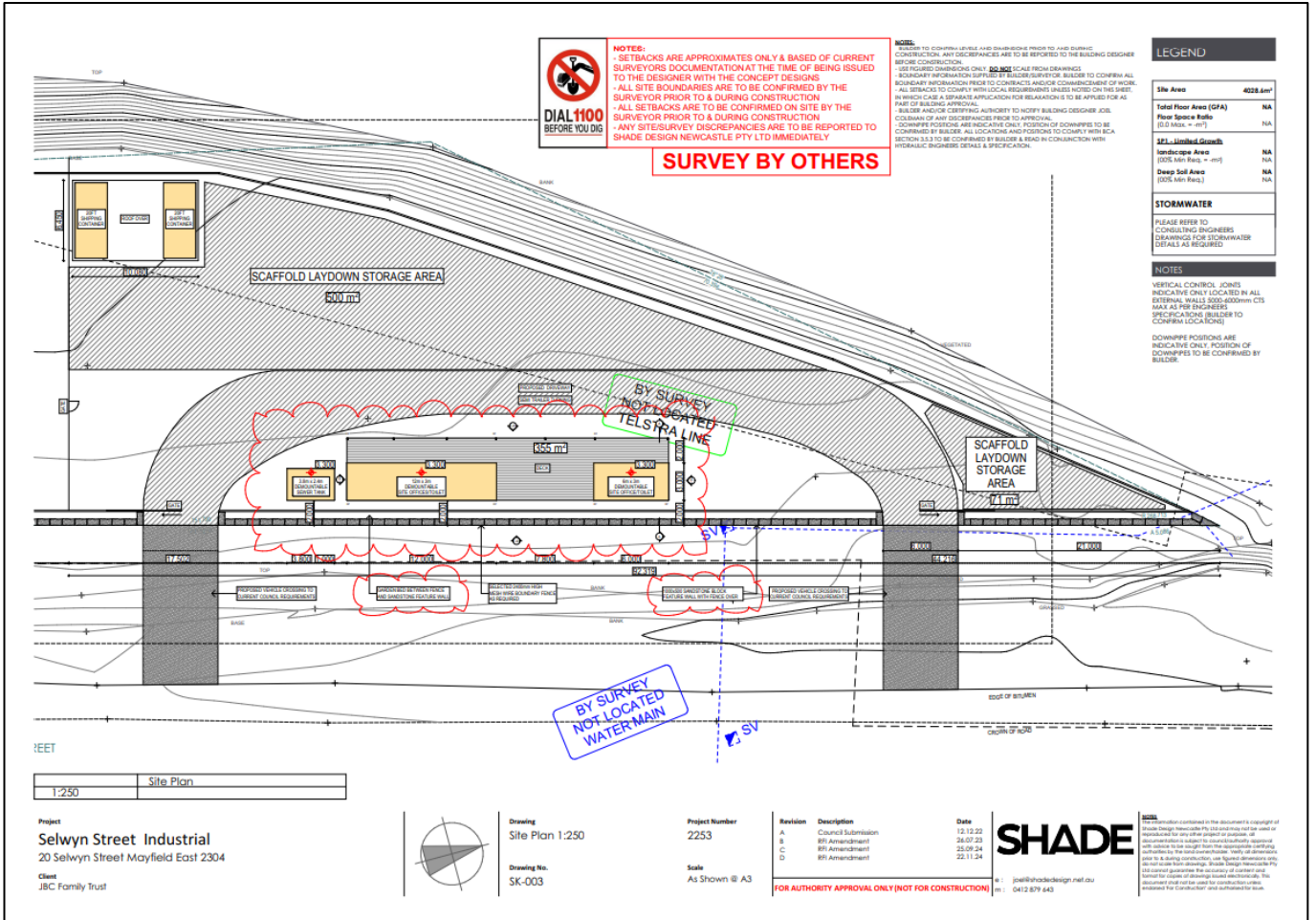


Figure 4 | Project site plan (Source: Statement of Environmental Effects, 2024)

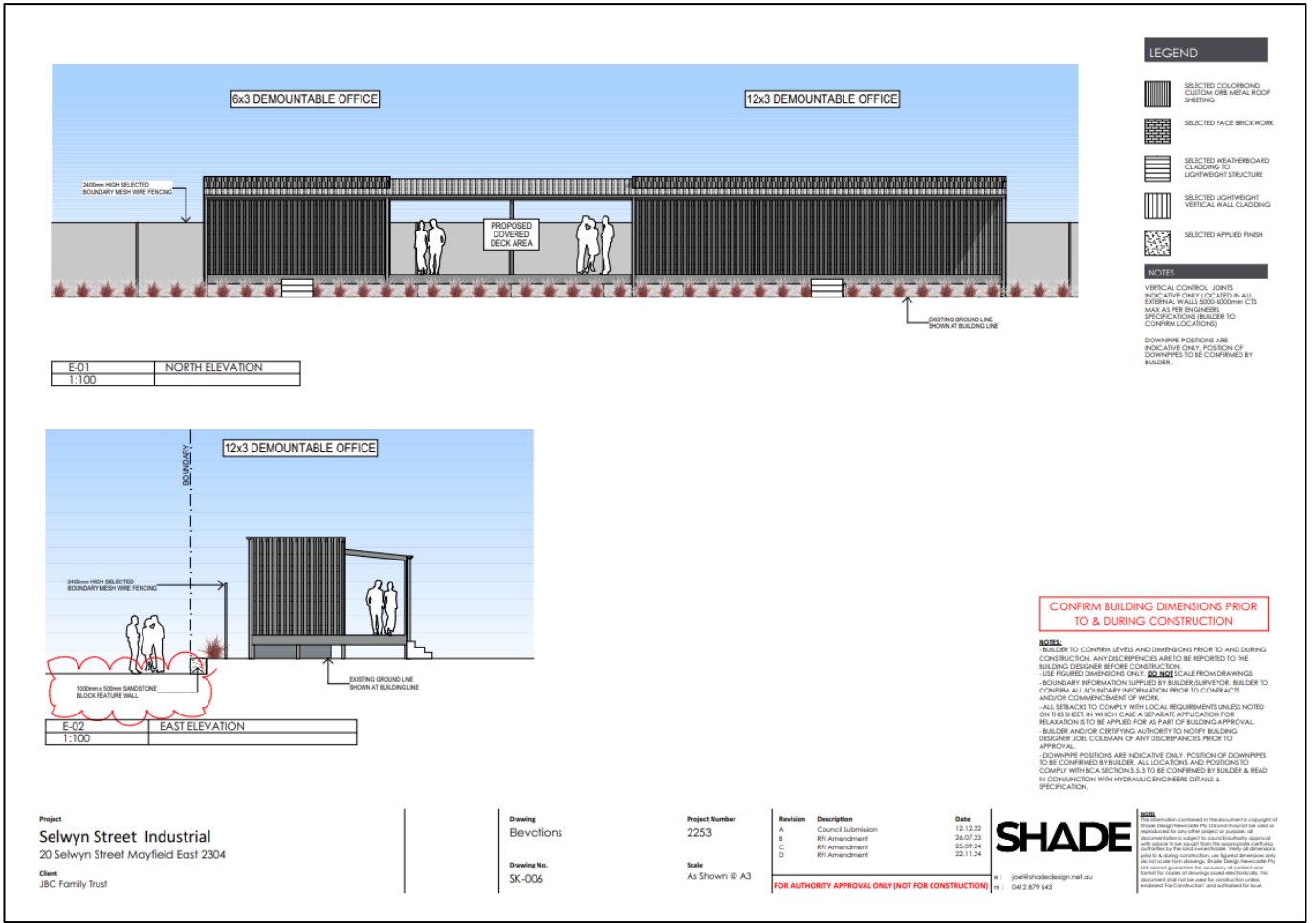


Figure 5 | Project elevations (Source: Statement of Environmental Effects, 2024)

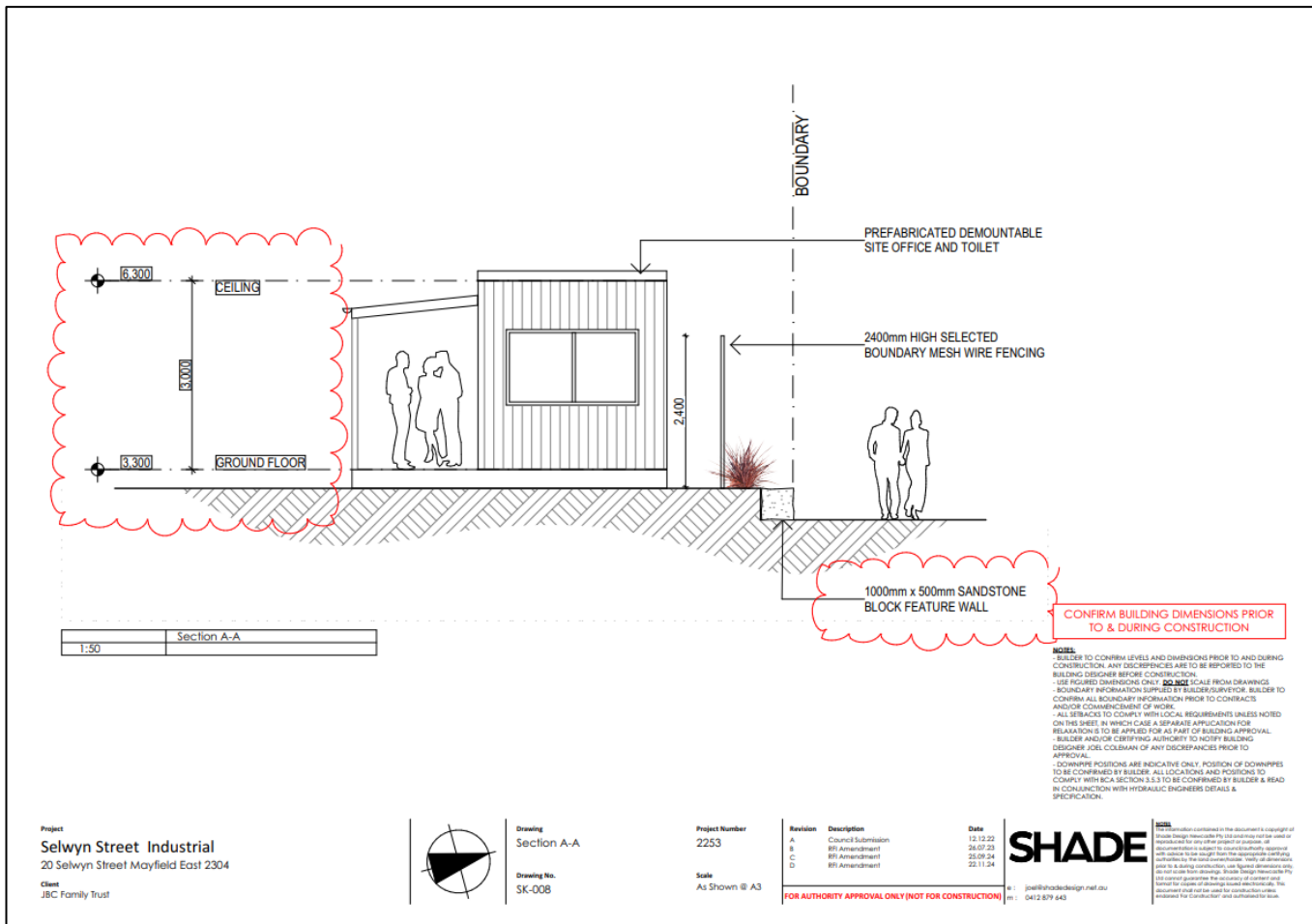


Figure 6 | Project elevation (Source: Statement of Environmental Effects, 2024)

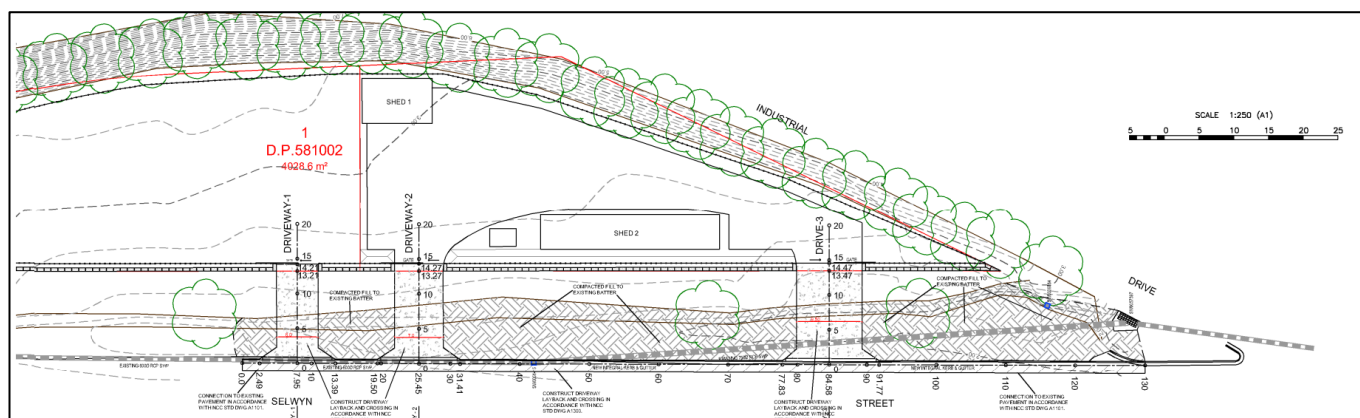


Figure 7 | Proposed Driveways (Source: Statement of Environmental Effects, 2024)

# 3 Statutory context

## 3.1 Permissibility and assessment pathway

Details of the planning pathway under which consent is sought and the permissibility of the development are provided in Table 2.

Table 2 Permissibility and assessment pathway

Consideration	Description
<b>Assessment pathway</b>	<p><b>Development Assessment and Consent</b></p> <p>The application is lodged by Land Development Solutions Pty Ltd on behalf of JBC Family Nominees Pty Ltd, pursuant to Section 4.12 of the <i>Environmental Planning and Assessment Act 1979</i> (the EP&amp;A Act), as amended. The application will be assessed under Part 4 of the EP&amp;A Act.</p>
<b>Consent authority</b>	<p><b>Minister for Planning and Public Spaces</b></p> <p>The Minister for Planning and Public Spaces (the Minister) is the consent authority for the application, as prescribed under Section 5.6 of <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> (the Transport and Infrastructure SEPP).</p>
<b>Decision-maker</b>	<p><b>Director, Transport and Water Assessments</b></p> <p>In accordance with the Minister’s delegation dated 9 March 2022, the Director, Transport and Water Assessments may determine the application if:</p> <ul style="list-style-type: none"><li>• the application has not been made by a person who has disclosed a reportable political donation</li><li>• there are less than 15 public submissions in the nature of objections, and</li><li>• the council has not made a submission by way of objection.</li></ul> <p>The proposal meets the terms of this delegation, as such, the Director, Transport and Water Assessments, is the delegated authority to determine the development application.</p>

Consideration	Description
<b>Permissibility</b>	<p>This proposal is permissible under the Transport and Infrastructure SEPP</p> <p>The site is zoned SP1 Special Activities under the Transport and Infrastructure SEPP. The objectives for the SP1 Special Activities zone include:</p> <ul style="list-style-type: none"> <li>○ To provide for port related facilities and development that support the operations of Port Botany, Port Kembla and the Port of Newcastle</li> <li>○ To encourage employment opportunities.</li> </ul> <p>The proposal is consistent with the objectives of the zone as the intended use is to store scaffolding equipment to be used at Port Waratah Coal Services to erect scaffold to coal loading machinery. The operation of this site will create employment and will contribute to the development of the Port of Newcastle. The development is not included in activities in that are permitted without consent or prohibited and thus is permissible with consent.</p>

## 3.2 Mandatory matters for consideration

### 3.2.1 Matters of consideration required by the EP&A Act

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 **Table 3**. **Table 3** Matters for consideration

Matter for consideration	Department's assessment
<b>Environmental planning instruments, proposed instruments, development control plans &amp; planning agreements</b>	<p>The relevant EPIs and development control plans are:</p> <ul style="list-style-type: none"> <li>• State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>• State Environmental Planning Policy (Hazards and Resilience) 2021</li> <li>• Newcastle Development Control Plan 2023</li> </ul> <p>Detailed consideration of the provisions of the EPIs is provided in <b>Appendix C</b>. The Department is satisfied that the development generally complies with the relevant provisions of the EPIs.</p>



Matter for consideration	Department's assessment
<b>Environmental Planning and Assessment Regulation 2021 (EP&amp;A Regulation)</b>	Subject to any other references to compliance with the <i>Environmental Planning and Assessment Regulation 2021</i> (the EP&A Regulation) cited in this Assessment Report, the requirements for fees (Part 13) and consultation with relevant authorities via the NSW Planning Portal (Part 15, Division 4) have been complied with.
<b>Likely impacts of the development</b>	Section 5 – Assessment
<b>Suitability of the site for the development</b>	Section 5 – Assessment
<b>Any submissions</b>	Section 4 – Engagement
<b>Public interest</b>	Section 4 - Engagement, Section 5 – Assessment, Section 6 - Evaluation

### 3.2.2 Objects of the EP&A Act

In determining the application, the consent authority should consider whether the proposal is consistent with the relevant objects of the EP&A Act. These objects are set out in Section 1.3 of the EP&A Act and include the principles of ecologically sustainable development. Consideration of the objects is provided in **Appendix C**.

The Department is satisfied that the development is consistent with the objectives of the EP&A Act and the principles of ecologically sustainable development.

### 3.2.3 Biodiversity development assessment report

Section 7.7 of the *Biodiversity Conservation Act 2016* (BC Act) requires all Part 4 development applications to be accompanied by a Biodiversity Development Assessment Report (BDAR) if a proposed development is likely to significantly affect threatened species.

The site comprises mostly grass fields with trees sporadically located along the border of the site. There are no mapped natural watercourses and no evidence of a drainage line on the site. The proposed development is to store scaffold equipment for collection and distribution. No excavation or construction is proposed. All existing trees on site are proposed to be retained.

The site is highly altered and was regularly slashed and maintained, therefore, holding little ecological value. The Applicant advised the proposed development is unlikely to significantly affect threatened species or ecological communities, or their habitats, and does not exceed the area

clearing threshold of 0.25 ha. The Department concludes the site has minimal ecological value and therefore a BDAR is not required.

# 4 Engagement

## 4.1 Exhibition of the Development Application

### 4.1.1 Public exhibition of the development application

After accepting the development application (DA) and Statement of Environment Effects (SEE), the Department:

- publicly exhibited the development application and supporting documentation from Tuesday 15 October 2024 until Tuesday 29 October 2024 on the NSW Planning Portal
- notified occupiers and landowners in the vicinity of the site about the public exhibition
- notified and invited comment from Transport for NSW (TfNSW) and the City of Newcastle Council.

### 4.1.2 Summary of advice received from government agencies and Council

On 15 October 2024, the Department forwarded the development application to Newcastle City Council and Transport for NSW for comment.

Transport for NSW raised no objections and did not provide any recommended requirements. Newcastle City Council reviewed the development application and provided advice to the Department, a summary of which is provided in Table 4. A link to the full copy of the advice is provided in Appendix B.

Table 4 Summary of Newcastle City Council advice

Agency	Advice Summary
<b>Newcastle City Council</b>	<ul style="list-style-type: none"><li><b>Flood Management</b> The SEE does not acknowledge that the site is flood prone land. It is recommended that the development application rely on a current Flood Information Certificate and should be provided with a Flood Impact Assessment</li><li><b>Stormwater Management</b> The Stormwater Management Plan should provide more detail on the full extent and finish of proposed structures, details of stormwater capture, water quality treatment, detention and disposal, tank overflow disposal areas and depths of proposed fill associated with the sandstone block retaining wall and works required in Selwyn Street</li></ul>

Agency	Advice Summary
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in the vicinity of the driveway crossings, to ensure proper function of the existing swale drain

- Vehicle Access, Parking and Manoeuvring Management

Recommended the Traffic and Parking assessment provide more detail to address: the full extent of car and truck parking and manoeuvring areas, maximum vehicle size, entry and exit points, the heavy vehicle access and parking complies with AS2890.2, the nomination of any designated loading/unloading bays, vehicle swept paths for all entry and exit manoeuvres and extent of driveway crossings or pavement widening and provide swept paths showing clearance between heavy vehicles if necessary  
Additionally, the inclusion of a 2% cement gravel base in the informal parking area was recommended to stabilise the surface and prevent erosion and sedimentation

- Public Domain

Requested that an opportunity be provided to recommend appropriate public domain works when an amended Traffic and Parking and Stormwater Management Plan have been provided

- Land Contamination

Recommended that a Preliminary Site Investigation be required to assist the consent authority with it's review under the Resilience and Hazards SEPP

- Biodiversity

Recommended that the application includes consideration of threatened species or ecological communities, or their habitats and the extent to which the habitat is likely to be removed or modified due to the proposed development

- Contributions

Recommended that an appropriate condition of consent is imposed which requires the payment of a development contribution to Newcastle City Council

### 4.1.3 Summary of submissions

The Department received no submissions from the public during the exhibition of the SEE.

## 4.2 Request for further information

In October, November 2024 and February, March 2025 the Department required further information on the following matters:

- Driveways and hardstand

Requested clarification about the type of material that the driveways and hardstand will be constructed

- Structural capability of the demountable buildings

Requested details of the relevant Australian Standards that the construction of the demountable buildings are compliant with, and further information on the securing of the demountable buildings to the ground.

- Fencing

Requested further general details of the perimeter fencing

- Traffic generated by the proposal

Requested to provide details of the traffic movements generated on a daily basis

- Traffic routes

Requested further detail on traffic routes used by heavy vehicles

- Surrounding noise environment

Requested clarification on the statement that the site is within an established rural residential area with minimal industrial or traffic noise, noting that the site is adjacent to a State Road and rail line, and is located in an area with industrial, port and residential land uses.

- Contamination

Requested details on the contamination assessment of the site.

- Informal Parking Area

Requested clarification of the type and number of vehicles to be parked in the informal parking area. The Applicant provided a response on November 13, 2024, which addressed both the RFI and the comments from Newcastle City Council.

On November 22, 2024, the Department sought additional information in response to additional comments (stormwater management, traffic access and contamination status of the site) from Newcastle City Council. The Applicant provided a response on 29 November 2024 and a preliminary site investigation report on 19 February 2025.

The Council has reviewed the Applicant's responses to its comments on the proposal and has advised that further design refinements can be dealt with through Section 138 of the *Roads Act 1993* and conditions of consent.

# 5 Assessment

The Department has reviewed the Applicant's Statement of Environmental Effects and supporting information and considered the potential impacts of the proposed development. Based on this, the key issues associated with the construction and operation of the development are:

- Design and suitability of the site
- Stormwater and drainage
- Contamination

Other matters considered are addressed in Section 5.5.

## 5.1 Design and suitability of the site

*The proposed location and design is considered suitable as the development would not impact on the local character and would not adversely affect nearby residents.*

The development seeks consent for change of use to a depot, which would be used to store scaffolding equipment. The site is located within a mixed industrial, commercial and residential area with a variety of business types.

The location of the Development is considered suitable for the following reasons:

- it complies with the aims of the Transport and Infrastructure SEPP as it uses land around the Port of Newcastle for port related uses
- minimal construction is proposed as part of the development
- the development would fit with the character of the locality, being located adjacent to busy road and rail corridors including Industrial Drive and the Mayfield Precinct of the Port of Newcastle.
- the development would not adversely impact on residential properties which are located 100m to the west and south and behind large industrial buildings and existing noise walls, respectively.
- The Department is satisfied the design and location of the site is suitable for the storage and distribution of scaffolding equipment and is consistent with existing development in the area.

## 5.2 Stormwater and Drainage

*The stormwater impacts of the proposed development are minor and can be managed.*

As part of the change of use to a depot, the site requires minor construction works to be undertaken for the storage of scaffolding equipment, including the addition of stormwater and drainage controls. The site is relatively flat, with a slight gradient towards the northeastern corner. No natural water courses run through the boundaries.

The proposed stormwater management system is designed to serve two purposes, firstly to capture rainwater runoff from the roofs of the onsite structures into two 4000L capacity rainwater tanks for subsequent reuse for general purposes. Secondly, overland flow of stormwater would be managed through the installation of 150mm PVC stormwater pipes, connected to grated surface inlet pits which border the site and run through a 2m wide grass swale at the front of the site (Selwyn Street). A 300m PVC stormwater pipe is also proposed to connect the swale and inlet pits to an on-site detention tank (OSD) and sand filter situated on the northeastern corner of the site. Drainage connections will flow from the shed structures to the northern portion of the site naturally with the gradient of the land which falls to the northeast. This design would address potential issues with stormwater runoff collection, particularly where hardstand surfaces are proposed. Of the total 4,028.6m<sup>2</sup> area of the site, the proposed roof area represents an impervious area of 3.4% of the site leaving large open areas for infiltration.

The rainwater re-use tanks will contain an overflow function with a silt sump to release any excess water into the subsoil. The OSD tank is equipped with a sand filter which will be used to flush runoff into the subsoil before excess runoff proceeds into the Selwyn Street stormwater network.

The site storage and vehicle access areas are proposed to be paved with hardstand containing 2% cement stabilised compacted gravel, with widened concrete vehicle crossings to and from Selwyn Street. New integral kerb and guttering would be constructed along the site's frontage to Selwyn Street.

In March 2025, the Applicant updated the final Storm Water Management plan in response to a request for information by the Department to articulate the location of 2% cement gravel used for the informal parking area. Updates to the stormwater infrastructure were made to account for a greater volume of stormwater due to the increase in impervious surfaces.

Council has advised that revisions to the stormwater management measures showing stormwater detention, re-use and water quality measures are consistent with the Newcastle Development Control Plan 2023 (Newcastle DCP).

The Department is satisfied the Applicant has addressed Council's comments in the revised stormwater management system and considers the proposed drainage design to be sufficient for

the purpose and layout of the site. Conditions have been recommended which require the Applicant to:

- Provide details of the stormwater drainage system in the application for the Construction Certificate
- works to be carried out in line with:
  - Soils and Construction Volume 1, Managing Urban Stormwater and Erosion,
  - section C4 'Stormwater' of Newcastle Development Control Plan 2023 and the associated Technical Manual
  - AS/NZS 3500.3 Plumbing and drainage Part 3 Stormwater drainage.

### 5.3 Contamination

*The land within the property is not considered to be significantly contaminated and is thus suitable for the proposed development.*

The Applicant has provided a Preliminary Site Investigation (PSI) which investigated the contamination status of the site given its proximity to (and formerly part of) the former BHP Steelworks Site.

The investigation entailed a site walkover, preliminary sampling analysis program and desktop study which included a review of published information on soil geology and hydrology, previous assessments, historical aerial photography, Office of Environment and Heritage notices, the EPA contaminated lands database, areas of environmental concern and potential chemicals of concern. A preliminary sampling analysis program was developed and implemented as per the NSW EPA Contaminated Land Guidelines (2020) and the desktop study data. This involved a field investigation to collect soil samples which were subsequently tested for chemicals of concern and reviewed against relevant National Environment Protection Measure (NEPM) Health Investigation Levels. A total of 7 samples were tested across 5 boreholes at varying depths up to a metre. The borehole locations are shown in Figure 7.

In summary, all laboratory test results for Contaminants of Concern of collected soil samples from the bore holes were below guideline thresholds (including TRH's, Total PAH's, BTEX, Naphthalene, Pesticides and heavy metals including lead, cadmium, chromium, zinc, copper, mercury, arsenic and nickel).

Data collected found exceedances to the Ecological Soil Level (ESL) for hydrocarbons, including petroleum hydrocarbons (C16-C34) at borehole BH1 and Benzo(a)pyrene at boreholes BH1 and BH2. Although these concentrations exceeded the ESL (however not the health soil or management limits criteria) the PSI concluded these exceedances do not present significant environmental or human



risk as the samples were located in areas within the southern portion of the site, where there is no development proposed and no excavation or planting will occur in these areas. In general, minimal earthworks are proposed as part of the works. The depot will consist of demountable buildings, compacted gravel driveways and sealed hardstand surfaces, which will be constructed in the northern portion of the site.

The PSI recommended that further intrusive testing is not required as data assembled on the site indicates that there is a low chance of potential risk of exposure of chemicals of concern's to human receptors at the time of the assessment. The assessment concludes that the site is considered to be suitable for the intended land use.

The Department notes that the part of the site where exceedances of ESL at BH1 and BH2 occurred does not form part of the proposed development. The Department is satisfied, in accordance with section 4.6 of the Resilience and Hazards SEPP that the site is adequate for the purpose of the intended use and the site does not require further remediation.

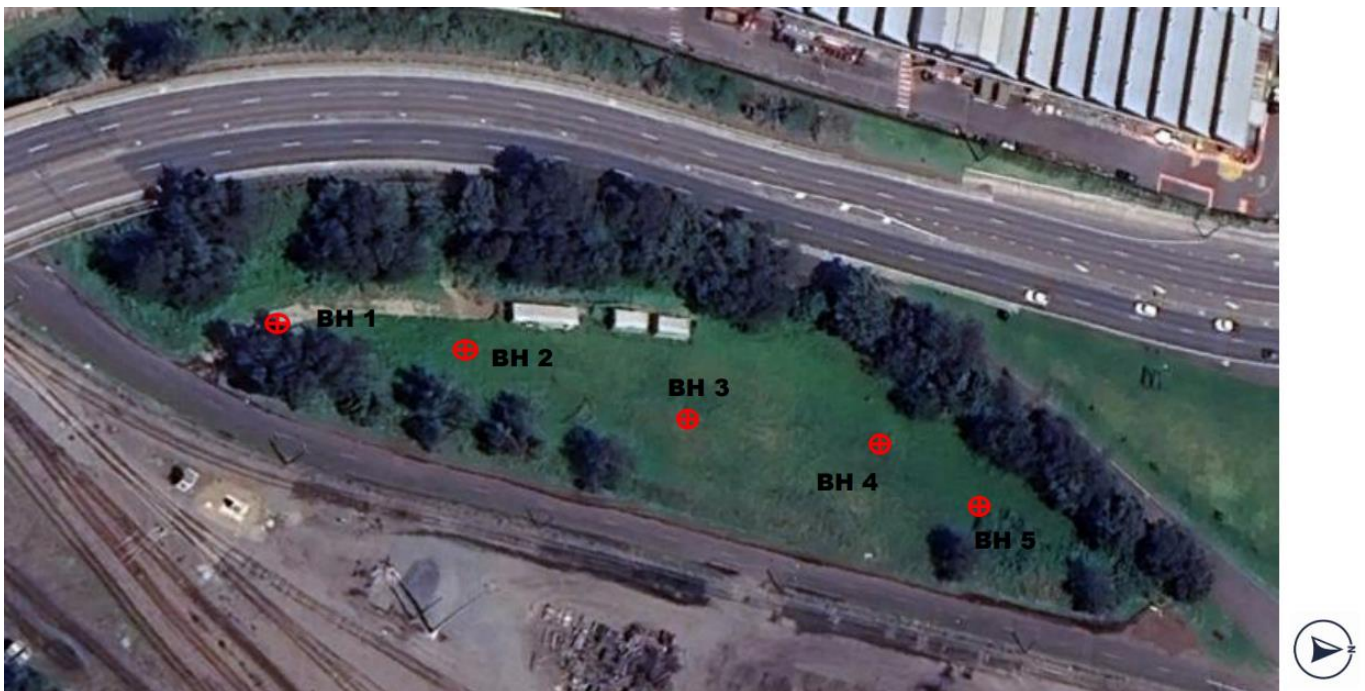


Figure 7 | Borehole Locations (Source: Preliminary (Environmental) Site Investigation, 2025)

## 5.4 Other issues

The Department's consideration of other issues is summarised in Table 5.

Table 5 | Assessment of other issues

Issue	Findings and conclusions	Recommended conditions
<p><b>Flooding</b></p>	<p>The majority of the site is located within a very low risk flood prone area. This includes the area where the occupiable buildings will be situated.</p> <p>The Council has recommended that a flood planning level of 3.3m AHD be applied to any occupiable buildings on the site. The Applicant has advised that the demountable site offices will be located at a minimum floor level of 3.3m AHD or above and will be secured to the ground to ensure they do not float away or collapse. These buildings will act as flood refuges for the occupants of the site and will ensure there is no elevated risk to life from flooding events.</p> <p>The development will create 140m<sup>2</sup> of impermeable roofing equating to 3% of the site. The assessment found that the proposed works will have little effect on the permeability of the site and subsequently will not alter flood behaviour.</p> <p>The Department is satisfied with the consideration of and measures against potential flooding on site. Although potentially subject to minor flooding, the site is located downstream of the Hunter River in an area where dangerous flash flooding is unlikely to occur.</p>	<p>Condition proposed requiring the floor level of the demountable buildings to be located at the 3.3m AHD flood planning level.</p>

Issue	Findings and conclusions	Recommended conditions
<b>Structural feasibility</b>	<p>The onsite buildings will consist of a site office, lunch room, storage and a toilet block. Although demountable, the buildings are not considered a temporary structure and will be built to the relevant Australian Standards in relation to structural integrity. The Applicant has provided details of footing and tie down details as requested. This includes tie-down footings with relevant spacings, footing depths, and concreting. The buildings will be mounted to the footings with threaded bar cast. Inspections will be undertaken as part of the Construction Certificate and final Occupation Certificate documentation and provided to the Principal Certifier detailing compliance and inspection by a suitably qualified Structural Engineer.</p>	<p>Condition proposed requiring buildings to comply with the Building Code of Australia (BCA) and provision of structural certification documentation to the Principal Certifier.</p>
<b>Visual Impact</b>	<p>The development is visually consistent with the surrounding road and industrial landscape as it is for port related development. A vegetation buffer and existing noise walls exist to shield the development from residential properties and the adjacent Industrial Drive. The Department agrees that the proposal will have minimal visual impact on the surrounding locality.</p>	N/A

Issue	Findings and conclusions	Recommended conditions
<b>Landscaping</b>	<p>The Applicant has provided a Landscape Plan which includes the planting of Dwarf Callistemons (Dwarf Bottlebrush) &amp; Tanika Mat Rush along the front of the main office/toilet structures. <i>Lomandra longifolia</i> is proposed along the frontage of the development to Selwyn Street between the sandstone wall and boundary security fence.</p> <p>The landscaping along the western edge of the compacted gravel area will be lined with <i>Tristaniopsis laurina</i> (Luscious Water Gum), while three <i>Callistemon viminalis</i> (Weeping Bottlebrush) are placed intermittently across the front of the site.</p> <p>The Applicant's arborist report identified that buildings and scaffolding laydown would be located away from vegetation and all trees on site would be retained.</p> <p>The Department agrees that the proposed landscaping plan, which will retain existing trees and plant additional native species, will enhance the environment through shading, visual barriers and character, and is adequate for the purposes of the development.</p>	<p>A condition is provided to require landscaping to be completed in accordance with the landscaping plan, Council's tree protection requirements, the provisions of the Newcastle Development Control Plan 2023. Additionally, conditions have been implemented to prevent the storage of scaffolding within the drip line of a tree and require submission of a Landscape Practical Completion Report to the Principal Certifier.</p>
<b>Social</b>	<p>The development is unlikely to have any additional amenity impact on the surrounding social environment. The closest residential properties are located 100m to the south and west and no social infrastructure exists close by. The Department considers that the use of the vacant land provides social and economic benefits to the community.</p>	<p>Conditions have been provided to ensure that affected residents in the vicinity, if any, are notified prior to the commencement of site activities, including those which will produce audible noise, or vibration exposure in line with relevant guidelines.</p>

Issue	Findings and conclusions	Recommended conditions
<p><b>Traffic generation</b></p>	<p>Traffic would be generated by the proposal with access into and out of the site from Selwyn Street. No access will be permitted to the site from Industrial Drive. The traffic report indicates that up to 8 vehicle trips per hour (vtph) is expected to be generated by the development during normal business hours (7am – 5pm Monday to Friday, no works on weekends and public holidays), which amounts to an increase of less than 0.3% to traffic on local roads and intersections. As such traffic generation is not significant, will not block local traffic flows and is within the capacity of existing roads. TfNSW did not object to the proposal.</p> <p>Vehicular access points comply with the requirements of the Australian Standards allowing for safe forward entry and exit for all vehicles accessing the site. The proposed development is also compliant with the Newcastle DCP’s car parking requirements, and access to public transport is available nearby (Industrial Drive).</p> <p>Newcastle City Council requested information to confirm the ability of heavy vehicles to enter and exit the site without crossing the centreline of Selwyn Street. The Applicant has provided swept-path drawings which show that heavy rigid vehicles are able to enter and exit the site without crossing the centreline.</p> <p>For these reasons, the Department considers the traffic impacts of the proposed development to be adequate.</p>	<p>A condition has been provided requiring a road occupancy licence to be obtained from the relevant road authority for any works that have the potential to affect traffic flows during construction activities.</p>

Issue	Findings and conclusions	Recommended conditions
<p><b>Noise</b></p>	<p>Operation of the development would occur between hours of 7am to 5pm on weekdays. The acoustic report assessed the proposal against the Noise Policy for Industry, setting the daytime limit at 40 dB(A),Leq(15min).</p> <p>As the site would have no manufacturing the only noise sources are likely to be from elevated voices, manual handling of metal scaffolds and medium-heavy vehicle movements on site. It is estimated that these sources would comply with the established noise limits.</p> <p>The noise emitted from the site use is unlikely to produce adverse noise impacts to the surrounding locality as this comprises of mainly port and industrial uses to the east, surrounding roads and a rail corridor. A noise barrier is located between the rail line and residential properties on Ferndale Street to the south. The proposed development is located to the north of the railway line and noise from the site during its daytime operations is unlikely to be heard at the residential properties.</p> <p>The assessment found that the proposal could comply with relevant noise emission criteria.</p>	<p>A condition has been recommended requiring the development to not give rise to any offensive noise, as defined under the <i>Protection of the Environment Operations Act 1997</i>.</p>

Issue	Findings and conclusions	Recommended conditions
<p><b>Biodiversity</b></p>	<p>The site has been altered from its natural state due to historic use and mainly consists of vacant grass land, with no natural water courses flowing within the boundary.</p> <p>The grass is regularly slashed, and present vegetation consists of mature trees located within the road reserve on the northern and western boundaries of the site. An arborist has reported on the trees within the site and surrounds. The proposal does not require any tree removal and all perimeter trees will remain. The assessment has also determined that the proposed development will have no impact to any vegetation adjacent to the site. Non-native grasses and weeds within the site boundaries will be removed for the construction.</p> <p>The Department is satisfied that the proposed development will have minimal impact to vegetation on and adjacent to the site. The addition of native plants through proposed landscaping will likely enhance the biodiversity values of the site.</p>	<p>Condition included to prevent storage of scaffolding equipment within the drip line of a tree.</p>

## 6 Evaluation

The Department has assessed the development application and supporting information in accordance with the relevant matters for consideration under Part 4 of the EP&A Act, Transport and Infrastructure SEPP - Chapter 5 Three Ports – Port Botany, Port Kembla and Port of Newcastle, the Hazards and Resilience SEPP, and other relevant environmental planning instruments. The Department's assessment concludes the proposed development is acceptable as:

- it is permissible with development consent under the Transport and Infrastructure SEPP and is consistent with the objectives of the zone
- there are little to no visual and amenity impacts from the proposed development on nearby residential properties
- it complies with the relevant current Australian standards in terms of the demountable buildings
- will not detrimentally affect existing trees adjacent to the site
- the traffic generated by the proposal is minor and within the capacity of the existing local road network
- stormwater infrastructure on the site is adequately designed to allow for effective drainage
- the contamination report concludes that no further investigation or remediation is required, and that the site is appropriate for the proposed use as a storage depot

The Department's assessment therefore concludes that the impacts of the development are acceptable and recommends that the application be approved, subject to the recommended conditions of consent (Appendix C).



# 7 Recommendation

It is recommended that the Director, Transport and Water Assessments, as delegate of the Minister for Planning and Public Spaces:

- considers the findings and recommendations of this report
- accepts and adopts the findings and recommendations in this report as the reasons for making the decision to grant consent to the application
- agrees with the key reasons for approval listed in the notice of decision
- grants consent for the proposal subject to the conditions in the attached development consent
- signs the attached development consent (Appendix D).

Recommended by:



**Bryce MacNamara**  
Planning Officer  
Transport and Water Assessments

Recommended by:



**Michael Young**  
Principal Planning Officer  
Transport and Water Assessments

## 8 Determination

The recommendation is adopted by:



**Glenn Snow**

Director

Transport and Water Assessments

# Glossary

Abbreviation	Definition
<b>Council</b>	Newcastle City Council
<b>Department</b>	Department of Planning, Housing and Infrastructure
<b>EP&amp;A Act</b>	<i>Environmental Planning and Assessment Act 1979</i>
<b>EP&amp;A Regulation</b>	<i>Environmental Planning and Assessment Regulation 2021</i>
<b>EPI</b>	Environmental planning instrument
<b>ESD</b>	Ecologically sustainable development
<b>LEP</b>	Local Environmental Plan
<b>Minister</b>	Minister for Planning and Public Spaces
<b>Secretary</b>	Secretary of the Department of Planning and Environment
<b>SEE</b>	Statement of Environmental Effects
<b>SEPP</b>	State Environmental Planning Policy
<b>TfNSW</b>	Transport for NSW

# Appendices

## Appendix A – List of referenced documents

The following supporting documents and additional information to this assessment can be found on the NSW Planning as follows:

- Land Development Solutions, 2024, *Statement of Environmental Effects – Change of Use to Depot, 20 Selwyn Street, Mayfield East (Revised)*
- Land Development Solutions, 2024, *RFI Letter of Response – Change of Use to Depot, 20 Selwyn Street, Mayfield East*
- Sanko, 2025, *Preliminary (Environmental) Site Investigation – Proposed Temporary Storage Yard, 20 Selwyn Street East Mayfield*

<https://www.planningportal.nsw.gov.au/daex/under-consideration/20-selwyn-street-change-use-depot>

## Appendix B – Submissions and government agency advice

All submissions, government agency advice and council advice can be found here:

<https://www.planningportal.nsw.gov.au/daex/under-consideration/20-selwyn-street-change-use-depot>

## Appendix C – Statutory considerations

In line with the requirements of section 4.15 of the EP&A Act, the Department’s assessment has included detailed consideration of the relevant statutory requirements. These include:

- the objects of the EP&A Act (section 1.3)
- the matters listed under section 4.15(1) of the EP&A Act, including applicable environmental planning instruments and regulations
- the matters for consideration under Division 4.6 of the EP&A Act.

The Department has considered each of these matters which are summarised in Table 6, Table 7, and Error! Reference source not found..

### Objects of the EP&A Act

A summary of the Department’s consideration of the relevant objects (found in section 1.3 of the EP&A Act) are provided in Table 6.

Table 6 | Objects of the EP&A Act and how they have been considered.

Object	Consideration
<b>(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,</b>	The development seeks to use vacant land and would not adversely impact the State’s natural or other resources.
<b>(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,</b>	The development is not inconsistent with relevant environmental considerations.
<b>(c) to promote the orderly and economic use and development of land,</b>	The development promotes the orderly and economic use of the land through the utilisation of vacant land.
<b>(d) to promote the delivery and maintenance of affordable housing,</b>	Not applicable.

Object	Consideration
<b>(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,</b>	The development is not anticipated to have adverse impacts on native flora or fauna, including threatened species, populations and ecological communities, and their habitats.
<b>(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),</b>	As considered in Section 5.1, the development would not impact built or cultural heritage.
<b>(g) to promote good design and amenity of the built environment,</b>	The development would not result in unacceptable built form impacts, as the proposed development contains several small demountable structures, located adjacent to rail and road infrastructure. The existing roads/rail, as well as trees, shield the proposal from nearby residential areas.
<b>(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,</b>	The proposed demountable buildings will be required to comply with relevant Australian Standards, be located above the flood free level and secured to ensure the stability of the buildings from flooding events and strong wind weather conditions.
<b>(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,</b>	The Department sought advice from TfNSW and Newcastle City Council during the exhibition of the proposed development. This is addressed in Section 4.
<b>(j) to provide increased opportunity for community participation in environmental planning and assessment.</b>	The Department exhibited the proposed development and sought comment from members of the public as outlined in Section 4.

**Sections 4.15 and 4.6 of EP&A Act – Matters for consideration**

In determining a development application, a consent authority is to take into consideration the matters specified in section 4.15 of the EP&A Act where they are of relevance to the development which is the subject of the development application. A summary of the Department’s consideration of the Matters for Consideration (found in section 4.15 of the EP&A Act) are provided in [Table 7](#)

**Table 7 | Section 4.15 Matters for consideration under section 4.15 of the EP&A Act**

<b>Matters for Consideration</b>	<b>Consideration</b>
<p><b>(a) the provisions of –</b> <b>(i) any environmental planning instrument, and</b></p>	<p>The Department has considered the relevant environmental planning instruments in its assessment of the development. Details of the assessment are provided below.</p>
<p><b>(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</b></p>	<p>Not applicable.</p>
<p><b>(iii) any development control plan, and</b></p>	<p>The proposal generally meets the relevant/applicable objectives of the Newcastle Development Control Plan 2023 as addressed in <a href="#">Table 10</a>.</p>
<p><b>(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</b></p>	<p>The Applicant has not entered into a planning agreement under section 7.4 of the EP&amp;A Act.</p>
<p><b>(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,</b></p>	<p>The Department has assessed the development in accordance with all relevant matters prescribed by the EP&amp;A Regulations, the findings of which are contained in this report.</p>

Matters for Consideration	Consideration
<b>(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,</b>	The Department has considered the likely impacts of the development in detail in Section 5 of this report. The Department concludes that environmental impacts can be appropriately managed and mitigated through the recommended conditions of consent.
<b>(c) the suitability of the site for the development,</b>	The development is permissible with consent as it is located on land zoned SP1 Special Activities under the Transport and Infrastructure SEPP. The development does not adversely impact on surrounding uses and is a suitable development at that location.
<b>(d) any submissions made in accordance with this Act or the regulations,</b>	No submissions were received during exhibition of the development application.
<b>(e) the public interest.</b>	The Department considers the proposal to be in the public interest (refer to Section 5).

## EP&A Regulation

Subject to any other references to compliance with the EP&A Regulation cited in this Assessment Report, the requirements for fees (Part 13) and the NSW Planning Portal (Part 15) have been complied with (refer to Section 3 of this report).

## Environmental Planning Instruments (EPIs)

To satisfy the requirements of section 4.15(1) of the EP&A Act, the following EPIs, DCP and guidelines were considered as part of the assessment of this proposal:

- *State Environmental Planning Policy (Transport and Infrastructure) 2021* (Transport and Infrastructure SEPP) – Chapter 5 Three Ports
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *Newcastle Development Control Plan 2023* (Newcastle DCP)



*State Environmental Planning Policy (Transport and Infrastructure) 2021 – Chapter 5 Three Ports – Port Botany, Port Kembla and Port of Newcastle*

The Transport and 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 particular types of infrastructure, and providing for consultation with relevant public authorities about certain development during the assessment process. An assessment of the compliance of the development with the Transport and Infrastructure SEPP is provided in Error! Reference source not found..

Table 8 | Compliance with Transport and Infrastructure SEPP

Section	Comment	Complies
<p><b>Part 5.20 – Earthworks</b></p> <p><b>(1) The objective of this section is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.</b></p> <p><b>(2) Development consent is required for earthworks unless –</b></p> <ul style="list-style-type: none"> <li><b>a. the earthworks are exempt development under this Chapter or another applicable environmental planning instrument, or</b></li> <li><b>b. the earthworks are ancillary to development that is permitted without consent under this Chapter or to development for which development consent has been given.</b></li> </ul> <p><b>(3) Before granting consent to a development application for development for the purposes of earthworks (or for development</b></p>	<p>Minimal excavation and construction is proposed. A portion of the site will be levelled with soil being imported to the site as needed. No substantial changes to drainage will occur and minimal sealed surfaces are proposed as part of the development in the northern portion of the site. Gravel will be utilised for driveways and storage areas. The construction of adequate drainage infrastructure has been considered in the stormwater management plan and includes retention and filtration systems. There are no natural water courses running through the site. The proposal is unlikely to impact on Aboriginal and</p>	<p>Yes</p>

Section	Comment	Complies
<p><b>involving ancillary earthworks), the consent authority must consider the following matters—</b></p> <ul style="list-style-type: none"> <li><b>a. the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</b></li> <li><b>b. the effect of the development on the likely future use or redevelopment of the land,</b></li> <li><b>c. the classification of the soil to be excavated,</b></li> <li><b>d. the effect of the development on the existing and likely amenity of adjoining properties,</b></li> <li><b>e. the destination of any excavated material,</b></li> <li><b>f. the likelihood of disturbing relics,</b></li> <li><b>g. the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</b></li> <li><b>h. any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,</b></li> <li><b>i. the potential impact on groundwater and groundwater dependent ecosystems,</b></li> <li><b>j. whether the development is likely to result in water pollution or land pollution,</b></li> <li><b>k. whether the development can be carried out in a way that will minimise wind-blown or traffic-generated dust emissions.</b></li> </ul>	<p>environmental heritage given disturbance of the site in the 1940s and 50s. The proposed development complies with the objectives of this section and is adequately managed in the assessment reports and plans provided by the Applicant.</p>	

Section	Comment	Complies
<p><b>(4) The consent authority must not grant consent to a development application under this section unless the consent authority is satisfied that fill brought to the site—</b></p> <ul style="list-style-type: none"> <li><b>a. contains only virgin excavated natural material, or</b></li> <li><b>b. is the subject of an excavated natural material exemption in force under the Protection of the Environment Operations (Waste) Regulation 2014, Part 9.</b></li> </ul>		
<p><b>Section 5.29 – Preservation of trees or vegetation</b></p> <ul style="list-style-type: none"> <li><b>(1) The objective of this section is to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation.</b></li> <li><b>(2) This section applies to species or kinds of trees or other vegetation on land to which this Chapter applies (other than the Lease Area) that are prescribed for the purposes of this section by a development control plan made by the Council of the area in which they are situated or by the Planning Secretary. Note – A development control plan may prescribe the trees or other vegetation to which this section applies by reference to species, size, location or other manner.</b></li> <li><b>(3) A person must not cut down, top, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by—</b> <ul style="list-style-type: none"> <li><b>a. development consent, or</b></li> <li><b>b. a permit or an approval granted by the Council of the area in which the tree or vegetation is situated.</b></li> </ul> </li> </ul>	<p>The site is heavily altered under former ownership. The proposal aims to retain existing trees on site, while facilitating the additional planting of native tree and shrub species across the property. The proposed landscaping meets the section 5.29 criteria as the works will not detrimentally affect the condition of existing native species found within the site, and additionally noxious weeds will be removed. Conditions have also been proposed to prevent the storage of scaffolding in the drip line of existing trees to protect critical root zones.</p>	<p>Yes</p>

Section	Comment	Complies
<p>(4) <b>The refusal by the Council to grant a permit or an approval to a person who has duly applied for the grant of the permit or approval is taken for the purposes of the Act to be a refusal by the Council to grant consent for the carrying out of the activity for which a permit was sought.</b></p> <p>(5) <b>This section does not apply to a tree or other vegetation that the Council of the area in which the tree or vegetation is situated is satisfied is dying or dead and is not required as the habitat of native fauna.</b></p> <p>(6) <b>This section does not apply to a tree or other vegetation that the Council of the area in which the tree or vegetation is situated is satisfied is a risk to human life or property.</b></p> <p>(7) <b>A permit or approval must not allow cutting down, topping, pruning, removal, injuring or destruction of a tree or other vegetation—</b></p> <ul style="list-style-type: none"> <li><b>a. that is or forms part of a heritage item, or</b></li> <li><b>b. that is or forms part of an Aboriginal object or that is within an Aboriginal place of heritage significance, unless the Council is satisfied that the proposed activity—</b></li> <li><b>c. is of a minor nature or is for the maintenance of the heritage item, Aboriginal object or Aboriginal place of heritage significance, and</b></li> <li><b>d. would not adversely affect the heritage significance of the heritage item, Aboriginal object or Aboriginal place of heritage significance.</b></li> </ul> <p>(8) <b>This section does not apply to or in respect of—</b></p>		

Section	Comment	Complies
<p>a. the clearing of native vegetation—</p> <ul style="list-style-type: none"> <li>i. that is authorised by a development consent or property vegetation plan under the Native Vegetation Act 2003, or</li> <li>ii. that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or</li> </ul> <p>b. the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the Native Vegetation Act 2003) that is authorised by a development consent under the provisions of the Native Vegetation Conservation Act 1997 as continued in force by that clause, or</p> <p>c. trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the Forestry Act 1916, or</p> <p>d. action required or authorised to be done by or under the Electricity Supply Act 1995, the Roads Act 1993 or the Surveying and Spatial Information Act 2002, or</p> <p>e. plants declared to be noxious weeds under the Noxious Weeds Act 1993, or (f) plants declared to be marine vegetation under the Fisheries Management Act 1994.</p>		

## State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of land

The Resilience and Hazards SEPP aims to reduce inappropriate land use and coastal hazards by facilitating an effective and coordinated approach to assessing development across the State. Chapter 4 promotes the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

Chapter 4 of the Resilience and Hazards SEPP contains provisions for the consideration of contamination and remediation when determining an application. Under the SEPP it is a requirement that the consent authority must be satisfied that the land is not contaminated and/or suitable for the purpose of the development.

An assessment of the development is provided in Table 9

Table 9 | Compliance with Resilience and Hazards SEPP

Section	Comment	Complies
<p><b>Section 4.6 Contamination and remediation to be considered in determining development application</b></p> <p><b>(1) A consent authority must not consent to the carrying out of any development on land unless –</b></p> <ul style="list-style-type: none"> <li><b>a. it has considered whether the land is contaminated, and</b></li> <li><b>b. if the land is contaminated, it is satisfied that the land 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</b></li> <li><b>c. 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.</b></li> </ul>	<p>The Applicant has undertaken a Preliminary Site Investigation which adequately assesses the presence of contamination across the site. Although contamination was detected in certain locations (refer to section 5.2 of this report), the concentrations are considered minor, the boreholes where the exceedances were detected are outside the proposed development and the site is considered suitable for the proposed construction and use of the development as a scaffolding depot. Additionally, minimal excavation and</p>	<p>Yes</p>

Section	Comment	Complies
<p><b>(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.</b></p> <p><b>(3) The applicant for development consent must carry out the investigation required by subsection (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.</b></p> <p><b>(4) The land concerned is—</b></p> <ul style="list-style-type: none"> <li><b>a. land that is within an investigation area,</b></li> <li><b>b. land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,</b></li> <li><b>c. to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—</b> <ul style="list-style-type: none"> <li><b>land—</b> <ul style="list-style-type: none"> <li><b>i. in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the</b></li> </ul> </li> </ul> </li> </ul>	<p>construction is proposed, and no soil will be removed from the site. A portion of the site will be levelled, with soil imported to the site as needed.</p> <p>The Department has considered the contamination status of the land and is satisfied the land is suitable for the proposed development without the need for remediation. The Department is satisfied the requirements of Section 4.6 of the Resilience and Hazards SEPP have been addressed.</p>	

Section	Comment	Complies
<p>contaminated land planning guidelines has been carried out, and</p> <p>ii. on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).</p>		



## Newcastle Development Control Plan 2023 (NDCP)

The proposal generally complies with the aims, objectives, and key provisions of the NDCP. A detailed assessment of the proposal against the relevant provisions of the NDCP is provided in Table 10.

Table 10 | Compliance with Newcastle DCP

Provision	Comment	Compliance
<b>Part D Section D – Industrial</b>		
<b>8.0 Building Setback</b>		
<p><b>1. Ensure adequate area is available at the street frontage to accommodate satisfactory landscaping, access, parking and manoeuvring of vehicles.</b></p>	<p>There is adequate area on the Selwyn Street frontage of the site for the provision of driveway access and landscaping. Site access is designed to cater for heavy rigid vehicle access and open clear line of sight. Swept Turning Path diagrams show that access and egress is possible in each of the driveways. A total of 13 parking spaces will be provided onsite. Traffic generation has been assessed and the findings conclude that the traffic impact of the proposal on local traffic will not be substantial.</p>	<p>Yes</p>
<p><b>2. Reduce the visual impact of development on the streetscape.</b></p>	<p>The visual impact of the development on the streetscape will be minimal as the site is currently surrounded by port and industrial use and road and rail corridors. In addition, landscaping will be undertaken on the Selwyn Street frontage of the site and within the site.</p>	<p>Yes</p>
<p><b>3. Provide a buffer between adjoining residentially zoned land, or land currently used for residential purposes, reducing adverse impacts on surrounding land uses and residential amenity</b></p>	<p>A vegetation buffer and existing noise walls shield the development from residential properties and the adjacent Industrial Drive.</p>	<p>Yes</p>

Provision	Comment	Compliance
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### 9.0 Character and Amenity

<p><b>1. Promote development that is functional and attractive in the context of its local environment through appropriate design.</b></p> <p><b>2. Ensure development is sympathetic with the streetscape character and amenity of any adjoining residential precinct.</b></p> <p><b>3. Any proposed building or proposed alterations and additions to an existing building are to minimise and ameliorate any potential adverse impacts on amenity, noise privacy or overshadowing on any adjoining residential zoned land.</b></p> <p><b>4. Provide awareness of the obligations under the Commonwealth's Disability Discrimination Act 1992.</b></p> <p><b>5. Promote lot consolidation and ensure development does not result in isolated sites.</b></p>	<p>The visual amenity of the streetscape is unlikely to be detrimentally impacted as the proposed development will be consistent with the character of the area being surrounding roads, rail corridor and port and industrial landscape. The closest residential properties are located approximately 100m to the south of the site and visually separated by a noise barrier. The extent of the existing established trees which remain around the perimeter of the site will also ensure that there is adequate screening of the business from the main road (Industrial Drive). Alterations to the site will remain minimal due to the low impact nature of the proposed use, being a low-scale scaffolding storage facility.</p>	<p>Yes</p>
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### 12. Open Storage and work areas

<p><b>1. Ensure open storage and work areas are suitably screened from public view.</b></p>	<p>A vegetation buffer and existing noise walls will shield the development from residential properties and the adjacent Industrial Drive. The development will also include perimeter fencing for security and landscaping as proposed along the Selwyn Street frontage in the landscaping design.</p>	<p>Yes</p>
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### 13. Loading and Unloading and servicing areas

<p><b>1. Provide for the design of loading and servicing areas in a functional and aesthetically pleasing manner.</b></p>	<p>Adequate loading and unloading services will be provided. The site will be landscaped in an aesthetically pleasing manner.</p>	<p>Yes</p>
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Provision	Comment	Compliance
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#### 14. Parking vehicle access and movement

<p><b>1. Ensure adequate provision is made for on-site car parking and for employees and visitor's vehicles.</b></p> <p><b>2. Create attractive landscaped car parking throughout the development.</b></p> <p><b>3. Maximise opportunities for walking and cycling and where possible.</b></p>	<p>The proposal has accounted for staff parking spaces as well as space for onsite manoeuvrability and accessibility. The site will be levelled and landscaping undertaken to complement the development.</p>	<p>Yes</p>
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#### Part B Section B6 Urban Heat

<p><b>1. Design built form, including public and private open spaces, with measures that reduce the impact of high to extreme heat stress days on residents, workers and visitors.</b></p> <p><b>2. Reduce and mitigate the contribution of built development to urban heat, through passive design and nature-based solutions.</b></p> <p><b>3. Mitigate urban heat to facilitate a high level of comfort throughout the year, with improved outcomes on hot days and the summer period.</b></p> <p><b>4. Encourage landscaping and shading that supports urban heat resilience.</b></p>	<p>There will be a number of demountable buildings and open roofed areas on the site. Landscaping is also proposed to ensure greening is sufficient and shade is provided. Permeable gravel will be used instead of concrete within the driveway and storage areas and will help to mitigate urban heating.</p>	<p>Yes</p>
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#### Part C: General development controls

##### Section C1 Traffic Parking and access

<p><b>The following matters are to be addressed in this application:</b></p> <p><b>a. parking facilities provided, with details of calculations, types, number and arrangement</b></p> <p><b>b. proposed access arrangements and their compliance with design standards</b></p> <p><b>c. identification of public transport services, stops and shelters in the vicinity of the development</b></p>	<p>Information on parking access, type and elements, as well as local public transport availability and traffic impacts have been provided by the Applicant in the traffic impact assessment. Available parking, traffic volume and design standards are considered sufficient for the purpose</p>	<p>Yes</p>
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Provision	Comment	Compliance
<p>including assessment of all pedestrian linkages to the development</p> <p>d. traffic generation, impacts expected and proposed traffic management measures</p>	of the proposal and will have no major adverse impacts to the local area.	

### Section C2 Movement networks

<p>1. Provide for all modes of travel through increased connectivity, legibility, and permeability.</p> <p>2. Ensure that development incorporates access to shaded, efficient and safe active and public transport options that are attractive and aim to reduce private vehicle dependency.</p> <p>3. Ensure the movement network has clear structure and that street blocks facilitate safe and efficient internal and external pedestrian, cyclist, and vehicular movements.</p> <p>4. Ensure that road design: reflects the roles of the road and the needs of road users; is based on sound engineering practices, and; meets relevant Australian Standards, Austroads publications and road authority design guidelines as appropriate.</p>	The proposal has adequately considered the available transport options. Although the site location is not ideally located for public transport, it is accessible by bus. Road design has been adequately considered. The traffic impact assessment details element of the impacts to movement networks. The site access design has been amended to better cater for the safe access and egress of heavy rigid vehicles to and from the site.	Yes
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### C3 Vegetation preservation and care

<p>1. Manage and care for the urban forest and maximise urban greening, resulting in a healthy, green and biodiverse city that provides economic, ecological and social benefits.</p> <p>2. Identify declared vegetation under the Biodiversity and Conservation SEPP.</p> <p>3. Provide opportunities for ecosystem pollinator habitat.</p> <p>4. Prioritise the retention of the existing urban forest.</p>	During the initial site investigation it was determined that the land subject to the development has no intrinsic ecological value. An arborist has viewed the site and reported on the existing trees within and surrounding the site. The proposal does not require trees to be removed. Invasive weeds will be removed for construction.	Yes
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Provision	Comment	Compliance
<p><b>5. Ensure compensatory plantings are provided when vegetation is cleared.</b></p> <p><b>6. Protect and enhance the biodiversity and amenity value of the urban forest through the protection</b></p>		

#### Section C4 Storm Water

<p><b>1. Outline CN's requirement for stormwater management for development.</b></p> <p><b>2. Adopt a whole of water cycle approach to development.</b></p> <p><b>3. Promote sustainable practices in relation to the use of water resources for human activities.</b></p> <p><b>4. Ensure an appropriate quality and quantity of water enters waterways.</b></p> <p><b>5. Protect and enhance waterways, watercourses, wetlands and their riparian corridors.</b></p> <p><b>6. Promote soil infiltration and ensure stormwater is controlled and managed appropriately.</b></p> <p><b>7. Promote best practice and innovative water sensitive urban design solutions.</b></p>	<p>A Stormwater Management Plan for the site has been prepared by the Applicant. The revised design is considered to satisfactorily manage potential stormwater risks (see section 5.2). As such, the proposal adequately considers the provisions of this section of the NDCP.</p>	<p>Yes</p>
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#### Section C6 Waste Management

<p><b>1. Manage waste in accordance with the waste hierarchy to:</b></p> <p><b>a. avoid producing waste in the first place</b></p> <p><b>b. minimise the amount of waste produced</b></p> <p><b>c. re-use items as many times as possible to minimise waste</b></p> <p><b>d. recycle once re-use options have been exhausted</b></p> <p><b>e. dispose of what is left, as a last resort, in a responsible way to appropriate waste disposal facilities.</b></p>	<p>Demolition is not required as part of the proposal as the site is currently vacant. Onsite construction will consist of the installation of prefabricated modular buildings, creating no major waste. Additionally, the nature of the intended use as scaffolding storage does not generate large quantities of waste.</p>	<p>Yes</p>
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Provision	Comment	Compliance
<p><b>2. Ensure waste management and mitigation at demolition, construction and operation stages are designed to provide satisfactory amenity for occupants.</b></p> <p><b>3. Ensure occupants are active and empowered participants in creating solutions and waste mitigation and minimisation.</b></p> <p><b>4. Ensure that development incorporates waste management systems that are efficient and capable of handling the forecasted waste generation</b></p>		

### Section C7 Safety and Security

<p><b>Utilise Crime Prevention Through Environmental Design (CPTED) methods to prevent crime through building and place design, influencing construction and management to:</b></p> <p><b>1. Increase the perception of risk to criminals by increasing the possibility of detection, challenge and capture.</b></p> <p><b>2. Increase the effort required to commit crime by increasing the time, energy or resources which need to be expended.</b></p> <p><b>3. Reduce the potential rewards of crime by minimising, removing or concealing crime benefits.</b></p> <p><b>4. Remove conditions that create confusion about required norms of behaviour.</b></p> <p><b>5. Identify crime risks of a development, and the appropriate level of CPTED treatments to remove or, at a minimum, minimise or mitigate risk of crime.</b></p>	<p>The nature of the proposal does not trigger the requirement to prepare a CPTED. However, territorial reinforcement through perimeter fencing and controlled gate access, as well as passive and active surveillance provided by the front office, are to be utilised.</p>	<p>Yes</p>
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### Section C8 Social Impact

Provision	Comment	Compliance
<p><b>1. Ensure development applications are accompanied by sufficient evidenced information to allow adequate assessment of social impacts arising from a development.</b></p> <p><b>2. Ensure a clear, consistent and rigorous approach informed by social research methodology to identify, assess, respond and monitor the social impacts of a development.</b></p> <p><b>3. Improve development outcomes by early identification of social impacts and installation of supportive measures, proportionate with the type of development and level of impacts.</b></p> <p><b>4. Maximise opportunity for stakeholders who may be impacted by a development to participate in meaningful social impact assessment consultation.</b></p> <p><b>5. Ensure that adverse consequences of a development are identified to inform decisions about whether to proceed or install measures to minimise or ameliorate those negative impacts.</b></p> <p><b>6. Maximise opportunity for development to occur in locations supported by adequate services and facilities to meet the locality's current and projected social needs.</b></p> <p><b>7. Ensure inclusion and equity are achieved by maximising accessibility and universal design.</b></p> <p><b>8. Maximise the retention of existing affordable housing stock and proportionate mitigation of losses</b></p>	<p>The proposal falls within the Transport and Infrastructure SEPP (Three Ports Lease Area) and will bring social benefit to the city through financial and employment wellbeing and contribute to port related business. The site is zoned SP1 under the Transport and Infrastructure SEPP, however, has previously been unutilised, providing no benefit. The proposal will allow for the business to support the region's construction industry.</p>	<p>Yes</p>

### Section C9 Advertising and Signage

<p><b>1. Ensure that signage and advertising is well designed, appropriately sized and positioned in a consistent manner.</b></p>	<p>The proposal provides business identification signage on the entry gate. No significant signage is required, and no customers will need to</p>	<p>Yes</p>
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Provision	Comment	Compliance
<p><b>2. Ensure signage and advertising, including prospective signage and advertising, is considered, integrated, and positively contributes to the overall design and presentation of buildings.</b></p> <p><b>3. Ensure that signage and advertising does not intrude into or detract from the architectural merit and heritage significance of existing buildings, significant views, vistas, or streetscapes.</b></p> <p><b>4. Ensure that signage and advertising does not compromise pedestrian, cyclist or vehicle safety and amenity. 5. Maximise the positive contribution that signage and advertising makes to the vibrancy, legibility and commercial viability of businesses.</b></p> <p><b>6. Ensure that signage and advertising does not compromise the amenity of active street frontages in commercial areas.</b></p> <p><b>7. Minimise visual clutter caused by the proliferation of signage and advertising and encourage the rationalisation of signage through fewer more effective signs.</b></p>	<p>access the site as it is purely utilised for storage of scaffolding equipment and associated work vehicles.</p>	



## Appendix D – Recommended instrument of consent

The instrument of consent can be viewed at:

<https://www.planningportal.nsw.gov.au/daex/under-consideration/20-selwyn-street-change-use-depot>

## Appendix E – Additional information

The Department's requests for information and Applicant's responses can be found at:

<https://www.planningportal.nsw.gov.au/daex/under-consideration/20-selwyn-street-change-use-depot>