



Department of
Infrastructure, Planning and Natural Resources

**Report on the Assessment of
Development Application No. 459-10-2003-i
Pursuant to Section 80 of the Environmental Planning
and Assessment Act, 1979**

**Proposal by Honeysuckle Development Corporation to
remediate Lee Wharf 'C' Curtilage at Newcastle, in the
Newcastle Local Government Area**

February 2004

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1. INTRODUCTION

On 31 October 2003, the Department received a development application from Honeysuckle Development Corporation to excavate and remediate within Lee Wharf 'C' curtilage.

This report represents the Department's assessment of the proposed development, in accordance with the *Environmental Planning and Assessment Act 1979*. The Department recommends approval of the subject development application.

2. DEVELOPMENT PROPOSAL

2.1 Outline of the Proposal

The proposed development would require the excavation of an area of approximately 1546 metres square to a depth of 1.1 metres, resulting in an overall excavation volume of 1700.6 cubic metres of soil. It is then proposed to transport the contaminated fill by road to Summer Hill Waste Management Facility which is owned and operated by Newcastle City Council. Following excavation clean fill is to be imported and placed to retain original levels onsite.

2.2 Proposed Site

The site is in the process of being subdivided and is identified as Lot 22 of a subdivision of Lot 512 on DP 1030264, and is zoned 3(c) City Centre under the Newcastle Local Environmental Plan 2003, gazetted in August 2003. The approximate Site Area is 1546m².



Figure 1 – Lee Wharf 'C' and surrounds (Lee Wharf 'C' is the upper red roofed building)

The site is referred to as Lee Wharf C Curtilage, and is situated on the northern side of Honeysuckle Drive, bounded by the Lee Wharf 'C' building and Newcastle Harbour to the

north. The site is bordered to the east and to the west by vacant land, proposed to be developed as a mixed residential/retail/commercial development.

The Lee Wharf 'C' building is currently vacant. No structures exist on the Curtilage area detailed for remediation. The Lee Wharf 'C' building was constructed in 1910, and has been predominantly associated with commercial and industrial port usage purposes, including industrial storage, maintenance and transit facilities.

The site area particularly to the west comprises landfill, as the site is located on land that was once partly on Honeysuckle Point and partly on reclaimed harbour area. The previous uses of the site included contaminating activities.

The land is currently vacant; however it is proposed to be developed as a car park in conjunction with the fit out of the adjoining Lee Wharf 'C' Building as a temporary marketing office.

2.3 Remediation

Excavation works would take place during daylight hours, 7am to 5pm Monday to Friday, with Saturday morning work to be undertaken between 8am to 1pm Saturday. Where work is required to be undertaken outside of these times the Applicant would consult with relevant authorities and stakeholders.

The excavated material is to be loaded directly onto trucks at the site, and transported to the Newcastle City Council owned and operated Summer Hill Waste Management Centre for treatment and disposal. Based on a truck load of 27 tonnes, it is anticipated that 100-110 truck movements will be required to transport the excavated soil to the waste treatment facility. Similar movements are expected to be required to import clean soil to fill the site to required levels. The Applicant has suggested that it may be possible for the outgoing trucks to load up with clean fill on the way back, reducing overall truck movements.

A contaminant delineation and remedial action plan has been prepared on Honeysuckle Development Corporations behalf by RCA Australia.

3. STATUTORY PLANNING FRAMEWORK

3.1 Permissibility

The proposed development lies wholly within the Newcastle local Government area. The site on which the proposed development is to be located is zoned 3(c) – City Centre in the *Newcastle Local Environmental Plan 2003* (Newcastle LEP). The Newcastle LEP provides that development not listed as either development allowed without development consent, or prohibited development, is permissible with development consent. Since the proposed development is not listed as development of the above mentioned nature, it is permissible with consent.

3.2 Minister's Role

The Newcastle LEP states that the Minister is the consent authority for the purposes of development applications relating to land at Central Honeysuckle as designated by the Central Honeysuckle Public Domain Concept Plan (Newcastle LEP Schedule 7). The proposed development lies within this area.

3.3 Legislative Context

In accordance with the provisions of the *Environmental Planning and Assessment Act 1979* (the Act) and the *Environmental Planning and Assessment Regulation 2000* (the Regulation), the proposed development is integrated development and advertised development.

Advertised Development

In accordance with section 79A (1) of the Act and Division 7, Part 6 of the Regulations (public participation for advertised development), the development application, Statement of Environmental Effects and accompanying Remedial Action Plan were publicly exhibited for 30 days. Exhibition of these documents was conducted from **Thursday 13 November 2003 until Friday 15 December 2003** at the following locations:

- Department of Infrastructure Planning and Natural Resources, 20 Lee Street, Sydney
- Department of Infrastructure Planning and Natural Resources, 251 Wharf Road, Newcastle
- Newcastle City Council, 282 King St, Newcastle
- Waterways Authority, 18 Cowper Street, South Carrington

Notification of the proposed development was placed in the Newcastle Herald on **Thursday 13 November 2003**, as required by the *Environmental Planning and Assessment Act 1979*. The newspaper notifications provided details of the proposal, exhibition locations and dates, and information on how interested parties could make a submission. A notice providing the same information was also displayed on the proposed development site for the duration of the exhibition.

All requirements of the *Environmental Planning and Assessment Act 1979* have been met or exceeded in relation to exhibition and notification of the development proposal.

Integrated Development

The development proposal constitutes integrated development, as defined by section 91 of the *Environmental Planning and Assessment Act 1979*. In addition to development consent, it requires a 3A permit from the Waterways Authority under the *Rivers and Foreshores Improvement Act 1948*. The proposed development is also located within a Mine Subsidence District and would normally be referred to the Mine Subsidence Board (MSB) however the MSB have supplied written confirmation that this is not required.

The Waterways Authority has provided its General Terms of Approval and indicated that a 3A Permit would be issued in accordance with these terms.

3.4 Relevant Environmental Planning Instruments

The assessment of the proposed development is subject to or potentially subject to the following environmental planning instruments:

- *State Environmental Planning Policy No. 55 - Remediation of Land*
- *Hunter Regional Environmental Plan 1989*
- *Newcastle Local Environmental Plan 2003*

These have been assessed in Appendix A.

State Environmental Planning Policy No. 55

For the purposes of SEPP 55 the proposed development is classified as category 1 remediation work due to it being situated in the Newcastle Central Business District Heritage Conservation Area (*Newcastle LEP 2003*) as per clause 9(d)(ii).

The proposed development and the proposals conformance with the objectives of SEPP 55 are covered in Appendix A.

It is the Department's position that the removal of the contaminated material will result in a net decrease in the risk to human health and the environment.

Hunter Regional Environmental Plan 1989

The main aim of the *Hunter Regional Environmental Plan 1989* is to facilitate promote balanced development of the region. As part of the redevelopment of the Hunter River foreshore the project is directly in line with the achievement of this aim. A full comparison with the aims of this plan can be found in **Appendix A**

The Department considers that the proposed development is generally consistent with the relevant aims and objectives of the *Hunter Regional Environmental Plan 1989*

Newcastle Local Environmental Plans 2003

The proposed development would be located on land within the Newcastle Local Government Area. The land zoned 3(c) – City Centre as described within the *Newcastle Local Environmental Plan 2003* (Newcastle LEP 2003) and is permissible within this zone. It is also located within the Central Honeysuckle area, the Newcastle LEP designates that the Minister for Infrastructure and Planning is the consent authority for this area. A comparison with the aims and objectives of the Newcastle LEP can be found at **Appendix A**.

The Department considers that the proposed development is generally consistent with the relevant aims and objectives of the Newcastle LEP 2003.

4. CONSIDERATION OF ISSUES RAISED IN SUBMISSIONS

One submission was received from Newcastle City Council. Council has requested several conditions be included in the development consent relating to soil erosion, sedimentation, transportation, neighbourhood amenity and damage to Council infrastructure. These have been included in the proposed consent conditions, should consent be granted.

5. CONSIDERATION OF ENVIRONMENTAL ISSUES

The Department has reviewed the Statement of Environmental Effects and Remedial Action Plan for the proposed development, and duly considered all submissions. As a result, the Department has identified the following environmental issues associated with the proposal. A full consideration of each of the issues listed is provided below.

The key issues identified include:

- Air Quality Impacts
- Surface water
- Soil and Groundwater
- Noise Impacts
- Transport
- Heritage
- Contamination and Disposal of Contaminated Fill

5.1 Air Quality Impacts

Applicant's Position

The Applicant recognises that the key air quality impact associated with the proposed development would result from the generation of dust and odour. The applicant's position is listed below.

Dust

The applicant is of the view that being sited in the lee of The Hill and Cook's Hill, the site is largely protected from the excesses of winds, and as such, dust is not considered to be an issue associated with the remediation works. If however, dust is generated as a result of soil drying, sprays are to be used to wet down the material. All trucks leaving the site are to be fitted with appropriate dust covers, and where necessary, water is to be applied to the soil prior to transportation to further reduce the risk of dust emissions. Consideration will be given to ceasing works if winds over the site exceed 10m/s.

Odour

Odours are not expected to be apparent during the works, given the type of contaminants on the site. If however, odours do become apparent, then a suppressant (Biosolve or equivalent) will be applied to the excavated material.

Issues Raised in Submissions

Newcastle City Council supplied several conditions relating to dust and odour; these conditions restrict impacts on the surrounding neighbourhood and conditioned conformance with the Government's *Load Restraint Guide*.

Department's Position

The Department concurs with the Applicant's conclusions that the key air quality impact during construction will be dust and odour.

Dust

While the SEE provides limited consideration of the impacts associated with dust, the Department highlights that dust generated during excavation and filling activities, and appropriate mitigation measures are well known and commonly applied. In the case of the proposed development, the Department supports the Applicant's proposal to apply water sprays to suppress dust generation, particularly during meteorological conditions conducive such situations.

Odour

Similarly the Department supports the Applicant's methodology in dealing with odour impacts and notes the requirement in the RAP to stop work and liaise with Council with regard to an effective remedy, should an odour complaint be received.

The Department is satisfied that the Applicant has proposed measures that will adequately mitigate possible air quality impacts.

5.2 Surface Water

Applicant's Position

No stormwater network exists on the site, and it is considered unlikely that significant stormwater runoff will be generated by the site. No amplification of site services is associated with the remediation works. It is noted that natural surface drainage over the site is to the North, towards Newcastle Harbour.

Issues Raised in Submissions

No stormwater issues were raised in submissions.

General Terms of Approval

Waterways have supplied several recommended conditions designed to control the impacts of surface water runoff and sediment on the Hunter River which borders the development site, should the Minister chose to approve the proposed development. These have been included in the proposed conditions of consent.

Department's Position

The Department is satisfied that given conformance with the proposed conditions of consent there will be no significant surface or stormwater impacts, should consent be granted.

5.3 Soil and Groundwater Impacts

Applicant's Position

Acid Sulphate Soils

No acid sulphate material has been identified by the Applicant during testing onsite.

Soil Contamination

During the Applicant's investigations it was identified that the site consists largely of a subsurface granular filling up to depths of 1.1 metres, overlying natural sands and a shallow water table.

Investigations undertaken have identified elevated concentrations of TPH C10-C36, benzo (a)pyrene total PAHs and copper. Contaminants were identified at surface level and at shallow depth within the fill material.

One hotspot (concentrations exceeding 250% of the guideline) of benzo(a)pyrene and three for copper were identified. The presence of these hotspots indicates that the entire fill layer requires remediation as the hotspots are not readily identifiable from the remainder of soils onsite.

Groundwater

The Applicant has considered that remediation of the groundwater at the site is not required as levels of identified contaminants are only marginally greater than the guidelines and limited in extent.

The contaminated material will be removed from the site therefore reducing the potential for groundwater contamination.

Issues Raised in Submissions

There were no related issues raised in submissions.

General Terms of Approval

Acid Sulphate Soils

Waterways has provided the Department with general terms of approval inclusive of a condition detailing the applicants responsibilities if acid sulphate soils are discovered and stated that a 3A permit will be issued. The Department has included these in the proposed conditions of consent, should the Minister grant consent.

Soil Contamination

The presence of Benzo(a)pyrene, other PAH's and Phenols is consistent with the sites previous usage as a railway loading facility. Information supplied by the applicant has demonstrated the extent of the contaminated material and recommended a remediation

strategy involving excavation of the contaminated material and disposal at the Summerhill Waste Management Facility or another appropriate EPA licensed facility in line with current EPA policy.

Standard industry practice for the treatment of these contaminants is to excavate and dispose of it at an EPA licensed waste disposal facility. The Applicants proposal is consistent with this approach.

The Waterways Authority have included a GTA that all material used as fill be demonstrated to be free of contaminate. Another condition requiring submission of a site audit statement upon completion has been proposed, to ensure the remediation has been performed successfully.

Groundwater

No GTA's were provided concerning groundwater.

Department's Position

The Department is satisfied that the proposed development is unlikely to have a significant impact on the depth or quality of groundwater. However, a condition has been included in the proposed consent conditions to monitor the groundwater after the remediation and perform further remediation if necessary. Soils at the site are mostly fill so replacement is unlikely to effect the quality or structure.

5.4 Noise Impacts

Applicant's Position

The site is located adjacent to Newcastle Harbour, and a construction zone for the Newcastle foreshores boardwalk development. Remediation works will be undertaken 7am to 5pm weekdays, and from 8am to 1pm Saturdays. No work is to be undertaken on Sundays or Public Holidays. All vehicles are to be registered and within the permissible noise emission levels.

The site is approximately 500m from the nearest residence which is to the south, with a railway line in between, the nearest residence to the east is 500m and over a kilometre away to the west.

Issues Raised in Submissions

Newcastle Council suggested a condition including restriction of hours, this has been included in the proposed conditions of consent.

Department's Position

Even with the large distances involved, it is noted that the Applicant intends to restrict the hours of excavation works to minimise residual construction noise impacts at surrounding receptors. The Department supports this approach and the Applicant's commitment in this regard is reflected in the proposed conditions of consent.

5.5 Transport Impacts

Applicant's Position

The Applicant has indicated that the remediation process will take 2 to 3 weeks to complete. Truck movements will be approximately 100-110 out, removing contaminated soil, and 100-110 in, with clean fill. Clean fill will be brought in with each return of the truck from transporting the contaminated soil, so that movements are kept to a minimum.

Issues Raised in Submissions

Council has asked that conditions that control the loading of vehicles onsite and limit vehicle movement from the site to a forward direction. Council have also asked that the applicant be conditioned to comply with the *Load Restraint Guide – Guidelines for the safe carriage of loads on road vehicles* (Australian Government Publishing Service 1994). Councils suggested conditions have been included in the proposed conditions of consent.

Department's Position

The applicant has suggested appropriate measures to minimise negative impacts associated with the transport of the contaminated material by road, such as covering of loads and the use of a device to remove material from vehicle wheels. Given the location and destination road transport is the preferable alternative.

The Department considers that the Applicant has shown with sufficient certainty that the traffic impacts associated with the proposed development do not have significant impacts on the relevant part of the road network. With the imposition of the suggested consent conditions, the Department is satisfied that all impacts from this method of transportation will be minimised.

5.6 Impacts on Heritage Items

Applicant's Position

Indigenous Heritage

The applicant has consulted with the local Aboriginal Land Council, a heritage architect and archaeologist. The Land Council has stated that they are not required to be involved in the excavation.

To mitigate against impacts on indigenous heritage items that may be uncovered during construction, the Applicant indicates that an archaeologist would be retained to supervise the work on site.

Non-Indigenous Heritage

The wharf buildings themselves are not within the area to be remediated so will not be affected by the remediation works. The railway lines will be dug around and supports placed underneath to enable the contaminated soil to be removed and replaced. The contractor performing the work has remediated on sites with services such as water and sewer mains within the site which have had to be supported so is familiar with the process. In addition an archaeologist will oversee the work to ensure protection of the railway line.

To mitigate against impacts on non-indigenous heritage items that may be uncovered during construction, the Applicant indicates that the archaeologist would be retained to supervise the work on site. The applicant is required to obtain a section 140 certificate under the *Heritage Act 1977*.

Issues Raised in Submissions

No submissions

Department's Position

The Department concurs with the Applicant's assertion that there is limited potential for non-indigenous heritage items to be impacted by the proposal. The land to be disturbed during construction of the proposal has been disturbed in the past. The Department is satisfied that the provisions of the *Heritage Act 1977* and the applicant's retention of an onsite archaeologist are sufficient to address the management of any item that may be

discovered, and does not recommended additional mitigation, management or monitoring measures in this regard.

5.7 Contamination and Disposal of Contaminated Fill

Applicant's Position

The applicant has provided an extensive Contaminant Delineation and Remedial Action Plan produced by RCA Australia which details the levels of contaminants and various management plans. The recommended remedial option is to excavate and remove the contaminated material and transport it by road to an offsite waste management facility. In this case the Newcastle City Council Summer Hill Waste Management Facility is suggested.

Issues Raised in Submissions

No issues were raised in submissions.

Department's Position

The Applicant has performed extensive testing of this site and the surrounding area as well as reviewing previous studies. The Department is satisfied that the proposed remediation of this site through excavation and transportation of the contaminated material by road for offsite treatment will result in a less significant risk to human health or the environment than if the material were to stay in situ.

6. SECTION 79C CONSIDERATION

Section 79C of the *Environmental Planning and Assessment Act 1979* sets out matters that a consent authority must take into consideration when it determines a development application. The Department has assessed the development application in the context of Section 79C of the Act, having regard to the identified heads of consideration. This consideration is provided in **Appendix A**. The Department is satisfied that the merits of the proposed development warrant approval subject to the recommended instrument of consent.

7. RECOMMENDED CONDITIONS OF CONSENT

The Department in consultation with Newcastle City Council and inclusive of the Waterways General Terms of Approval has drafted a number of recommended conditions that the Minister could impose on the proposed development to mitigate, monitor and manage residual environmental impacts, if the proposal is approved. Key issues covered by the conditions include:

- **Air Quality Impacts** inclusive of both odour and dust controls
- **Surface Water** inclusive of the Waterways general terms of approval controlling impacts on the Hunter River
- **Groundwater** to ensure full remediation of the site and minimise effects on the Hunter River
- **Heritage** inclusive of a requirement for an archaeologist to be present during the excavation
- **Noise Impacts** designed to control impacts arising from excavation and transport
- **Contamination and Waste Disposal** including a requirement to submit a site audit statement certifying that the site has been remediated and ensure proper disposal of contaminated material.

The Department has consulted with the Applicant with regard to the proposed conditions. The Applicant has agreed to the proposed conditions.

The proposed conditions are included in the attached Instrument of Consent.

8. CONCLUSIONS

The Department considers that the proposed development is consistent with State and regional planning objectives. The development application accords with the objectives and provisions of regional and local planning instruments.

The Department considers that all key environmental concerns have now been adequately addressed. It is recommended that the development application be approved subject to the conditions of the recommended instrument of consent. Conditions have been formulated to manage, monitor and mitigate potential environmental impacts.

9. RECOMMENDATION

It is recommended that the Minister:

1. Consider the findings and recommendations of this report;
2. Approve the development application for the proposed development, under Section 80(4) of the Act; and
3. Sign the Instrument of Consent (tagged "A").

APPENDIX A - CONSIDERATION UNDER SECTION 79C

The following assessment is based on the matters listed for consideration under section 79C (1) of the amended Environmental Planning and Assessment Act 1979.

(a) *The provisions of:*

any environmental planning instrument;

State Environmental Planning Policy No.55 – Remediation of Land		
1.	The aim of this policy is to provide a state-wide planning approach to the remediation of contaminated land and to promote the remediation of contaminated land for the purpose of reducing risk of harm to human health or any other aspect of the environment. The objectives of SEPP 55 are to provide for a State wide planning approach to the remediation of contaminated land. (2) <i>In particular, this Policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment:</i> (a) <i>by specifying when consent is required, and when it is not required, for a remediation work, and</i> (b) <i>by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and</i> (c) <i>by requiring that a remediation work meet certain standards and notification requirements.</i>	The site investigations indicate that the site requires remediation before being suitable for commercial use. Consequently remediation works are proposed. It is the Department's position that the removal of the contaminated material will result in a net decrease in the risk to human health and the environment. Under the SEPP the development is category one and the Minister is the consent authority. Not relevant The remediation will conform to the SEPP 55 standards and has been notified for 30 days.
Hunter Regional Environmental Plan 1989		
1.	Aims of the Plan The Hunter Regional Environmental Plan 1989 aims to: a) promote the balanced development of the region, the improvement of its urban and rural environments and the orderly and economic development and optimum use of its land and other resources, consistent with conservation of natural and man made features and so as to meet the needs and aspirations of the community; b) Coordinate activities related to development in the region so there is optimum social and economic benefit to the community; c) Continue a regional planning process that will serve as a framework for identifying priorities for further investigations to be	The remediation is consistent with this aim. The remediation is consistent with this aim. The remediation is consistent with this aim.

carried out by the Department and other agencies. Provisions Relating to Transport A consent authority should not grant consent to the carrying out of a development involving: a) the storage or handling of goods or materials which are likely to be delivered by heavy transport vehicles, unless it has considered whether use could be made of a transport mode other than road which, in the opinion of the consent authority, is economically practicable; b) land having a frontage to a main or arterial road unless all vehicular access to the land is from a road other than a main or arterial road, where practicable, or the consent authority is satisfied that the applicant has demonstrated that there will not be any adverse effect on traffic movement in the area as a result of the development. Objectives Relating to Pollution Control A consent authority should not grant consent to the carrying out of a development listed in Schedule 3 of the Environmental Planning and Assessment Regulation 1980 (including development comprising the expansion of an existing facility) unless it is satisfied that: a) topographic and meteorological conditions are such that air pollutants would have no significant adverse effect; b) an appropriate buffer zone can be provided to ensure that noise, dust and vibration are maintained at acceptable levels; c) the best practicable technology for air, water and noise pollution control will be incorporated in the design and operation of the equipment and facilities to be used for the purposes of the industry; d) there will be no significant deterioration of air or water quality as a result of emissions from that equipment or those facilities; e) the site will not become contaminated within the meaning of Part 5 of the Environmentally Hazardous Chemicals Act 1985. A consent authority should not grant consent	The proposed development is not located such that rail or shipping are viable alternatives to transportation of excavated materials by road. Vehicle traffic will be over a discrete period and will not cause major disruption. The prevailing wind conditions should not affect the excavation as the site is located in the Lee of The Hill and Cook's Hill. The Applicant has stated that should dust be generated sprays will be used. Dust covers will also be fitted to all trucks. Consideration will be given to ceasing work in high wind conditions (<10m/s) The proposed development is contained within the Honeysuckle development area and is surrounded by mostly undeveloped land. The Department is satisfied that the proposed development represents best practicable technology. The Department is satisfied that the proposed development can be carried out as conditioned without significant deterioration of air or water quality. The Department is satisfied that the site can be managed to remove present and prevent further land contamination
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	to any development unless it is satisfied that: a) there is adequate provision for setbacks between the development and existing watercourses; b) an adequate vegetation cover is maintained or reinstated so as to minimise soil erosion; c) where necessary, adequate retardation basins, grassed floodways, sedimentation pits and trash collection facilities are established and maintained; d) adequate measures are provided to control soil erosion during construction of the development. Objectives Relating to Waste The objectives of the plan in relation to planning strategies concerning waste disposal are to: a) provide for safe and effective disposal of domestic, commercial and industrial wastes, including toxic materials; b) avoid the entry of harmful chemicals into the environment; c) encourage the most efficient use of resources by recycling or alternative use as appropriate.	There will be potential for some impacts on the Hunter River during excavation, however these impacts have been assessed as temporary and manageable and will be greatly reduced once the contaminated material has been removed. The proposed development will be located in a largely cleared area. The Department is satisfied that stormwater management conditions supplied by the Waterways Authority are adequate to address this issue. The Department is satisfied that erosion and sediment management conditions supplied by the Waterways Authority are adequate to address this issue. Proposed waste management measures are considered adequate to meet this objective Proposed waste management measures are considered adequate to meet this objective. Land fill has been evaluated as the most effective and efficient strategy for disposal of the contaminated material.
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Newcastle Local Environmental Plan 2003	
The aims of the Newcastle LEP 2003 Aim 1 To respect, protect and complement the natural and cultural heritage, the identity and image, and the sense of place of the City of Newcastle. Aim 2 To conserve and manage the natural and built resources of the City of Newcastle for present and future generations, and to apply the principles of ecologically sustainable development (ESD) in the City of Newcastle. Aim 3 To contribute to the economic well being of the community in a socially and environmentally responsible manner. Aim 4 To improve the quality of life and well being of the people of the City of Newcastle. Aim 5 To facilitate a diverse and compatible mix of land uses in and adjacent to the urban centres of the City of Newcastle, to support increased patronage of public transport and help reduce travel demand and private motor-vehicle dependency. Aim 6 To encourage a diversity of housing types in locations that improve access to employment opportunities, public transport, community facilities and services, retail and commercial services, and the like. Under the Newcastle LEP 2003, the land is zoned 3(c) – City Centre Zone The relevant objectives of this zone are; (d) To conserve and enhance the rich cultural and built heritage of the City Centre to reinforce its unique character and improve its vitality and viability. (e) To enable development of waterfront sites to take advantage of the harbour while avoiding a continuous built edge along the waterfront, and not compromising or devaluing the scale and operations of the Port of Newcastle.	Remediation works are permissible with consent. The remediation is consistent with this aim. Remediation of the site with regard to preservation of the heritage items will facilitate this aim. The resultant redevelopment made possible by the removal of contaminated material will facilitate this aim. Removal of contaminated material from the city centre is consistent with this aim. Consistent Consistent The Honeysuckle remediation will be performed under the supervision of a qualified archaeologist and will comply with the provisions of the relevant heritage legislation including the obtaining of a section 140 certificate. Remediation of the contaminated site will allow the achievement of this aim.

any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority;

None identified

any development control plan;

Newcastle Development Control Plan No.43 – Contaminated Land, Management and Remediation		
1.	The purpose of the DCP is to provide a local context for the decision making consistent with the <i>Contaminated Land Planning Guidelines</i> within the Newcastle LGA. The DCP sets out key principles for consideration in development assessment. The principles are as follows: • a determination should be made having regard to available information relating to the likelihood of land contamination • should not permit a change of land use that would increase the risk to human health or the environment • should avoid inappropriate restrictions on land use • should ensure that responsibility for ongoing management and monitoring of contaminated land is clearly and legally assigned • should ensure that the community is not unduly disadvantaged by accepting the dedication of public assets which have increased human health or environmental risks or have potentially higher asset management costs due to contamination	Contamination on the site is well documented with two specific studies having been conducted The DA is just for the remediation however the site will be fully remediated allowing for redevelopment to a less risky land use which would be the subject of a new DA After the remediation is complete the site (if certified by the site audit statement as fully remediated) will be subject to normal development controls. The land owner is responsible for the ongoing management and monitoring has been included in the consent. The area will be improved as a result of the proposed works and the community will be at an advantage as the area will form part of the foreshores access boardwalk program.

any matters prescribed by the regulations that apply to the land to which the development application relates.

None.

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

Natural Environment

The Site is highly modified, with most of the site covered in exposed dirt and rubble. Consequently, no flora and fauna species of state conservation significance were recorded on site. Furthermore, no water bodies or natural watercourses such as creeks or drains that may potentially provide habitat for amphibian species are present on the Site.

The site borders the Hunter River foreshore and as such there is potential for impact upon the estuarine environment, the Waterways Authority has supplied general terms of approval and has stated that a Part 3A Permit would be issued subject to the granting of development consent.

There is no stormwater network on the site and it is considered unlikely that significant runoff would be generated. During construction the applicant is proving silt management fencing and consent conditions will be imposed to ensure the minimisation of impacts on the natural environment.

Overall, the Site has been highly modified, is contaminated and the proposed development would have a significant positive impact by removal of contaminated material from the foreshore area.

Built Environment

The proposal is unlikely to have significant impact on the built environment considering the fact that the site has already used for industrial purposes. The proposal is concerned with the mitigation and remediation of the impacts of that use. The proposed remediation would involve the retention of any heritage items. Consequently, the built environment is expected to be improved as a result of this proposal.

The proposed development is surrounded primarily by industrial and residential land uses. The proposal does have the potential to impact on the surrounding areas in the short term due to dust, noise and odour impacts. However these impacts have been taken into consideration and appropriate measures taken to minimise the impact.

Social and Economic Impacts

The proposed development will remove contaminated material from what will be a heavily used recreational and residential area in close proximity to the city centre.

Amenity

The proposed development will remove contaminated material from what will be a heavily used recreational and residential area in close proximity to the city centre..

However, the activities associated with construction of the proposed development may result in potential amenity impacts on surrounding areas. However, these impacts have been taken into consideration and appropriate measures taken to minimise the impact.

(c) *the suitability of the site for the development,*

The site has been identified as contaminated and in need of remediation.

(d) *any submissions made in accordance with this Act or the regulations,*

The only submission received was from Newcastle City Council. Council has requested several conditions be included in the development consent. These have been included in the proposed conditions at Appendix B

(e) *the public interest.*

The proposed development is in the public interest as it will remove contaminated material from the city centre area, will develop land that is suitably zoned, located and serviced, and will be developed in a manner that seeks to minimise the impact on the natural and built environment.