

COUNCIL ASSESSMENT REPORT

Panel Reference	2018HCC035
DA Number	DA2018/00933
LGA	Newcastle
Proposed Development	Site preparation works (earthworks)
Street Address	16, 16A and 16B Honeysuckle Drive, Newcastle 20A and 20B Wright Lane, Newcastle 10, 20, 30R Civic Lane, Newcastle
Applicant/Owner	University of Newcastle
Date of DA lodgement	12 September 2018
Number of Submissions	One
Recommendation	Approval
Regional Development Criteria (Schedule 4A of the EP&A Act)	Pursuant to Schedule 7 of the <i>State Environmental Planning Policy (State and Regional Development) 2011</i> , the development application is referred to the Joint Regional Planning Panel as the application is a Crown development with a capital investment value of over \$5 million.
List of All Relevant Section 4.15 (1)(a) Matters	Environmental planning instruments: s4.15(1)(a)(i) - State Environmental Planning Policy (State and Regional Development) 2011 - State Environmental Planning Policy No. 55 - Remediation of Land - State Environmental Planning Policy (Coastal Management) 2018 - Newcastle Local Environmental Plan 2012 Development Control Plan: 4.15 (1)(a)(iii) - Newcastle Development Control Plan 2012
List all documents submitted with this report for the Panel's consideration	Appendix A - Conditions of consent Appendix B - Documents submitted with the application
Report prepared by	City of Newcastle
Report date	02 April 2019

Summary of s4.15 matters**Yes**

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Legislative clauses requiring consent authority satisfaction**No**

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations

summarised, in the Executive Summary of the assessment report?

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

**Not
Applicable**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions?

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

**Not
Applicable**

Conditions

Have draft conditions been provided to the applicant for comment?

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

Yes

ASSESSMENT REPORT AND RECOMMENDATION

EXECUTIVE SUMMARY

Development application (DA2018/00933) has been lodged with the City of Newcastle (CN), seeking consent for site preparation works including:

- Bulk earthworks
 - Upgrade to infrastructure and services including sewerage, electrical and communications
- Category 2 Remediation works

The site is zone B4 mixed use under Newcastle Local Environmental Plan 2012 (NLEP2012). The proposed development is defined as earthworks and is permissible within the zone.

The proposal was placed on public exhibition for a minimum period of 14 days from 28 September 2018 to 15 October 2018 in accordance with the *Environmental Planning & Assessment Act 1979* (EP&A Act), *Environmental Planning & Assessment Regulations 2000* (EP&A Regulation) and Section 8 of Newcastle Development Control Plan 2012 (NDCP 2012). One submission was received during the notification period.

The application is recommended for approval. The development will enable future social and economic benefits for the local and broader community as the site has been identified for the expansion of education facilities for the University of Newcastle (UoN).

The proposal is referred to the Joint Regional Planning Panel (JRPP) for determination pursuant to Section 4.5(b) of the EP&A Act as the proposed development is identified as regionally significant development in State Environmental Planning Policy (State and Regional Development) 2011, being Crown development over \$5 million. The proposed development has a capital investment value of \$6,605,000.

1. INTRODUCTION

This report provides a detailed overview of the development proposal for site preparations works on:

- Lots 1-3 in DP 1163346 known as 16, 16A and 16B Honeysuckle Drive, Newcastle (earthworks and infrastructure).
- Lots 5 and 6 in DP1247375 known as 20A and 20B Wright Lane, Newcastle (infrastructure).
- Lots 1,2 and 3 in DP 1247375 known as 10, 20, 30R Civic Lane, Newcastle (infrastructure).

The development application is reported to the Hunter and Central Coast JRPP in accordance Section 4.5(b) of the EP&A Act as the proposed development is identified as regionally significant development in *State Environmental Planning Policy (State and Regional Development) 2011*, as the development is Crown development with the value of works being over \$5 million. The capital investment value of the proposed development is \$6,605,000, including GST.

2. BACKGROUND

State Significant Development

State Significant Development Application (SSD 18_9262) has been lodged over the site and is currently being assessed by the Department of Planning and Environment (DPE). This is a concept application which seeks approval for the University's Honeysuckle City Campus which is located on a series of connected lots between Honeysuckle Drive and Civic Lane (refer to **Figure 1** and **2**).

As stated by the applicant, 'the development of the Honeysuckle City Campus in the heart of Newcastle forms part of the University's NeW Futures Strategic Plan (2016-2025), which promotes a long-term vision of delivering new modes of education focused around a compact campus setting in a central location. This is consistent with the University's broader strategy of attracting the best students and academic staff and promoting their national and global presence in education, research and innovation.'

The UoN's Honeysuckle Campus is to be located over three sites, with a total precinct area of 20,412m²:

- Site 1 includes Lots 1, 2 and 3 in DP 1163346 and currently consists of an undeveloped parcel of land storing construction materials.
- Site 2 and 3 comprise of Lot 2 and 3 in DP 1247375 and currently contain an at grade public car park and former rail corridor.
- Wright Lane comprises of Lot 5 and 6 in DP 1247375 and contains an existing laneway

Current Application

The proposed application for site preparation works will provide the service infrastructure and topographical/surface conditions required to allow the future development of the abovementioned state significant development proposal.

3. SITE DESCRIPTION

The subject development is to occur predominantly on Site 1 of the State Significant Development site (refer to **Figure 1**) and includes the following properties:

- 16, 16A and 16B Honeysuckle Drive, Newcastle (earthworks and infrastructure – **Figure 2**).
- 20A and 20B Wright Lane, Newcastle (infrastructure – **Figure 2**)
- 10, 20, 30R Civic Lane, Newcastle (infrastructure – **Figure 2**)

The subject site is zoned B4 mixed use. The site has a frontage to Honeysuckle Drive, Civic Lane, Worth Place, Settlement Lane and Wright Lane. Wright Lane is a private laneway owned by the UoN.



☐ Honeysuckle Precinct

Figure 1: Aerial view of the site (Source: Statement of Environmental Effects – Ethos Urban)



Figure 2: Aerial view of the site

4. PROPOSAL

A development application (DA2018/00933) has been lodged with Council seeking consent for site preparation works (earthworks). The details of the proposal include:

- Extension of the existing water main on Worth Place;
- Construction of a gravity sewer main along Wright Lane;
- Installation of a kiosk substation and re-routing of existing Ausgrid High voltage cables to the kiosk substation;
- Installation of Low Voltage (LV) cables, conduits and pits from:
 - Kiosk substation to Ausgrid Pillar;
 - Kiosk substation to future Building A1 and Building B;
- Installation of NBN cable, conduits and pits from existing cable pit on Honeysuckle Drive to Future Building A1 and Building B;
- Installation of UON private communication network cable, conduits and pits from the Honeysuckle City Campus to Auckland Street;
- Bulk earthworks within 'Site 1', to achieve minimum flood floor levels; and
- Remediation of land (category 2).

5. PLANNING ASSESSMENT

5.1 Environmental Planning and Assessment Act 1979 (EP&A Act)

5.1.1 Section 4.5 – Joint Regional Planning Panels

Section 4.5 of the EP&A Act requires the JRPP to determine applications for Crown development over \$5 million. The capital investment value of the application is \$6,605,000 including GST. The application is to be determined by the Hunter and Central Coast JRPP.

5.1.2 Section 4.15(1) Evaluation

The application has been assessed having regard to the relevant matters for consideration under the provisions of Section 4.15(1) of the EP&A Act, as detailed hereunder.

5.1.2.1 *The provisions of any environmental planning instrument*

State Environmental Planning Policy (State and Regional Development) 2011

SEPP (State and Regional Development) 2011 sets out the functions of regional panels in determining applications for regional development. Clause 20 of the SEPP requires the JRPP to be the determining authority for development included in Schedule 7 of the SEPP. This includes applications for Crown development over \$5 million in value. The application is submitted to the Hunter and Central Coast JRPP for determination, as the capital investment value of the proposed development is over \$6,605,000.

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

ISEPP was introduced to facilitate the delivery of infrastructure across the State by improving regulatory certainty and efficiency.

Schedule 3 of ISEPP, relates to traffic generating development and requires certain applications to be referred to the RMS. Development involving ancillary parking for more than 50 motor vehicles, with access to a classified road or to a road that connects to classified road (if access within 90m of connection, measured along alignment of connecting road) is specified in this Schedule.

This section of Honeysuckle Drive is a classified road and the site access is within 90m of connection of a classified road. Accordingly, the application was required to be referred to the RMS in accordance with Clause 104 of the ISEPP. RMS have reviewed the application and raised no objection to the proposed development.

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

This policy requires consideration to be given to previous uses on the site and whether the site needs to be remediated. Clause 7(1)(b) and (c) of SEPP 55 require that where land is contaminated, Council must be 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.

City of Newcastle's Environmental Health Coordinator has assessed the application in relation to contamination issues and has made the following comments:

Contamination

Information has been included with the application to address the contamination status of the land. A detailed site investigation report prepared by Coffey Services Australia Pty Ltd dated 5 March 2019 (Coffey DSI report) has been submitted with the application.

The Coffey DSI report concludes that the site in its current form is not suitable for the range of uses proposed by the University of Newcastle (UoN) under the concept plan lodged with development application to the Department of Planning (DoP). This DoP application is understood to propose commercial and open space land uses across the site.

The main contaminants of concern are benzo(a)pyrene (BaP) and lead. A total of 5 hotspot locations on the site have been identified for remediation. The recommendation of the Coffey DSI is for these hotspots to be remediated and validated to below the open space site assessment criteria for these two contaminants.

A remedial action plan prepared by Coffey Services Australia Pty Ltd dated 5 March 2019 (Coffey RAP) has been submitted with the application.

The goal of the Coffey RAP is to ensure that the site is suitable for the future mixed commercial/industrial and open space/recreational land uses.

The preferred remedial strategy put forward in the Coffey RAP is to delineate the extent of lead and BaP contamination both vertically and horizontally in the identified hotspot locations. The delineated impacted soils are to be excavated, waste classified followed by offsite disposal to landfill.

Following the removal of the contaminated soils, the excavations will be sampled and validated to ensure the remediation criteria is achieved.

The applicant has advised that the proposed remediation works are not Category 1 remediation works and are therefore classified as Category 2 remediation works.

Category 2 remediation works do not require consent, however the applicant has chosen to include the proposed remediation works as part of the works proposed under the current application.

Based on a review of the information submitted by the applicant and following consideration of the requirements of SEPP 55 and Council's contaminated land DCP and technical manual, it is considered that the proposed works can be considered to be Category 2 remediation works.

This unit supports the inclusions of the remediation works as part of any consent granted. It is considered that inclusion of the remediation works provides greater certainty on the handling of contaminated soils through the site preparation works and the status of the land following completion of the works.

In addition to the RAP, the applicant has also submitted a Contaminated Land Management Plan and Unexpected Finds Protocol (Coffey CLMP). The Coffey CLMP will be used by the contractors and sub-contractors employed on the site to guide the preparation of their environmental management and health and safety plans.

The applicant has also engaged a NSW EPA Accredited Site Auditor to certify the remediation works and the final suitability of the site for the proposed future uses. The Site Auditor's role should include review of relevant environmental management and health and safety controls relating to the remediation works and associated earthworks on the site.

Conditions have been recommended in relation to the remediation works and associated earthworks to address the appropriate handling of contaminated soils and to ensure appropriate validation of the works is undertaken, documented and submitted to relevant consent authorities on completion.

Accordingly, it is considered that the proposal is satisfactory having regard to the requirements of SEPP 55.

State Environmental Planning Policy (Coastal Management) 2018

SEPP (Coastal Management) 2018 came into effect on 23 March 2018 and replaces the *Coastal Protection Act 1979*. The Coastal Management SEPP aims to protect, manage and preserve natural, cultural, recreational and economic attributes of the NSW coast and marine area and applies to land or any part of which is identified within the 'coastal zone'. The subject land is located within the 'Coastal Use Area' as illustrated on the relevant online SEPP maps. The following table provides comments on the matters for consideration under the SEPP.

Division 14 coastal use area	
Clause 14 Development on land within the coastal use area	
(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:	
(a) has considered whether the proposed development is likely to cause an adverse impact on the following: (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability, (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores, (iii) the visual amenity and scenic qualities of the coast, including coastal headlands, (iv) Aboriginal cultural heritage, practices and places, (v) cultural and built environment heritage.	<u>Comments</u> The proposal is not considered to impact existing access to the foreshore areas in close proximity. Aboriginal cultural heritage has been considered in detail within this report and is satisfactory. Notwithstanding an Aboriginal Heritage Impact Permit (AHIP) application is required post development consent. Additionally, cultural and built environment heritage has been considered within this report.
(b) is satisfied that: (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and	The applicant has provided detailed information to minimise adverse impacts on the natural coastal environment. These include a sediment control plan, stormwater management plan and Category 2 - Remedial Action Plan (RAP).
(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.	The proposed enabling works are the platform for future redevelopment on the site. The proposal is considered satisfactory in the regard.
Division 5 General	
Clause 15 Development in coastal zone generally—development not to increase risk of coastal hazards.	The proposed enabling works are the platform for future redevelopment on the site. The proposal is considered satisfactory in the regard.
Clause 16 Development in coastal zone generally—coastal management programs to be considered.	There are no coastal management programs in association with the site.

As the subject development is located within a well-established, densely urban setting, there are no likely impacts to the coastal environment, especially with regards to maintaining public access, views and amenity. It is therefore considered that the proposal is consistent with SEPP (Coastal Management) 2018.

Newcastle Local Environmental Plan 2012 (NLEP 2012)

Clause 2.3 Land Use Table - Zoning

The site is zoned B4 Mixed Use. The zone permits any use that is not specifically prohibited under the land use table. The development is defined as earthworks and is permissible in the zone.

The development does not specifically meet the objectives of the zone. The proposed earthworks will allow however for the future development of the site, with the site being identified via a state significant development proposal for the expansion of the UoN. On this basis, the use of the site for a University will encourage employment and educational opportunities in an accessible location, maximise public transport patronage and assist in strengthening the role of the Newcastle City Centre as a regional business and educational centre for the Hunter region.

Clause 5.10 Heritage Conservation

The subject site is not listed for its cultural heritage significance in Schedule 5 Part 1 of the NLEP 2012. The overall site (for the future expansion of the University) is partially located within the Newcastle City Centre Heritage Conservation Area as follows:

- The subject application on 'Site 1' is not within a heritage conservation area.
- The areas of the site known as Sites 2 and 3 are located within Newcastle City Centre Heritage Conservation Area.

The subject site is positioned within close proximity to the following local and State heritage listed items:

- Civic Railway Workshops Group (Local Heritage Item #I479 and SHR #00956)
- Civic Railway Station Group (Section 170 NSW State Agency Heritage Register, maintained by the Hunter Development Corporation)
- No. 2 Lee Wharf Building C—3C Honeysuckle Drive (Local Heritage Item #I390, State Heritage Register nomination)
- No. 1 Lee Wharf Building A—13 Honeysuckle Drive (Local Heritage Item #I389, State Heritage Register nomination)
- Former Police Station—558 Hunter Street (Local Heritage Item #I420)
- Newcastle Technical College—590-608 Hunter Street (Local Heritage Item #I3496)
- Remains of AA Co., bridge and fence—280 Hunter Street (Local Heritage Item #I415)
- Civic Theatre—373 Hunter Street (Local Heritage Item #I418 and SHR #01883)

In context, the surrounding area demonstrates richness in European cultural heritage significance. The diversity and historical associations are acknowledged and well

documented. The proposal is not expected to impact on the values of the above-mentioned items.

Documentation

The applicant has submitted a Heritage Impact Statement (HIS), Aboriginal Cultural Heritage Report (ACHR), Archaeological Assessment (AA) and Archaeological Research Design (ARD), with the key aspects of these reports discussed below.

The Heritage Impact Statement advises:

'The main impacts of the Stage 1A Enabling Works as proposed through this report require ground excavation in specific locations, including some bulk excavation and filling across Site 1, as well as trenching for installation of enabling water, sewer, electrical and telecommunication services. The proposed Enabling Works will not impact any significant heritage fabric nor heritage items (including the Civic Railway Station Group, Civic Railway Workshops Group, and the Newcastle City Centre HCA). Therefore, the main consideration with regards to heritage impacts for the proposed Enabling Works, relates mainly to potential archaeological impacts (both Aboriginal and historical).'

The recommendations of the HIS include:

'The process of Aboriginal cultural heritage assessment that has been initiated for the UON HCCD study area, in accordance with the NSW Office of Environment and Heritage statutory guidelines, should be completed prior to commencement of Enabling Works at the site. This process should include:

- Full consultation with the local Aboriginal community in accordance with OEH guidelines, Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010 (in progress);*
- Preparation of an Aboriginal cultural heritage methodology for the site (in accordance with above guidelines);*
- Preparation of an Aboriginal Cultural Heritage Assessment Report (ACHAR) and Archaeological Technical Report (ATR), including proposed Aboriginal archaeological mitigative strategies, to be developed in consultation with the Aboriginal community (in accordance with OEH guideline Guide to Investigating, assessing and reporting on Aboriginal Cultural Heritage in NSW)*

The client should apply for a site wide Aboriginal Heritage Impact Permit (AHIP) in accordance with Section 90 of the NPW Act 1974.

An AHIP should be in place for the study area prior to any ground disturbing works for the Enabling Works phase of the development taking place.

Enabling works development activities should be undertaken in accordance with the Aboriginal archaeological mitigation strategy (likely targeted monitoring and surface collection of any uncovered Aboriginal objects), currently in preparation as part of the ACHAR, in consultation with the Aboriginal community (project RAPs), to be submitted as part of the site AHIP application.

The contractors should ensure there is no impact to any built heritage item or fabric through the course of Enabling Works on site, including the Railway Turntable and Civic Railway Station Group.

A Section 140 excavation permit application, in accordance with the NSW Heritage Act 1977 should be submitted to the NSW Heritage Division, in order to mitigate against any potential impacts to potential historical archaeological resources that may be present within the impact zones of the proposed enabling works. This s140 permit should be accompanied by a historical Archaeological Research Design (ARD) (in preparation).

Should future deeper ground disturbing work possibly be required across the southeast of Site 1 (i.e. along the approximate path and/or south of the original shoreline), then consideration should be made to undertaking Aboriginal archaeological test excavation of the potential archaeological resource prior to filling, to enable efficient access to the potential archaeological layer (if required).

Conditions have been included in the schedule of conditions in regards to the recommendations of the Heritage Impact Statement.

The Aboriginal Cultural Heritage Report advises:

'The original Honeysuckle shoreline would have extended approximately northeast to southwest through the study area, from the southeastern side of Site 1, across to the southwestern side of Site 2. All of Site 3 would have originally been located along/in close proximity to the original shoreline.

In situ Aboriginal archaeological deposits are likely to be present where intact original soil profiles remain. Due to levels of historical fill across the entire study area, this potential is unlikely to be accurately reflected in any surface manifestation of Aboriginal artefacts that maybe present.

There is moderate to high potential for intact Aboriginal archaeological deposits to be present where natural remnant soil profiles exist (i.e. in the southeast corner of Site 1, southeast of Site.

The study area also has potential for Aboriginal post-contact sites, an archaeological feature and site type that are relatively undocumented within the Newcastle region.

The study area is of high social and cultural significance to the Awabakal/Guringai people. The location of the study area, close to the Hunter River and in the Greater Newcastle area, is an area that is, and has in the past, provided resources for Awabakal people that have been hunted and collected for thousands of years. The study area not just an isolated site, but connected to many Cultural Heritage sites across this region and within Awabakal Traditional Country, which should be viewed on a whole as an Aboriginal Cultural Landscape.

Due to the presence of the layers of historical fill at the site, as well as historical archaeological resource, Aboriginal archaeological test excavation under the OEH Code of Practice was unable to be undertaken within the study area, prior to the AHIP application.

The UON HCCD study area has one registered Aboriginal site located within its boundaries (UoN1A-1, #38-4-1968) that is likely to be impacted by the proposed development works of the Stage 1A Enabling Works.

The ACHR notes the following with regard to Native Title claims:

In 2013, the Awabakal and Guringai people submitted a Native Title claim over an area extending from Maitland to Hornsby (NC2013/002), however this claim was discontinued in 2017.

This is confirming there is no current native title claim over the site.

The ACHR management recommendations conclude:

'The following management and mitigation statements are made, following from the Aboriginal cultural heritage assessment of the UON HCCD study area, including Aboriginal community consultation, ethnohistorical and environmental context, archaeological survey, predictive modelling, heritage significance assessment and impact assessment, in accordance with relevant NSW legislation and statutory requirements. It is recommended that:

The proposed Stage 1A enabling works have the potential to impact one registered Aboriginal site, and potentially impact natural soil profiles with the potential to retain an intact Aboriginal archaeological signature. Therefore, the proponent should apply for an AHIP application under Section 90 of the NSW National Parks and Wildlife Act 1974 to the NSW OEH, to allow impact to these sites, and allow other archaeological mitigation works for the study area, as proposed through this ACHAR.

The AHIP application should be area wide to cover any proposed Stage 1A impacts within Sites 1, 2 and 3, as well as required impacts for the enabling works within the surrounding streets and laneways. The proposed AHIP area is presented in Figure 53. The AHIP should include provisions for the archaeological investigation strategy management for the study area, as proposed through 8.0 of the ACHAR

Following approval of the AHIP, the proposed archaeological investigation (Management Strategy One), including monitoring of service trenching, related possible targeted test excavation, and community collection, should be undertaken, to be coordinated with the enabling works trenching etc.

Consultation with project RAPs has determined that long term curation of Aboriginal cultural materials, recovered from the archaeological investigation and community collection, should be reburied on a safe location within the public domain of the UON Honeysuckle Campus, once development has proceeded to a stage appropriate to identify such a location, ideally in association with an Aboriginal Learning Circle. This would be discussed and

determined in consultation with the UON and project RAPs, once development of the site has proceeded to a stage in which reburial could be safely and sensitively undertaken.

Continuing consultation with the project RAPs should be undertaken through subsequent development stages of the project.

While the Stage 1A enabling works will be subject to the NPW Act, and require an AHIP, following approval of the UON HCCD concept plan State Significant Development (SSD) Application, the requirement for individual AHIP applications for development works will no longer be legally required.

Therefore, it is recommended that an Aboriginal Cultural Heritage Management Plan (ACHMP), should be prepared for the wider UON HCCD project, in order to provide a working framework and strategic advice for the appropriate and sensitive management of Aboriginal cultural heritage and archaeology going forward for the life of the project. Project RAPs, particularly identified cultural knowledge holders, should be involved in all stages of development of this ACHMP, ideally to be facilitated within a workshop environment.

Opportunities to interpret any Aboriginal cultural material, archaeological deposits, and identified Aboriginal cultural heritage values should be considered as part of a holistic approach to interpreting the UON Honeysuckle Campus Development. An Aboriginal cultural heritage interpretation strategy should be developed for the UON HCCD project, in consultation with the project RAPs, to be incorporated into the wider heritage interpretation strategy for the development.

An Aboriginal cultural induction should be developed to provide to all future employees and construction workers on the site, prior to the commencement of construction works.

The management recommendations made by the ACHR note that the applicant is to apply to the Director-General of the Office of Environment and Heritage for an Aboriginal Heritage Impact Permit (AHIP) in accordance with Section 90 of the *National Parks and Wildlife Act 1974*, with this AHIP to cover the entirety of the site. The ACHAR provides for an integrated process for managing Aboriginal Heritage if found. The AHIP should include provision for the completion of archaeological salvage activities, to be undertaken as a phased process. Conditions have been included within the schedule of conditions addressing these recommendations **(Appendix A)**.

Archaeology

The site is not specifically listed in the Newcastle Archaeological Management Plan 1997 or NLEP 2012 as an 'Archaeological Site'. However, the site is located within the archaeology study area.

An Archaeological Assessment (AA) was prepared by Curio Projects. The report informed the HIS and ACHR, which provides a framework for the management of any archaeological finds. The submitted AA provides the following historical archaeology recommendations:

1. *Once the detailed impacts of the overall proposed development are known (including excavation requirements, depths etc.), an Archaeological Impact Statement should be prepared that assesses the impacts that the development may have on potential historical archaeological resources and presents mitigative strategies where appropriate.*
2. *It is recommended that the Engine Turntable be retained, in situ within the site development, subject to heritage interpretation, if possible.*
3. *If it is not possible to retain the turntable through the proposed redevelopment of the site, it will require archaeological excavation and recording prior to removal (in accordance with a Section 140 excavation permit from the NSW Heritage Division, see Recommendation 7 below).*
4. *If the turntable is to be removed from its original location, it should ideally be retained somewhere within the future development and incorporated into a heritage interpretation initiative of some description.*
5. *A Historical Archaeological Research Design (ARD) should be prepared (in association/collaboration with the Aboriginal Archaeological Research Design/Methodology) to present an Excavation Methodology and relevant research questions for the excavation/removal of the turntable, as well as archaeological mitigation for excavation/development works in the vicinity of the former Mortuary Station, as well as for any other impacts the development may have on potential archaeology (once development impacts are known). The Historical ARD can be prepared as part of the Archaeological Impact Statement for the study area, once development impacts are known.*
6. *A Section 140 archaeological excavation application should be prepared and submitted to the NSW Heritage Division (along with the prepared Historical ARD) to allow the investigation of Mortuary Station, the investigation/removal of the Turntable, and any other historical archaeological excavation/monitoring works that may be required, as necessary in relation to development impacts, once known.*
7. *Should substantial excavation be required within the curtilage of the SHR Civic Railway Workshops site (i.e. in the eastern extent of the study area), this will require an excavation permit in accordance with the NSW Heritage Act (Section 57 or Section 60, depending on the extent of works and location in relation to potential archaeological deposits).*
8. *Should the project concept design be approved as SSD, requirement for permits (Section 60 and Section 140) in accordance with the NSW Heritage Act 1977 are removed, however the preparation of an Archaeological Impact Statement for project impacts and a corresponding Historical ARD (as described above), including review and approval of these reports and excavation methodology by NSW Heritage Division, is not removed, and will be required by the project SEARs.*
9. *The project early works will not be subject to SSD, and therefore will require all relevant permits as described in Points 3, 5, 6 and 7 as above.*

'Once the SSD has been approved, the provisions of the NSW Heritage Act 1977, in particular, the requirement to seek Section 60 and Section 140 excavation permits, will no longer apply. However, until the SSD has been approved, the standard archaeological approvals and permits under the Heritage Act will still apply, therefore, this ARD will be submitted along with a Section 60 and Section 140 Excavation Permit to the NSW Heritage Division to allow archaeological works and mitigation specific to the Stage 1A Enabling Works to proceed for the UON Honeysuckle Development'

Subject to the development being undertaken in accordance with the recommendations of the ACHR, the appropriate permits being obtained by the applicant, it is considered that the proposal has adequately addressed the archaeological requirements of the NLEP 2012.

Additionally, the applicant notes the remnants of a locomotive turntable dating from between 1856 - 1895 and associated with the former Honeysuckle Station is on the site (Site 2) and are of archaeological significance. The proposal is not considered to impact the remnants of a locomotive turntable.

Overall it is considered that the proposed development will not diminish the cultural significance of any Aboriginal or European archaeology found on the site during the works if the management recommendations are included in all onsite processes.

Clause 6.1 Acid Sulfate Soils

The subject site is identified as containing Class 1 and 3 Acid Sulphate Soils (ASS). The applicant has submitted an Acid Sulfate Management Plan as required by this clause. The Plan was considered by CN's Environmental Health Coordinator, with comments as follows:

An Acid Sulfate Soil Management Plan prepared by Coffey Services Australia Pty Ltd dated 8 February 2019 (Coffey ASSMP) has been submitted.

The Coffey ASSMP identified potential acid sulfate soils between 2.4 and 4m below ground surface at 12 sampling locations across the site.

The Coffey ASSMP states that following further assessment of the actual construction scenarios, a site specific ASSMP should be prepared using the framework provided in the Coffey ASSMP. The site specific ASSMP would be prepared by the earth works contractor or the Principal's representative in consultation with the contractor.

This requirement has been incorporated into a recommended condition for sign off by the Site Auditor prior to commencement of any earthworks on site.

Accordingly, a condition has been included on the consent which meets the requirements of this clause.

Clause 6.2 Earthworks

The relevant objective for the proposal is:

- a) *to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighboring uses, cultural or heritage items or features of the surrounding land*

The potential impacts of the earthworks in relation to environmental impacts and archaeological considerations have been discussed in this assessment, with no adverse impacts associated with the proposal.

Part 7 Additional Local Provisions – Newcastle City Council

The site is located within the Newcastle City Centre. There are several requirements and objectives for development within the City Centre, which include promoting economic revitalisation of the City Centre, facilitating design excellence and protecting the natural and cultural heritage of Newcastle. The proposal is consistent with the objectives of the Newcastle City Centre as the works are to facilitate the future redevelopment.

5.1.2.2 Any draft environmental planning instrument that is or has been placed on public exhibition

Draft Remediation of Land State Environmental Planning Policy

The proposed Remediation of Land SEPP is intended to repeal and replace State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55). The draft SEPP, which was exhibited from 25 January to 13 April 2018, is currently under consideration. The proposed SEPP seeks to provide a state-wide planning framework to guide the remediation of land, including: outlining provisions that require consent authorities to consider the potential for land to be contaminated when determining development applications; clearly lists remediation works that require development consent; and introducing certification and operational requirements for remediation works that may be carried out without development consent. Site contamination and remediation pertaining to the development has been considered under SEPP 55.

5.1.2.3 Any development control plan (and contributions plan)

Newcastle Development Control Plan 2012 (NDCP 2012)

The main planning requirements of relevance in NDCP 2012 are discussed in detail below.

4.01 - Flood Management

CN have provided comments in relation to flood management for the state significant proposal (SSD 9262) on the site. This development proposal will set the platform for the future redevelopment of the site, and for buildings to be located at the recommended flood planning levels. CN's Senior Development Engineer raised no concerns regarding the proposed earthworks.

4.03 - Mine Subsidence

The site is located within a proclaimed Mine Subsidence District. The applicant has provided the following response:

It is noted that the proposed development is limited to site preparation works, with no new buildings or structures proposed. Accordingly, mine subsidence is not considered to be a significant issue in the context of this application.

The proposal is limited to site preparation works and is not considered to warrant mines approval. It is noted another development application (DA2019/00138) is pending for the site and is for site stabilisation works including mine grouting works. The applicant has provided an approval from Subsidence Advisory NSW for all the UoN Honeysuckle sites, which includes seven commercial buildings up to nine stories in height. It is considered that mine subsidence is not an issue for the subject application.

5.01 - Soil Management

The applicant has submitted a concept sediment and erosion control plan prepared by Northrop (Northrop ESCP) dated 5 July 2018. The Northrop ESCP rates the erosion hazard for the site as very low. On this basis a soil and water management plan is not considered necessary.

A standard condition has been recommended on the consent to address sediment and erosion control measures for the proposed works.

5.02 - Land Contamination

The applicant submitted a Site Investigation Report and Remediation Action Plan for Category 2 remediation. This was reviewed by CN's Environmental Health Coordinator and is separately discussed under the State Environmental Planning Policy No 55 - Remediation of Land section of this report.

The proposal is considered satisfactory in respect of the management of land contamination.

5.04 - Aboriginal Heritage

A search of the Aboriginal Heritage Information Management System (AHIMS) - NSW Department of Environment and Heritage, was carried out and no Aboriginal sites or places were identified. There was no physical evidence on site, such as rocky outcrops or the like, to suggest Aboriginal relics.

A detailed discussion under clause 5.10 of the NLEP 2012 within this report, considered that the application is satisfactory in regard to impacts on aboriginal heritage. A condition has been recommended within the schedule of conditions to ensure compliance with the *National Parks and Wildlife Act 1974*.

5.05 and 5.07 - Heritage Items and Heritage Conservation Areas and 5.06 - Archaeological Management

A detailed discussion under clause 5.10 of the NLEP 2012 has determined that the proposal is acceptable having regard to the controls contained in the NDCP 2012 relating to heritage and archaeology.

7.03 - Traffic, Parking and Access

CN's Senior Development Engineer has provided the following assessment in relation to the proposal:

Road Ownership Issues

The proposed development will impact on a number of existing roads in the vicinity of the site.

Road Name	Ownership Status	Comments
<i>Worth Place between Honeysuckle Dr to Hunter St</i>	<i>Transport for NSW and NSW Traffic Management Centre (Sydney)</i>	<i>RMS is acting as agent for the roads. May need to consult with Keolis Downer (Hunter) - current contractors of the Light Rail</i>
<i>Civil Lane in front of the former Civic Station along Hunter St</i>		
<i>Hunter Street</i>		
<i>Wright Lane between Workshop Way and Worth Place</i>	<i>University of Newcastle</i>	<i>Owners of the Road (Private roads)</i>
<i>Civic Lane between Worth Place & Civic Station</i>	<i>City of Newcastle</i>	<i>Roads Authority</i>
<i>Worth Place between Honeysuckle Dr to Hunter River</i>		
<i>Settlement Lane between Honeysuckle Dr to Wright Lane</i>		
<i>Honeysuckle Dr and Workshop Way</i>		
<i>Auckland St</i>		

The applicants will require attaining approvals from the different owners of the roads surrounding the development. RMS and City of Newcastle may require separate Roads Act applications to be lodged and approved for any works within the road reserve.

Traffic and Parking Management

The submitted revised construction management plan has been reviewed. Part 4 of the Johnstaff report indicates that the construction management plans will be prepared by the head contractor. This will generally be through service providers/contractors who may require closing the road for service connections. Such road works are managed and constructed by contractors and subcontractors and are

generally dealt as part of the traffic management plan and via road opening permits (Council's / RMS).

Council and other relevant Roads Authority will require a traffic and pedestrian management plan to be submitted, which should include the type, frequency and vehicle routes to be confirmed and the provision of parking for staff and construction vehicles. Such plans are generally assessed by City of Newcastle's Transport and Traffic Team and may require to be submitted to the Newcastle City Traffic Committee (NCTC) for approval.

It is anticipated that there will be some disruption to traffic and maybe light rail (once it is operational). The applicant needs to demonstrate the impact on any local roads and the light rail network will need to be analysed and approval obtained from the various road owners as part of the TMP.

RMS has not objected to the proposed development.

Conditions are recommended to ensure that the different road authorities and owners are consulted during the development of the TMP.

It is considered that the proposal is satisfactory in relation to the NDCP 2012 traffic, parking and access requirements.

7.06 Stormwater and 7.07 Water Efficiency

CN's Development Engineer has made the following comments in relation to the proposal:

Sediment Control

The proposed development will need to be provided with sediment controls for areas being impacted by the development including existing roads and surrounding areas. Furthermore, dust control for the excavated areas will need to be managed.

The site is in close proximity to Hunter River and therefore the sediment control will need to be properly managed.

Conditions are recommended to ensure that sediment controls are provided for the development.

Drainage Infrastructure

It is noted that Wright Lane currently has drainage infrastructure which services the surrounding streets and properties. The development has not proposed to change any drainage infrastructure. However, this infrastructure will need to be maintained to ensure that the services are not compromised and any changes to the drainage infrastructure will need to be discussed with the City and adjoining properties.

It is recommended that a dilapidation report be prepared for the site to ensure that the condition of the infrastructure can be determined and any damage rectified at the end of the construction works. Conditions are recommended to ensure that the information is provided to the PCA and the City.

Note: any future land use or developments will need to address the stormwater quality aspects of City's DCP.

The proposal is satisfactory in relation to stormwater management and sediment control, with appropriate conditions recommended.

7.08 - Waste Management

The proposal includes a Preliminary Construction Management Plan (PCMP). The applicant has advised the following principles of this plan:

- *Avoid the generation of waste where possible;*
- *To reuse, sort and recycle waste materials;*
- *Safe and proper storage and segregation of waste on site; and*
- *Compliance with NSW EPA Waste Classification Guidelines.*

Waste Management is considered to be satisfactory with regard to the submitted information.

8.00 - Public Participation

The proposal was notified for a period of 14 days and one submission was received, which is discussed below.

Section 94A Development Contribution Plan

The application attracts Section 7.12 Contributions pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and the Section 94A Development Contributions Plan. A contribution of 2% of the cost of development would be payable to Council as determined in accordance with clause 25J of the *Environmental Planning and Assessment Regulation 2000*.

5.1.2.4 Planning agreements

No planning agreements are relevant to the proposal.

5.1.2.5 The regulations (and other plans and policies)

The application has been considered pursuant to the provisions of the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*.

5.1.2.6 Coastal management plan

No Coastal Management Plan applies to the site or the proposed development.

5.1.2.7 The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The development will have minimal impacts on the natural environment. The site does not contain any significant vegetation and will not impact on any natural ecosystems. Appropriate measures will be in place during the construction of the development to minimise any sediments leaving the site or entering the waterways during construction.

Due diligence has also been conducted as part of the proposal in regard to archaeological impacts as discussed within this report. Appropriate permits and protocols are required in this area and will be required as part of the approval to ensure that there are no impacts on Aboriginal or European archaeology if they are found on the site during construction works.

Road Infrastructure

It is noted that the roads and footway around the light rail area are generally new. The impact from the proposed development will require approval from the relevant roads authority and owners to ensure that any damage to the infrastructure is minimised and repair works are done.

The relevant road owners may require separate bonds to be paid prior to any approval of the road opening permits or to access the private roads.

It is recommended that dilapidation reports are to be prepared to ensure that the condition of the existing infrastructure can be determined, and a post construction dilapidation report be completed to ensure that damages are identified and repaired to the satisfaction of the relevant road owners.

Conditions are recommended in relation to the above issues and have been included in the schedule of conditions.

Smart City Infrastructure

The application is proposing to provide communication connections between the existing UoN New Space building to the proposed site. City's Smart City infrastructure has been installed along some extent of Hunter St, however some sections will need to be constructed as part of the proposal.

The applicant (UoN) has consulted with CN's Asset and Infrastructure team and the contractual agreement between the two parties for use of the communication network is being separately resolved, similarly as to any other service providers such as Telstra or Optus.

Dewatering

CN's Environmental Health Coordinator provided comments with regard of the dewatering plan submitted with the application:

A Dewatering Management Plan prepared by Coffey Services Australia Pty Ltd dated 15 February 2019 (Coffey DMP) has been submitted.

The Coffey DMP identified the need for dewatering for the sewer trenching works, amongst other construction activities. The Coffey DMP states that a site-specific DMP is required to be prepared.

This requirement has been incorporated into a recommended condition for sign off by the Site Auditor prior to commencement of any earthworks on site.

5.1.2.8 The suitability of the site for the development

The site is suitable for the proposed development as it is located within the Newcastle City Centre and will enable the future redevelopment of the site. The site is in close proximity to the Newcastle Light Rail and the Wickham Transport Interchange. The proposed earthworks for the site will enable future development to occur such as the proposed state significant development on the site, to expand the UoN's Honeysuckle Campus.

5.1.2.9 Any submissions made in accordance with this act or the regulations

The application was notified in accordance to the Regulations. One submission was received. The comments received are noted below:

View loss

When we purchased our apartment, we were assured that we would always be able to have this view up to Nobby's, even though there would eventually be development at the vacant block across the road on the waterfront and the block in between us and the Chifley Hotel.

Now we have lost our view directly opposite, due to Doma's 6 storey development of the Lume Apartments. Developments that whilst I agree will look lovely, the 6 storeys right on the waterfront is clear overdevelopment and should be capped at 4 levels.

Privacy, solar access and overshadowing impacts

My privacy and sunlight are of the utmost importance to me and I look forward to being provided full shadow diagrams of how my building will be effected and also a complete plan of the line of sign from the building facing mine directly.

Comments

The proposal is for enabling works for future development proposals on the site. All construction work associated with this application is for earthworks and infrastructure work at ground and sub terrain level. The proposal is considered satisfactory in regard to the issues raised in the submission as no building works are proposed with this application which will impact on views, privacy and overshadowing. The comments raised in the submission appear to be associated with the current pending State Significant Development application (SSD 18_9262) and the development to the north of the site.

5.1.2.10 The public interest

The development is in the public interest as it will allow for the orderly and economic development of the site into the future. The development will ensure that complex infrastructure is in place for the expansion of the UoN. The development will also create employment in an accessible location, which is well serviced by public transport.

6. CONCLUSION

It is noted that the application is a Crown application being undertaken on behalf of UoN. In this regard, there is no requirement for a Construction Certificate or Occupation Certificate as state government agencies such as the UoN are exempt from these provisions.

The proposal is considered to be acceptable against the relevant heads of considerations under section 4.15 of the *Environmental Planning and Assessment Act 1979*.

7. RECOMMENDATION

THAT the Hunter and Central Coast JRPP, as the consent authority, determine to grant development consent to DA2018/00933 (2018HCC035) for site preparation works (earthworks) at 16, 16A and 16B Honeysuckle Drive Newcastle, pursuant to Section 4.16 of the EP&A Act subject to the conditions in **Appendix A**.