

The City of Newcastle

JRPP No.	2015HCC016
DA No.	DA 14/1152
Proposal	ERECTION OF ONE(1) X TWO-STOREY, THREE(3) X THREE-STOREY BUILDINGS TO BE USED FOR LIGHT INDUSTRIAL PURPOSES AND ASSOCIATED SITE WORKS AND PARKING AREA
Property	609 MAITLAND ROAD MAYFIELD WEST LOT 1 DP 369641
Recommendation	REFUSAL
Applicant	DUBBO HOLDINGS & KINGSTON COMMERCIAL PTY LTD
Report By	DEVELOPMENT AND BUILDING SERVICES

Assessment Report and Recommendation

Executive Summary

Proposed Development

The application comprises:

- Partial demolition of the existing listed heritage item (ie care takers house and 'wishing well'). The heritage item is listed as a *State nominated* item I291 - former migrant camp (ie consisting of the Quonset hut, caretakers dwelling and the 'wishing well'). '*State nominated*' means that it is a Local item which has been identified as an item of potential State significance in a publicly exhibited heritage study and the Council has nominated the item in writing to the Heritage Council.
- The removal of 22 trees;
- Erection of four industrial buildings (1x2 storey detached building and 3x3 storey attached buildings);
- Construction of a new internal service road and 130 at grade car parking spaces (ie internal and external to the proposed buildings); and
- Provision of landscaping, services and drainage infrastructure.

Referral to Joint Regional Planning Panel

The proposal is referred to the Joint Regional Planning Panel for determination pursuant to Clause 10 of Schedule 4a of the Environmental Planning and Assessment Act 1979 (ie Development that has a capital investment value of more than \$10 million but less than \$20 million that has not been determined within 120 days). The application was lodged 7 October 2014 and at the time of writing the report was 315 days old (approx.).

Permissibility

Newcastle Local Environmental Plan 2012 (NLEP2012)

The subject site is zoned IN2 Light Industrial.

The application has been made on a speculative basis and it is advised that this zone allows for several uses which the proposed buildings could possibly be used for such as *industrial training facilities, industrial retail outlets and light industries* (ie which is inclusive of *high technology industry*). It is further noted that uses such as *office premises* and *business premises* area prohibited land uses in this zone.

State Environmental Planning Policy No 33—Hazardous and Offensive Development

The application has been made seeking consent for a speculative land use aimed at *light industry* land uses. The submitted SEE does not detail or address the potential for hazardous and/or offensive development which can arise from *light industrial* uses.

If the proposal was to be supported conditions would need to be included which precluded any use which would involve any hazardous or offensive development without a separate development application approval.

State Environmental Planning Policy No 55—Remediation of Land

The site is known to be contaminated land. Council required the applicants to submit a land contamination investigation report having regard to the provisions of SEPP 55 and the Newcastle DCP 2012 - Section 5.02 - Land Contamination.

No land contamination investigation report has been submitted to Council to enable an assessment to be carried out in this regard.

State Environmental Planning Policy No 71—Coastal Protection

The subject site is within land affected by SEPP 71.

The site is largely disturbed and otherwise previously developed. It is considered that the proposal would not have a detrimental impact on coastal environment or elements having regard to the provisions of Clauses 7 and 8 of SEPP No 71.

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

The site is adjacent Maitland Road which is a classified road. The proposal is considered to be a traffic generating development having regard to the provisions of Clause 104 and Schedule 3 of the State Environmental Planning Policy (Infrastructure) 2007 and requires Council to consult with the Roads and Maritime Service (RMS). Furthermore, proposed works to prohibit the right hand turn out of the site would also require the concurrence of the RMS under Section 138 of the Roads Act, 1993.

Due to the lack of information submitted with the application, the proposal was not referred to the RMS.

State Environmental Planning Policy (Three Ports) 2013

The subject site is not affected by SEPP Three Ports although the nearby rail corridor and associated lands to the north west are affected by the SEPP.

Consultation

The proposal was notified to adjacent properties in accordance with the Newcastle Development Control Plan 2012 between 16-31 October 2014. No public submissions have been received in relation to the proposal.

Key Issues

The main issues identified in the assessment are as follows:

- Whether the proposed development is acceptable in relation to State Environmental Planning Policy 55 – Remediation of Land.
- Whether the proposed development is acceptable in relation to applicable provisions of the Newcastle Local Environmental Plan 2012 and Newcastle Development Control Plan 2012.
- Whether the proposed development is acceptable in relation to traffic and vehicular access from Maitland Road.
- Whether the part demolition of and impacts to the *State nominated* heritage item are acceptable in the context of the proposal.

Recommendation

The application reference 2015HCC016 (DA14/1152) be refused for the following reasons:

- 1 Insufficient information has been provided to adequately consider the likely impacts on future uses on the site from land contamination contrary to SEPP 55 and the Newcastle DCP 2012. (Section 79C(1)(a)(i), (b)(c) &(e).
- 2 Insufficient information has been provided to adequately consider the likely impacts the development may have on the surrounding road network contrary to SEPP (Infrastructure) 2007 & Newcastle DCP 2012 (Section 79C(1) (b)(c) &(e).
- 3 Insufficient information has been provided to adequately consider the likely drainage impacts the development may have on the surrounding natural and built environment contrary to Section 79C(1)(b)(c) &(e).
- 4 Insufficient information has been provided to adequately consider the likely adverse impacts the development may have on the significance of the *State nominated* heritage item (No. 1291) contrary to Section 79C(1)(b)(c) &(e).
- 5 Insufficient information has been submitted to demonstrate that the proposed design would be for a use which was permissible within the zone under the Newcastle LEP 2012 (Section 79C(1)(a)(b)(c) &(e).

1. Background

Two applications have been approved for the site being DA 09/1733 (approved 29 July 2010) and DA 10/1478 (approved 23 March 2011). These applications were both for the purpose of a caravan, motorhome and transportable home land use to operate on part of the site.

Consent was granted under DA 10/1478 to the use of an existing workshop and construction of further buildings for use by the approved use. Similarly, this consent also allowed the demolition of the existing caretakers dwelling (ie heritage item) and various existing trees (NB: The Quonset hut and 'wishing well' were not affected by this approval.). The approved buildings, demolition of the caretakers dwelling and removal of these existing trees has not been undertaken.

The site is currently used by Network Design & Construction (NDC - a Telstra subsidiary). The NDC has previously had up to 150 staff but currently only 19 staff operate from the site.

2. Site and Locality Description

The proposal is located on Lot 1 DP 369641. The total site has an approximate area of 4.75 hectares and a frontage of 427m to Maitland Road.

The site is irregular in shape and has a long axis north-west to south-east which is generally parallel to Maitland Road.

The site has a central access with double driveway crossing to Maitland Road.

The site along its axis falls downwards (ie from 34m AHD) towards both the south eastern (ie 27m AHD) and north western boundaries (17-25m AHD). The slope towards the north eastern rear boundary quickly becomes steep close to this boundary (ie 17-25m AHD - the last 5m downslope occurring in approximately 20m).

The Maitland road frontage rises steeply in combination with the existing retaining walls. The land around the existing central driveway is also relatively steep as it cuts through the higher portion of the front boundary.

The subject site consists of nine existing buildings, an internal driveway with various car parking areas. The majority of buildings are located towards the eastern end of the site with the existing trees interspersed in these areas. The majority of the site otherwise contains grasses.

Refer to **Figure 1** for a map showing the site and general locality.

Figure 1 - Site Location



3. Project Description

The proposed development involves the demolition of the care takers dwelling, 'wishing well' and the removal of 22 trees to allow for the proposed development.

The development involves construction of the following:

- One X 2-storey detached industrial building towards the Maitland Road frontage (ie directly south east of the central access driveway (ie Building 1 - 2359m² approx gross floor area).
- Three X 3-storey attached industrial buildings located towards the south-eastern end of the site. (ie Building 2 - 3515m², Building 3 - 3260m² & Building 4 - 3515m² approx gross floor areas respectively).
- A new/reformed internal driveway system.
- 130 at grade parking spaces (ie a combination of internal and external spaces).
- New landscaping of the areas directly associated with proposed development.

The SEE indicates that the area allocated to the proposed development is 13147m² (ie the overall site is 47576m²).

The Statement of Environmental Effects details the following in regard to the proposed buildings:-

'The proposed development will be primarily tailored towards occupation by light industrial businesses, focussing on high technology industries.'

'The proposed Light Industrial Park will be a series of four buildings, design to accommodate a wide range of different businesses. Building 1 will be situated on the crest of the allocated site overlooking the main site access and Maitland Road. Building 1 is an open plan two storey building suitable for a variety of purposes such as light industries or high technology industries.'

Buildings 2, 3 & 4 will be grouped on the south eastern portion of the subject site around the primary car parking area for the proposed development. Each of these three buildings will have ground level secure carparking with 2 levels of open planned space divided into 4 units ranging from 430 sqm to 640 sqm, also suitable to a variety of high technology or light industries.'

At this stage the development is being designed to accommodate many different light industrial businesses, to provide a platform for future tenants to use their unit effectively. This will provide a wide variety of job opportunities for the area in a diverse range of fields. It is expected that businesses operating from the site will maintain regular business hours.'

Refer to **Appendix B** for a copy of the floor plans and elevations of the proposal.

Refer to **Appendix C** for the chronology of the application.

4. Consultation

The proposal was notified in accordance with the Newcastle Development Control Plan 2012 between 16-31 October 2014. No public submissions have been received in relation to the proposal.

5. Referrals

Statutory Referrals

As detailed in Section 6 of this report the proposal is required to seek the concurrence of the RMS. However based on the information provided within this application and outstanding issues yet to be resolved this has not taken place.

Internal Referrals

Internal referrals were made to the following:

- Senior Development Engineer concerning flooding, stormwater, parking provision, traffic generation and vehicle access.
- Environmental Protection Officer (Compliance Services Unit) concerning State Environmental Planning Policy 55 - Remediation of Land and environmental issues generally.

Refer to **Appendix D** for details of the referrals.

6. Section 79C Considerations

(a)(i) the provisions of any environmental planning instrument

State Environmental Planning Policy No 33—Hazardous and Offensive Development

The application has been made largely on a speculative use basis aimed at *light industry* land uses. The submitted SEE does not detail or address the potential for hazardous and/or offensive development which can arise from *light industrial* uses.

If the proposal was to be supported conditions would need to be included which precluded any use which would involve any hazardous or offensive development without a separate development application approval.

State Environmental Planning Policy No. 55 - Remediation of Land

The subject site is affected by land contamination.

The applicant's submitted SEE indicates the following in relation to land contamination:

'In the interest of minimising disturbance to the current operators of this site we propose that this investigation, report and recommendations for removal of contaminated soil, be presented as part of the Construction Certificate Application.'

The assessment of the application by Council's Senior Environment Protection Officer indicated that this approach was not acceptable and that a detailed land contamination investigation was required (as detailed in Appendix C).

The required detailed land contamination investigation report has not been submitted by the applicants.

State Environmental Planning Policy No 71—Coastal Protection

The subject site is within land affected by SEPP 71.

The site is largely distributed and otherwise previously developed. It is considered that the proposal would not have a detrimental impact on coastal environment or elements having regard to the provisions of Clauses 7 and 8 of SEPP No 71.

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

The site is adjacent to Maitland Road which is a classified road. The proposal is considered to be traffic generating development having regard to the provisions of Clause 104 and Schedule 3 of the State Environmental Planning Policy (Infrastructure) 2007 and requires Council to consult with the Roads and Maritime Service (RMS). Furthermore, proposed works to prohibit the right hand turn out of the site would also require the concurrence of the RMS under Section 138 of the Roads Act, 1993.

Council's engineering assessment of the proposal required further traffic assessment to be completed addressing the impact on Maitland Road. Referral of the application to the RMS was deferred on the basis that the required additional traffic assessment would be needed to address that RMS would likely raise regarding the operation of the development.

The required traffic assessment has not been submitted and consequently the application has not been referred to the RMS.

State Environmental Planning Policy (Three Ports) 2013

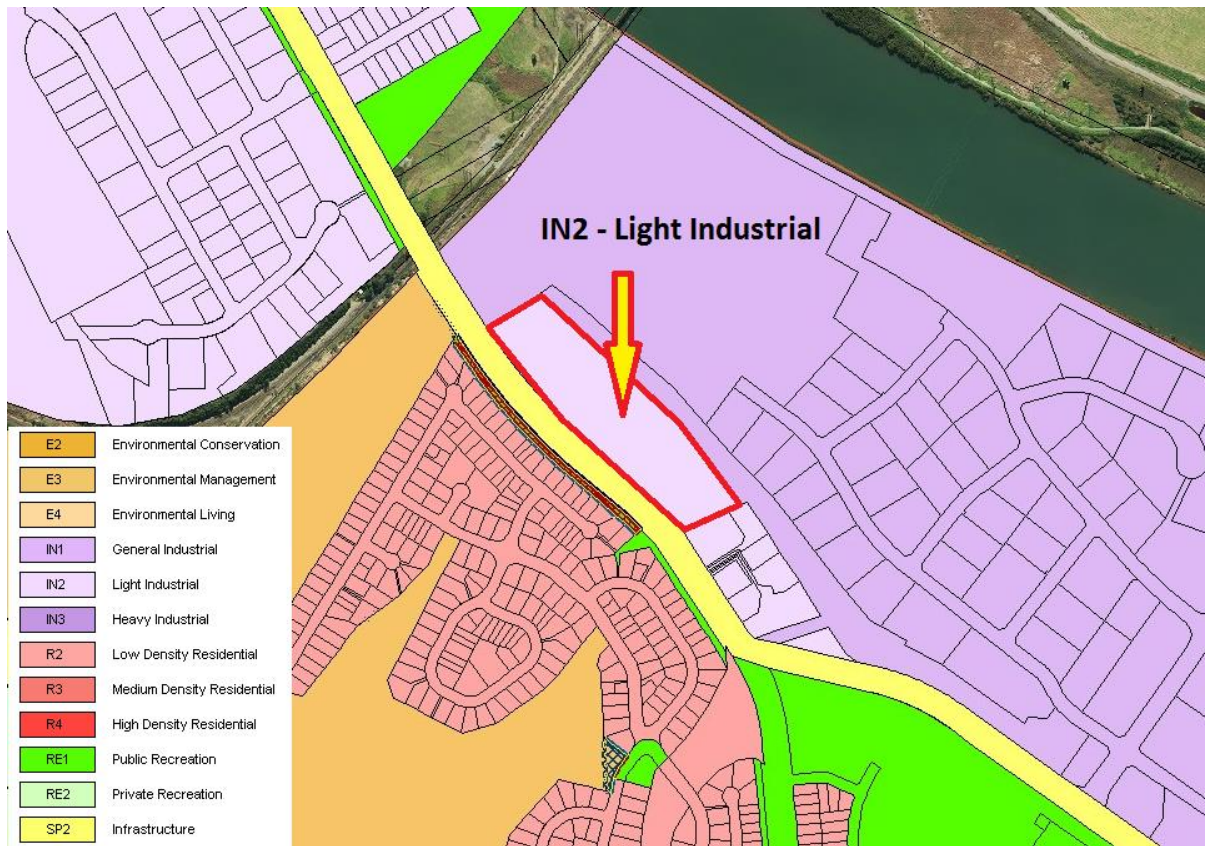
The subject site is not affected by SEPP Three Ports although the nearby rail corridor and associated lands to the north west are affected by the SEPP.

Newcastle Local Environmental Plan 2012

Part 2 - Zoning

The subject site is zoned Zone IN2 Light Industrial (see zoning Figure 2 below).

Figure 2 - Site Zoning



This zone allows for several uses which the proposed buildings could possibly be used for such as *industrial training facilities*, *industrial retail outlets* and *light industries* (ie which is inclusive of *high technology industry*).

The proposal was made on the basis of a '*new light industrial development*' and described within the Statement of Environmental Effects (SEE) as a '*Light Industrial Park*' designed '*..to accommodate a wide range of different businesses.*' The SEE further indicates that the proposed buildings would be '*...suitable for a variety of purposes such as light industries or high technology industries*'.

The *light industry* is defined as follows:

'light industry' means a building or place used to carry out an industrial activity that does not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, and includes any of the following:

- (a) *high technology industry*,
- (b) *home industry*.

Note. *Light industries* are a type of **industry**—see the definition of that term in this Dictionary.'

The *high technology industries* are defined as follows:

'high technology industry' means a building or place predominantly used to carry out an industrial activity that involves any of the following:

- (a) *electronic or micro-electronic systems, goods or components*,
- (b) *information technology (such as computer software or hardware)*,

- (c) *instrumentation or instruments of a scientific, industrial, technological, medical or similar nature,*
- (d) *biological, pharmaceutical, medical or paramedical systems, goods or components,*
- (e) *film, television or multi-media technologies, including any post production systems, goods or components,*
- (f) *telecommunications systems, goods or components,*
- (g) *sustainable energy technologies,*
- (h) *any other goods, systems or components intended for use in a science or technology related field, but does not include a building or place used to carry out an industrial activity that presents a hazard or potential hazard to the neighbourhood or that, because of the scale and nature of the processes involved, interferes with the amenity of the neighbourhood.'*

Concern was raised with the applicants that the design of the proposal was not conducive to light industrial uses and that insufficient detail was provided regarding the nature of likely uses proposed on a speculative basis. Further details in this respect have not been provided by applicants.

The layout of the proposed units is such that there is limited access for deliveries (ie only 3.0m high roller door). Furthermore the access from the delivery areas to the upper floor units is not conducive to development which involves industrial processes.

It is not clear that the use floor layout of the proposed units, being on a speculative basis, would readily be conducive to development which involves industrial processes (eg the first and second floors having floor to ceiling heights of 3.3m and 2.7m respectively).

Clause 4.3 Height of Buildings and 4.4 Floor Space Ratio

The site is not mapped as having a defined maximum Height of Buildings or Floor Space Ratio.

The proposed building meets the objectives of these clauses and would be suitable in height and density in this location.

Clause 5.9 Preservation of trees or vegetation

The proposal will result in the removal of 22 trees from the site which are mostly a combination of natives species (eg eucalyptus) varying 5-15m in height. Many of these trees to be in good health and well established.

The applicant was required to submit an arborist report by a suitably qualified arborist for the proposal addressing tree loss/removal, tree protection and tree retention values in accordance with Section 5.03 – Tree Management under the Newcastle DCP 2012 and associated Technical Manual.

It was confirmed that the site does not constitute a 'green field' site under the Newcastle DCP 2012/Technical Manual.

An arborist report for the proposal has not been received by Council.

Clause 5.10 Heritage Conservation

The site contains a group of buildings/features which are listed as *State nominated* heritage item I291 (ie former migrants camp) under the NLEP 2012 Schedule 5 Environmental Heritage including the Quonset Hut, the caretakers dwelling and the 'wishing well.' The overall group constitutes the Mayfield Migrant Hostel and has historical and social significance for the State. 'State nominated' means that it is a Local item which has been identified as an item of potential State significance in a publicly exhibited heritage study and the Council has nominated the item in writing to the Heritage Council.

The proposal does not directly impact on the existing Quonset hut other than the reformation/reconstruction of the existing internal driveway. This work results in the driveway being relocated slightly further away (ie south) of its current position and it's not considered to have any unreasonable impact to the heritage listing or setting.

The position of the proposed building one will largely block any views to the Quonset hut. It is considered that this is reasonable as the existing views from Maitland Road are limited currently.

Proposed building one also results in the demolition of the care takers dwelling and the 'wishing well'. It is noted that the previous DA 10/1478 had approved the demolition of the caretakers dwelling which is relatively poor condition but not the 'wishing well' or Quonset hut.

A heritage statement has not been submitted and further detailed heritage assessment of the current application has not been undertaken as the application has been recommended for refusal. Partial removal of the heritage item cannot be supported at this time.

Clause 6.1 - Acid Sulfate Soils

There is no known risk associated with Acid Sulfate Soils to this site or within 500m of this site (ie Class 5).

Clause 6.2 - Earthworks

The proposed earthworks are relatively minor in nature involving surface works for the proposed buildings, a new driveway and associated drainage/services works and are considered to be acceptable in respect of this Clause.

The proposed works are unlikely to disturb relics.

(a)(ii) the provisions of any draft environmental planning instrument

There are no draft EPI's which are relevant to the proposal.

(a)(iii) any development control plans

Newcastle Development Control Plan 2012 (NDCP 2012)

There are a number of development controls relating to the proposed development contained in NDCP 2012. Following is a discussion of the relevant sections of NDCP 2012.

(a) Section 3.13 Industrial Development

Site Coverage -

The proposal is considered to have a reasonable site coverage having regard to the size of the site, its layout, the proposed landscaping, car parking, vehicle access, loading areas and setbacks.

Character & Amenity -

The proposal is adequate in terms of character and amenity. The streetscape appearance of proposed building one, if the application was proposed to be approved, would need further amendments to the eastern and western elevations to improve their articulation and visual appearance considering the prominent position of this building.

Building Setbacks -

The proposed development meets the required 5.0m front setback.

The development under the DCP would require a 6.0m setback to side and rear boundaries as the site is over 10,000m². Notwithstanding this, the proposal has a 14.5m rear setback (approximately) and a 3.0m setback to the south- eastern side boundary. The reduced 3.0m setback is considered to be acceptable in this instance as it will integrate with the existing neighbouring industrial buildings and will have an acceptable impact in terms of character, visual appearance, height bulk and scale.

Loading, unloading and servicing areas:-

The proposal nominates within the traffic report that the site will be serviced with heavy vehicles up to the medium rigid size. Notwithstanding this, there is only limited access to the store/delivery areas of the proposed buildings having 3.0m high entries.

This also has ramifications in relation to the speculative use nature of the proposal and any future uses for the site.

Parking & Vehicle Access -

These aspects are addressed under Section 7.03 below.

(b) Section 4.01 Flood Management

The site is not affected by flooding.

(c) Section 4.04 Safety and Security

It is considered that the proposal is acceptable in terms of safety and security.

(d) Section 4.05 – Social Impact

The development will result in additional employment opportunities through the construction phase and during operation. There are likely to be positive social impacts.

(e) Section 5.01 – Soil Management

The application was supported by a sediment and erosion control plan and is considered to be acceptable. If the proposal was to be supported additional conditions would have been imposed to further control soil erosion and sedimentation impacts.

(f) Section 5.02 – Land Contamination

Refer to above discussion in Section 6 of this report, State Environmental Planning Policy 55.

(g) Section 5.03 Tree Management

This is discussed in Section 6 clause 5.9 – preservation of trees.

(h) Section 5.04 - Aboriginal Heritage

It is unlikely that Aboriginal artefacts exist on the site. If the proposal was to be supported an additional condition would have been imposed to further address the event Aboriginal heritage was uncovered.

(i) Section 5.05 - Heritage Items

Refer to above discussion in Section 6 of this report, Clause 5.10 - Heritage Conservation.

(j) Section 7.01 - Building Design Criteria

Height:

There are no defined height standards for development on this site. The proposal, while relatively tall (ie 10.8m for building one and 12.4m for buildings two-four), it is considered that the height is reasonable for the location having regard to the sites topography, setbacks and surrounding development.

Density:

There are no defined density standards for development on this site. It is considered that the proposed density is acceptable.

Streetscape & Setbacks:

The proposals streetscape and setbacks has been considered under Section 6, Section 3.13 Industrial Development.

(k) Section 7.02 - Landscaping Open Space and Visual Amenity

The submitted application includes a detailed landscape concept plan including the planting of larger growing species such as *Allocasuarina littoralis* (Black She Oak), *Waterhousia floribunda* (Weeping Lily Pilly) and *Corymbia maculata* (Spotted Gum).

The proposal results the removal of approximately 22 trees. As discussed within Section 6 clause 5.9 – preservation of trees, the tree loss is of concern and the applicant was requested to prepare an arborist report.

This section of the DCP also indicates that a shade tree is required after every sixth parking bay which would need to be incorporated into the landscape design and has ramifications for overall parking provided.

Final consideration of the landscaping plan and required shade trees was not completed as the tree loss (ie an arborist report was required to be submitted but has not been supplied) was not appropriately addressed.

(l) Section 7.03 – Traffic, Parking and Access

The application has been assessed by Council's Senior Development Engineer and is considered to be acceptable in terms of car parking.

Conversely, the traffic and access aspects of the proposal needed further investigation (see Appendix C).

The applicants were required to address the following information in regard to traffic and parking, although no further details have as yet been submitted:

1. *'Additional traffic assessment work is to be carried out to demonstrate the existing turn lanes at the site access off Maitland Road have sufficient length to cater for any likely queuing at the site access. In this respect a Sidra analysis is recommended including a + 50 % sensitivity analysis for development traffic given the uncertainty of the likely future tenants.'*
2. *A concept plan for the proposed amendments to the Maitland Road access to prohibit the right turn movement out of the site should be provided for RMS concurrence as the road authority approving the works within the Highway.'*

The proposal is not acceptable in this regard.

(m) Section 7.06 / 7.07 – Stormwater and Water Management

The application has been assessed by Council's Senior Development Engineer and is considered to be acceptable in terms of stormwater except for the water quality aspects detailed below.

The water quality aspects of the DCP have not been sufficiently addressed and require a MUSIC modelling to be submitted demonstrating compliance with Council's water quality targets for stormwater discharge.

The required MUSIC modelling was requested of the applicants but has not been submitted to date.

(n) Section 7.08 – Waste Management

Waste streams associated with the proposed development are not clearly known at this stage as the development is on a speculative basis. The applicants have advised in their SEE that the development will rely on collection by private contractors.

The SEE further details that waste management during the construction period would be minimised where possible. Further conditions in regard to waste management would be imposed on any consent if the application was to be supported.

(l) Section 8.0 - Public Participation

The proposal was notified in accordance with the Newcastle Development Control Plan 2012 between 16-31 October 2014. No public submissions have been received in relation to the proposal.

(a)(iia) any planning agreement that has been entered into or any draft planning agreement that the developer has offered to enter into

There are no planning agreements which apply to this development.

(a)(iv) any matters prescribed by the regulations

Not applicable.

(a)(v) the provisions of any coastal management plan

Not applicable.

(b) the likely impacts of the development

a. Impact on the Natural Environment

The proposal results in the loss of 22 trees from the site. The applicant was requested to provide an arborist report in this respect to address the existing tree loss. No report has been submitted in this respect. It is noted that a landscape concept plan has been submitted in regard to the site which includes larger growing trees but the assessment of such was not finalised subject to the required arborist report.

The water quality aspects of the proposal have not been suitably addressed and the applicant was requested to submit MUSIC modelling for the site.

- Impact on the Built Environment

Impact on the built environment would be limited to visual impact, heritage, air and noise emissions, traffic, parking and vehicle access.

Visually, the proposed development is considered to be acceptable having regard to the location of the site, the proposed height, bulk and scale of the development and the character of the neighbourhood.

Heritage has been addressed above within Section 6, Clause 5.10 Heritage Conservation.

Air and noise aspects of the proposal are unknown for the proposal as no specific use is proposed other than *light industry* (ie focussing on *high technology industry*). The applicant's SEE submits that '*... any noise or air pollution will be within acceptable levels for the usage of the land*'. If the proposal was being supported conditions would be recommended to control and limit the nature of uses on the land to mitigate the impact of any future uses.

Traffic, parking and vehicle access has been addressed above within Section 6, Section 7.03 – Traffic, Parking and Access

- Social and Economical

The development will result in additional employment opportunities through the construction phase and during operation. There are likely to be positive social and economic impacts.

(c) the suitability of the site for development

The subject site is zoned IN2 Light Industrial and the use of the land for *light industrial* uses are permissible with consent.

The land is affected by land contamination issues which remain unresolved. This has been addressed above within Section 6 of this report, State Environmental Planning Policy 55.

The proposal is located on Maitland Road just west of the intersection of Maitland Road and Industrial Drive. Maitland Road at this location has relatively high traffic volumes and the ability to control access to the site (ie further traffic report regarding queue lanes and concept for the proposed road works) was raised as a concern but remains unresolved.

(d) any submissions made in accordance with this Act or the Regulations

No submissions were received in respect of this application.

(e) the public interest

The proposed development does not raise any significant general public interest issues beyond matters already addressed in this report.

7. Conclusion

The proposed development has been assessed having regard to the relevant heads of consideration under Section 79C(1) of the *Environmental Planning and Assessment Act 1979 (as amended)* and is not considered to be acceptable.

8. Recommendation

Development Application 14/1152 be refused for the reasons contained in Appendix A.

APPENDIX A – Reasons for Refusal

The application reference 2015HCC016 (DA14/1152) be refused for the following reasons:

- 1 Insufficient information has been provided to adequately consider the likely impacts on futures uses on the site from land contamination contrary to SEPP 55 and the Newcastle DCP 2012. (Section 79C(1)(a)(i), (b)(c) &(e).
- 2 Insufficient information has been provided to adequately consider the likely impacts the development may have on the surrounding road network contrary to SEPP (Infrastructure) 2007 & Newcastle DCP 2012 (Section 79C(1) (b)(c) &(e).
- 3 Insufficient information has been provided to adequately consider the likely drainage impacts the development may have on the surrounding natural and built environment contrary to Section 79C(1)(b)(c) &(e).
- 4 Insufficient information has been provided to adequately consider the likely adverse impacts the development may have on the significance of the *State nominated* heritage item (No. I291) contrary to Section 79C(1)(b)(c) &(e).
- 5 Insufficient information has been submitted to demonstrate that the proposed design would be for a use which was permissible within the zone under the Newcastle LEP 2012 (Section 79C(1)(a)(b)(c) &(e).

APPENDIX B – Plans and Elevations

APPENDIX C – Chronology

Application Lodged	7/10/14
Publicly Notified	16-31 October 2014. No Submissions
Further Information Required	12/3/15
Further Information Required	23/3/15 - deadline 20 April 2015
Further Information Required	22 /4/15 - deadline 29 April 2015
Extension of time offered	Deadline 15/5/15 (with options for timeline on land contamination reports).
Quote for DA Fee refund provided to applicants	6/5/15
Application to JRPP received.	14/5/15
Further letter to application offering consideration of extension of time	27/5/15

APPENDIX D – Referral Comments

Comments from Internal Referrals

Department	Comments
Council Building Surveyor	Proposal is acceptable subject to conditions of consent.
Council Senior Development Engineer	Parking The parking assessment carried out in the traffic report is based on a GFA of 12,660 m² while the traffic generation rates have been based on a GFA of about 8,440 m². My review of the plans would indicate the second figure is correct. On this basis if assessed as an industrial complex a parking requirement of 85 spaces (1 per 100 m² GFA) would apply while if assessed as a commercial development a parking requirement of 170 space (1 per 50 m²) would apply. I am of the opinion the actual parking demand for the development will be between these two figures as the development is not fully industrial yet not fully commercial either. Therefore I believe the proposed provision of 130 car spaces on site is appropriate for the development. Similarly I believe the bicycle parking and motorbike parking requirements of the DCP need to be enforced in this development and in that regard bicycle parking of 10 spaces per building (total 40) and 7 motorbike bikes should be conditioned on any consent issued. The traffic assessment has determined that the proposed parking areas comply with AS2890.1-2004 providing suitable and convenient manoeuvring through the site and forward entry and exit from the site. I see no reason to dispute this finding. Access Access is proposed via the existing at-grade intersection into the site. This would comply with the requirements of AS2890.1-2004 therefore is considered satisfactory. No additional information required. Traffic movements The traffic report submitted by Better Transport Futures has identified a likely traffic generation of the site of around 60 vph based on the rates provided by RMS for business parks. My review of the building plans indicate that they more resemble commercial type development that could have a slightly higher traffic generation rate. By my calculation with a total floor GFA (excluding car parks) of 8,363 m² the peak traffic generation rate will be between 65 vph and 160 vph. I am therefore of the opinion that the traffic report submitted with the application has underestimated the likely peak traffic generation from the site. However I am also of the opinion that even using the higher traffic generation numbers the results and conclusions of the traffic report will not change in that the local road network has the capacity to cater for the development during non-peak periods and the development will have minimal impact on levels of service on the local road network during the peak periods. Some minor congestion does occur on Maitland Road during peak periods; however this is a regional problem and not a problem to be fixed by this development. The other failing of the traffic report was to demonstrate that the existing turn lanes into the site had sufficient length to cater for any queuing as a result of the development. Whilst this may be difficult to undertake as the platooning of traffic on Maitland Road as a result of nearby signalized intersections it could have been carried out with calibration of the Sidra model. While I suspect that the turn lanes are long enough it would have been prudent for the traffic report to provide Sidra results showing that this is the case. I also expect RMS will require this. I concur with the recommendation of the report that the right turn movements out of the site be banned and physically restricted. No plans have been provided to show how this is to be achieved. A concept design should be submitted to satisfy Council and RMS as to how this is to be achieved. This would also protect the applicant later when they seek RMS approval for works within Maitland Road under S138 of the Roads Act. Additional information required.

Council Senior Development Engineer	Flood Management This site is not affected by flooding based on available information. Stormwater Management The storm water management plan prepared by MPC Consulting Engineers provides a 25,000 L rainwater tank for each building with overflows and all impervious surface drainage being directed to a 30 m³ retention tank in the south-east corner of the site. The total storm water capture volume for the site is thus 130 m³. Whilst this design appears to comply with Council's DCP requirements because the site is greater than 5,000 m² MUSIC modeling of the drainage system needs to be carried out to demonstrate that the water quality targets for storm water contained within the DCP are met.
Council Senior Development Engineer	Recommendation This assessment of the application is to remain deferred until additional information supporting the application is provided in the form of; 1. MUSIC modelling results are submitted of the proposed drainage design demonstrating compliance with Council's water quality targets for stormwater discharge. 2. Additional traffic assessment work is to be carried out to demonstrate the existing turn lanes at the site access off Maitland Road have sufficient length to cater for any likely queuing at the site access. In this respect a Sidra analysis is recommended including a + 50 % sensitivity analysis for development traffic given the uncertainty of the likely future tenants. 3. A concept plan for the proposed amendments to the Maitland Road access to prohibit the right turn movement out of the site should be provided for RMS concurrence as the road authority approving the works within the Highway. 4. The applicant should be advised that a total of 40 bicycle parks and 7 motorbike parks will be required to be provided throughout the site.
Council Senior Environmental Protection Officer	Contamination The "Planning Controls" section of the Statement of Environmental Effects identifies that under the Newcastle Development Control Plan Section 5.02 "further investigation will be required to define the extent of contamination on the site and prepare recommendations for the safe restoration of affected areas". The SEE then states "in the interest of minimising the disturbance to the current operators of this site we propose that this investigation, report and recommendations for removal of contaminated soil, be presented as part of the Construction Certificate application." While the desire to minimise disturbance to the tenants is appreciated, Council needs also to have consideration of its contaminated land management policy, as set down in the DCP. The "Controls" for land contamination which are listed in the SEE are contained in Section 5.02.01A "Initial Evaluation" of the Policy. The objective of the section is given as: "(to) identify whether contamination needs to be investigated as part of the planning proposal". The controls apply "when preparing or determining..... a Development Application". Furthermore the provision of preliminary contamination assessment information as part of the proposal (ie DA) is consistent with the "Aims" of the Section (ie Section 5.02 Land Contamination) namely 1. To ensure the likelihood of land contamination is considered as early as possible in the planning and development process", and 2. To ensure the planning and development decisions take into account available information relating to the likelihood of land contamination". In order to make informed decisions about the appropriateness of the proposed development, as early as possible in the planning and development process, it is considered appropriate that the applicant support the DA with the required contamination investigation. Should the preliminary contamination assessment determine that further investigation and/or remediation is required, this additional information will also be required to be prepared and submitted prior to determination of the application

