

The background of the cover page is a composite image. It features a dark blue diagonal band across the middle. Behind this band, there is a grayscale image of a city skyline with several tall buildings. Overlaid on the entire background is a pattern of white, 3D wireframe cubes of various sizes, some of which are slightly offset from each other, creating a sense of depth and architectural structure.

Environmental Impact Statement

Proposed 'Nihon University'

No. 9 Church Street, Newcastle

Submitted to NSW Department of Planning and Environment
On Behalf of Nihon University Group

MAY 2019

REPORT REVISION HISTORY

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Environmental Impact Statement

Former Newcastle Court House

9 Church Street, Newcastle

Project #18-047

8 May 2019

Certification

This report has been authorised by City Plan Strategy & Development P/L, with input from a number of other expert consultants. To the best of our knowledge the accuracy of the information contained herein is neither false nor misleading. The comments have been based upon information and facts that were correct at the time of writing.

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DECLARATION AND CERTIFICATION

I certify that I have prepared the content of this Environmental Impact Statement (EIS) and to the best of my knowledge:

- it is in accordance with Schedule 2, Clauses 6 and 7 of the Environmental Planning and Assessment Regulation 2000;
- it contains all available information that is relevant to the environmental assessment of the development to which the EIS relates; and
- the information contained in the EIS is neither false nor misleading.

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APPENDICES

Appendix	Document	Prepared by
1	Secretary's Environmental Assessment Requirements	Department of Planning & Environment
2	Architectural Plans	Azusa Sekkei Architects
3	Landscape Plans	Moir Landscape Architecture
4	Survey Report	ADW Johnson
5	Arboricultural Impact Assessment Report	Joseph Pidutti
6	Capital Investment Value Estimate	Muller Partnership
7	Section 94A Report	Muller Partnership
8	Statement of Heritage Impact	John Carr Heritage Design
9	Consultation Summary Report	dwp
10	Notification Letter	CPSD
11	BCA Compliance Report	Dix Gardner
12	Waste Management Report - Building Operation	dwp
13	BDAR Waiver Request	EMM
14	BDAR Waiver Approval	DPE
15	BDAR Waiver Approval	OEH
16	Concept Stormwater Design	Cardno

17	Due Diligence Aboriginal Archaeological Assessment	AMAC and Streat Archaeological Services Pty Ltd
18	Traffic and Parking Assessment Report	Better Transport Futures
19	Clause 4.6 Variation Request	CPSD
20	Baseline Archaeological Assessment	AMAC
21	Report on Geotechnical Investigation	Cardno
22	Disability Access Report	Lindsay Perry Access
23	Noise and Vibration Assessment - Operational and Construction	EMM
24	Phase 1 Environmental Site Assessment - Technical Note	Cardno
25	Letter of Confirmation of Engagement	City Plan Heritage
26	Letter to neighbour - February	CPSD
27	Letter to neighbour - April	CPSD
28	Remediation Action Plan - Technical Note	Cardno

1. EXECUTIVE SUMMARY

1.1. Overview

Nihon University Group ('Nihon', the Applicant) is proposing the adaptive reuse of the State heritage-listed former Newcastle Courthouse as an educational establishment with associated student accommodation at No. 9 Church Street, Newcastle (the 'subject site'). The proposal is classified as State Significant Development (SSD).

Nihon is a privately-operated tertiary institution within Japan, offering a multi-disciplinary array of educational courses and research projects. It has been actively developing dynamic collaborations with numerous overseas universities and promoting its students to various international exchange programs. As a commemorative activity to celebrate Nihon's 130th Anniversary, and as part of the Japanese Government's *New Growth Strategy: Internationalisation of Japanese Universities*, Nihon has selected the former Newcastle Courthouse as the site on which to open its first international campus.

Nihon's vision for the new campus is to serve as a hub for international language exchange programs, primarily for Japanese students of Nihon University to learn English in an international environment. The proposal will provide teaching spaces, dormitory-style student accommodation and associated facilities to accommodate a rotating cohort of Nihon students. In addition, the campus will provide opportunities for students of the University of Newcastle to learn Japanese culture and language, as well as hosting mock-up trials with students of the University of Newcastle, public lectures and other cultural and academic events.

Key issues considered in this Environmental Impact Statement (EIS) relate to heritage (European, Aboriginal and archaeological), built form, traffic and parking, accessibility, geotechnical/contamination, environmental amenity and noise.

Heritage input into the design of the proposed development was sought early in the design process to consider all viable options for conservation and to ensure the heritage significance and character of the former Courthouse building and surrounding heritage values are complemented and protected.

The site is located in an established urban area and is relatively unconstrained in terms of natural environmental constraints.

Consultation with the community and government agencies has also been undertaken to inform the project and to better understand the impacts that should be considered in the preparation of the EIS.

1.2. Site Analysis

The subject site is located at the eastern reaches of the suburb of Newcastle, immediately adjacent to the Newcastle City Centre. Immediately adjoining development includes the Grand Hotel and residential apartments and townhouses to the north, the Newcastle Police Station to the east, and James Fletcher Hospital to the south and west.

The site is predominantly rectangular in shape, has an area of approximately 5,194m², and is legally described as Lot 1 in DP 1199904. It currently accommodates the 1892-constructed former Newcastle Courthouse and 2 non-original 3-storey buildings, comprising the former Administration Building constructed in 1949 (the eastern building) and the former Supreme Court Building constructed in 1966 (the western building). The site is currently unused.

The site is zoned B4 Mixed Use under the *Newcastle Local Environmental Plan 2012* (NLEP).

Details of the subject site, including the local and regional context, previous land uses, and existing development, are provided in Section 3 of this EIS.

1.3. Development for Which Approval is Sought

Key aspects of this State Significant Development Application (SSDA) include:

- Demolition of the existing Administration Building and Supreme Court Building;
- Change of use of to the former Courthouse building from a 'public administration building' to an 'educational establishment' (proposed 'Public Building', to be utilised by both students, staff and the general public);
- Minor internal demolition works and alterations to the former Courthouse building to improve functionality and meet Building Code of Australia (BCA) and accessibility requirements;
- Construction of two new part 3, part 4-storey buildings consisting of a 108 bed 'Residential Building' and an 'Education Building', both connected to the proposed 'Public Building' by atria;
- The 'Residential Building' is to contain a 'food and drink premise' (cafeteria) at ground level;
- Service vehicle access from Church Street along the existing eastern boundary driveway;
- Ground Level car parking accommodating 20 spaces, 1 motorcycle space and 22 bicycle spaces;
- Site preparation works including removal of 29 trees within the site, earthworks, remediation works and installation of ancillary services and infrastructure; and
- Public domain works, site landscaping and rooftop communal open space.

Section 4 of this EIS provides a detailed description of the proposed development, as well as an analysis of a suitable site and the preferred development option.

1.4. Legislative Framework

The *Environmental Planning and Assessment Act 1979* (EP&A Act) forms the statutory framework for environmental assessment and planning approval in NSW.

Section 4.36(1) of the EP&A Act identifies State Significant Development (SSD) as 'development that is declared under this section to be State significant development.' Section 4.36(2) of the EP&A Act notes that 'a State environmental planning policy may declare any development, or any class or description of development, to be State significant development.'

The proposal is classified as SSD as the Capital Investment Value of \$41.2 million is in excess of the requisite SSD threshold of \$30 million for 'educational establishments' pursuant to Clause 15(3) of Schedule 1 of *State Environmental Planning Policy (State and Regional Development) 2011*. Part 4 of the EP&A Act applies to SSD and Section 4.12(8) requires that an Environmental Impact Statement (EIS) be prepared to accompany development applications in respect of SSD. This EIS is therefore submitted to the NSW Department of Planning and Environment (DPE) for a State Significant Development Application (SSDA) pursuant to Part 4 of the EP&A Act.

An assessment of the proposal against key relevant planning legislation is provided at Section 7 of this EIS and summarised in Table 1.

Table 1: Assessment against relevant legislation

Legislation	Comment
SEPP 55 - Remediation of Land	Due to potential site contamination identified in preliminary site investigations, it is proposed to undertake additional subsurface investigations of the site following demolition of the existing non-original buildings. At the time of writing, a remediation strategy is currently being prepared based on known site conditions. The strategy will be revised following additional investigations if necessary.
SEPP 64 - Advertising and Signage	The proposed signage can be carried out as exempt development pursuant to Division 4 and Schedule 1 of the Education SEPP. Accordingly, this SEPP does not apply.
Affordable Housing SEPP	The proposal complies with the majority of standards and requirements for the development of boarding house developments.
Coastal Management SEPP	The site is located within the coastal zone, partly within the 'Coastal Environment Area' and wholly within the 'Coastal Use Area'. The proposal will not result in any impacts on water quality, biodiversity, public access, coastal amenity, or impacts to or from coastal hazards and processes.
Education SEPP	The proposed development is permissible with consent pursuant under the Education SEPP. Concurrence from the Roads and Maritime Services will be sought pursuant to Clause 57.
Infrastructure SEPP	The proposed development is not 'traffic generating development' pursuant to Clause 104.
Biodiversity Conservation Act 2016	Waivers from OEH and DPE have been obtained with respect to this SSDA, which determine that there is no need for the SSDA to submit a Biodiversity Development Assessment Report.
Coal Mine Subsidence Compensation Act 2017	Pursuant to Section 22, an application for the proposed development was submitted to Subsidence Advisory (SA) NSW on 20 February 2019. The detailed design of the proposal will have appropriate regard to SA NSW approval requirements.
Heritage Act 1977	Pursuant to Section 4.41 of the EP&A Act, approvals/permits under Sections 57 and 139 are not required for SSDAs.
National Parks and Wildlife Act 1974	Pursuant to Section 4.41 of the EP&A Act, permits to harm aboriginal objects are not required for SSDAs.
Newcastle LEP 2012	The proposal is permissible with consent and consistent with the objectives of the B4 Mixed Use zone under the NLEP.

	While the proposed new buildings partly exceed the maximum permissible height of building standard prescribed for the site under Clause 4.3, this additional height is considered appropriate and justifiable. A separate submission under Clause 4.6 of the NLEP is provided at Appendix 19.
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1.5. Justification for the Proposal

The application proposes the conservation, adaptive reuse and expansion of the currently unused State heritage-listed former Newcastle Courthouse to establish an educational establishment on the site. The site is located in close proximity to various public transport nodes and a wide range of services to meet the needs of future staff and students.

The proposal will provide a boost to the city's educational capacity and facilitate innovation and cultural exchange. It would also contribute significantly to the economic wellbeing of the community through the creation of jobs during the construction and operational phases, as well as flow on effects to nearby businesses.

The proposal strongly aligns with state strategic objectives for the area, including the *Greater Newcastle Metropolitan Plan 2036* (GNMP), by strengthening Greater Newcastle's position as a major university city. In fact, the proposal is a direct positive contribution towards the realisation of the NSW Government's commitment to establish Nihon University at the site. The University will form part of the Metropolitan education and innovation cluster identified in the GNMP.

The proposed alterations and additions have been sensitively designed to complement and protect the heritage significance and character of the former Courthouse and surrounding heritage values. No adverse amenity or environmental impacts are anticipated as a result of the proposal, and the proposed development is considered entirely appropriate in this location.

The proposal incorporates the principles of ESD through the environmental amenity considerations of the design, the building performance measures proposed, as well as through the implementation of the recommended mitigation measures detailed within the specific environmental assessments.

1.6. SEARs

Secretary's Environmental Assessment Requirements (SEARs) for the proposal were issued by DPE on 21 December 2018. A copy of the SEARs is attached at Appendix 1.

In accordance with the SEARs, this EIS provides an assessment of the potential impacts of the proposed development and sets out the undertakings made by Nihon to mitigate and manage any potential impacts arising from the development. Implementation of these mitigation measures will ensure any potential impacts are ameliorated.

Section 5 of this EIS lists the SEARS and includes a reference identifying where each requirement has been addressed in this EIS.

1.7. Consultation

The SEARs were referred to a number of government agencies. The key issues raised by each agency have been addressed in this EIS.

Consultation with the community and government agencies was also undertaken to inform the project and to better understand the impacts that should be considered in the preparation of the EIS. The purpose of the consultation was to provide information on the proposal as early as possible in the planning process to allow for the up-front identification, and where possible, resolution, of relevant issues or concerns.

One public submission was received during the consultation process. Issues raised by the community and government agencies have been considered in the planning of the proposal and addressed within the EIS.

Section 6 of this EIS details the consultation process and any issues raised.

1.8. Environmental Impact Assessment

This EIS has been informed by extensive studies undertaken of the subject site for the current proposal. In particular, studies have been undertaken in relation to heritage (European, Aboriginal and archaeological), built form/visual impact, traffic and parking, accessibility, geotechnical/contamination and environmental amenity. Combined, these studies provide an extensive understanding of the existing site condition and constraints, and potential impacts of the proposal, and establish mitigation and management measures to ensure any potential impacts from the proposal are ameliorated. Importantly, the studies have found that only minor environmental controls are required.

This EIS also considers the economic and social benefits that inform the proposal at a local, regional and state level.

Section 9 of this EIS contains the assessment of the key environmental issues and includes recommended mitigation measures where necessary. A summary of key environmental issues and considerations is included in Table 2.

Based on the environmental assessment undertaken, Section 9 also includes an environmental risk assessment in a matrix format.

Table 2: Key environmental considerations

Issue	Comment
European Heritage	Formulation of the proposed scheme was driven from a heritage conservation perspective, with heritage input into the design process being provided since the project's inception. The proposal is consistent with the key conservation recommendations for the site outlined in the <i>Conservation Management Plan</i> (2015) and will have minimal impact on the heritage significance of the place, the item and the surrounding heritage conservation area.
Aboriginal Heritage	An initial due diligence assessment of the site found it is likely that Aboriginal objects and/or deposits of conservation value are present within the site, and the site may be of high cultural significance. A full Aboriginal Cultural Heritage Assessment, including consultation and archaeological test excavation, is currently being undertaken.

Historic Archaeology	There is moderate potential for intact evidence of a below ground brick-lined, post-1861 culvert to the east of the former Courthouse building. Stringent measures are proposed to ensure that potential archaeological material will not be adversely impacted by the proposed development.
Contamination/ Geotechnical	Considering the nature of the proposed development, current site access limitations and results of the geotechnical investigation, additional investigations into the site's geotechnical and mine subsidence conditions, as well as potential contamination sources, will be undertaken following demolition. Notwithstanding, at the time of writing, a Remediation Action Plan is currently being prepared.
Stormwater/Water Quality	The proposed stormwater design is intended to adequately cater to the increased and modified roof areas. Appropriate water quality treatment measures are proposed. In addition, erosion and sediment control measures will be implemented during the construction phase.
Biodiversity	The site is in an urban setting with no native vegetation. The development is not anticipated to result in any adverse impacts on biodiversity.
Traffic, Parking and Servicing	The proposed parking supply is considered appropriate. The proposal will operate well, with limited on-street traffic or parking impacts in the immediate vicinity. The site is serviced by excellent public transportation facilities. A Green Travel Plan will be prepared for the proposed development.
Built form	The proposal achieves a positive built form outcome through the retention of the former Courthouse building and the new buildings reflecting the bulk and scale of the existing buildings being removed.
Amenity	Through the environmental amenity considerations incorporated into the design, including with respect to solar access, visual privacy, internal noise levels and communal open space, the proposal is considered to provide a high level of amenity for future users.
Noise	A Construction Management Plan will be implemented to ensure there are no unreasonable noise or vibration impacts to neighbours. The proposed development is unlikely to result in any adverse noise impacts to the surrounding area during its operation.
Crime and Safety	The proposal incorporates appropriate CPTED principles in the design. It is envisaged that the development can be appropriately managed to minimise the potential risk of crime and to maximise public safety.

Social and economic	The proposed development is likely to have a positive social and economic impacts, including through the provision of additional educational facilities near the Newcastle City Centre, enhanced innovation and cultural exchange, jobs creation and flow-on economic impacts. No major negative social impacts of the proposal are anticipated.
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1.9. Statement of Commitments

Based on the potential environmental impacts that have been identified through the preparation of this EIS, a range of mitigation and management measures have been compiled.

In accordance with Schedule 2 of the EP&A Regulation, Section 10 of this EIS includes a full description of the measures proposed to mitigate any adverse effects of the proposal on the environment. These measures provide a commitment by Nihon University Group and indicate the responsibilities required to implement these measures. These measures are also discussed under the respective impact assessment headings within Section 9 of this EIS.

Overall, implementation of these measures will ensure that the project is environmentally, socially and economically sustainable.

1.10. Concluding Statement

The proposal involves a well-designed and significant educational establishment in a well-serviced location adjacent to Newcastle's City Centre. It has been sensitively designed to conserve and protect heritage values, complement surrounding built form and minimise adverse impacts on surrounding development.

The proposal will establish the site as an important cultural and educational precinct in the Hunter Region. CPSD acknowledges the importance of these activities to the economic, cultural and social welfare of the Hunter Region and NSW.

Extensive studies have been undertaken for the proposal at the site, establishing mitigation and management measures where required.

The EIS fulfils the requirements of the EP&A Act and addresses all relevant matters for consideration prescribed by the SEARs, demonstrating that the subject site is entirely suitable for the proposed development and the potential impacts of the proposal are minimal and can be satisfactorily managed or mitigated. In light of the above, and the evident benefits of the proposal, CPSD recommends that consent be granted to this application.

2. INTRODUCTION

2.1. Purpose of this EIS

This Environmental Impact Statement (EIS) has been prepared by City Plan Strategy and Development Pty Ltd (CPSD) on behalf of Nihon University Group ('Nihon'). It is submitted to the NSW Department of Planning and Environment (DPE) for a State Significant Development Application (SSDA) pursuant to Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The EIS has been prepared to address a range of relevant matters for consideration as required under the EP&A Act and *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation), including the following:

- Details of the proposed development, including analysis of feasible alternatives;
- Assessment of potential environmental impacts of the proposed development in accordance with the Secretary's Environmental Assessment Requirements (SEARs) issued on 21 December 2018;
- Measures proposed to mitigate any adverse impacts on the environment; and
- Justification for the proposal and recommendation for planning approval.

This EIS has been prepared in accordance with Clauses 6 and 7 of Schedule 2 of the EP&A Regulation.

2.2. Structure of this EIS

This EIS describes the key elements of the proposed development, addresses the potential impacts of the proposal and prescribes management strategies to mitigate any impacts in accordance with Clauses 6 and 7 of Schedule 2 of the EP&A Regulation.

This EIS is structured as follows:

Table 3: Structure of EIS

Section	Description
1. Executive Summary	Summary of the EIS
2. Introduction	Overview of the EIS
3. Site Analysis	Describes the existing site and its local and regional context
4. The Proposal	Describes the key components of the proposal, the need for the proposal and alternatives considered
5. Secretary's Environmental Assessment Requirements	An overview of the SEARs issued by the DPE on 21 December 2018
6. Consultation	Describes the consultation undertaken in relation to the proposal

7. Statutory Considerations	Planning	Consideration of the relevant statutory planning considerations including relevant Acts, SEPPs and the LEP as they apply to the site and proposal
8. Other Considerations	Planning	Consideration of the relevant non-statutory planning considerations including relevant strategic documents, draft SEPPs and DCP controls as they apply to the site and proposal
9. Environmental Assessment	Impact	Assesses the key potential environmental impacts and issues associated with the proposal and outlines proposed management measures
10. Mitigation Measures		Provides a compilation of proposed mitigation measures for the proposal
11. Conclusion		Summarises the key issues and provides a recommendation to approve the proposal as outlined in this SSDA and EIS

2.3. The Proponent and Project Team

This SSDA and EIS have been prepared on behalf of Nihon. The principal consultant team for the project is set out in Table 4.

Table 4: Proponent and Project Team

Role / Discipline	Consultant
Proponent	Nihon University Group
Architect	Azusa Sekkei
Executive Architect	Design Worldwide Partnership
Town Planner	City Plan Strategy & Development
Landscape Architect	Moir Landscape Architecture
Surveyor	ADW Johnson
European Heritage	John Carr Heritage Design City Plan Heritage
Aboriginal Heritage	Archaeological Management & Consulting Group
Archaeology	Archaeological Management & Consulting Group

Access	Lindsay Perry Access
BCA	DixGardiner
Quantity Surveyor	Muller Partnership
Geotechnical / Contamination	Cardno
Civil Engineer	Cardno
Traffic Engineer	Better Transport Futures
Arboriculture	Joseph Pidutti
Waste	Design Worldwide Partnership
Biodiversity	EMM Consulting
Noise / Vibration	EMM Consulting

3. SITE ANALYSIS

3.1. Regional Context

This site is located at the eastern reaches of the suburb of Newcastle, within the Lower Hunter area of the greater Hunter Region.

Under the *Greater Newcastle Metro Plan 2036* (GNMP), the site is located within the Metro Core of Greater Newcastle. As Australia's seventh largest city and global gateway for northern NSW, the GNMP notes that '*Greater Newcastle is emerging as one of Australia's most dynamic and vibrant metropolitan cities.*' The GNMP describes Greater Newcastle as follows:

'An emerging metropolitan city with global appeal Greater Newcastle's recent economic renaissance indicates that it has both the capacity and resilience to respond to global megatrends of change and the competitive pressures they pose. Globalisation has made Greater Newcastle more integrated with the world economy and this trend is set to continue. Growth in China and India will increase demand for resources and resource-related engineering services, food and beverage manufactures, education, tourism and health services from those countries.'

The site is immediately adjacent to the Newcastle City Centre which is described in the *Hunter Regional Plan 2036* (HRP) as the '*centre of Greater Newcastle, the largest regional centre in NSW and the economic, service and administrative centre for the region.*' The HRP further notes that '*the city centre has been transformed by capitalising on its active port, vibrant waterfront and heritage. It hosts more residents, students, businesses, researchers, educators and entrepreneurs than ever before.*'

The site is located approximately 1km from the University of Newcastle's City Campus and 8.5km from Callaghan Campus, 2km from Newcastle Port and 15km from Newcastle Airport.

The location of the site relative to the centres of Newcastle, Charlestown, Broadmeadow, Kotara, Glendale, Maitland and Raymond Terrace, as well as the Newcastle Airport and Newcastle Port, is illustrated at Figure 1.



Figure 1: Regional context of subject site (Source: Greater Newcastle Metro Plan 2036)

3.2. Local Context

3.2.1. Character and Zoning

The site is located within a cluster of former and current government institutions consisting of the Newcastle Police Station, former Newcastle Court House (the site) and James Fletcher Hospital. The surrounding area is characterised by a mixture of commercial, residential and recreational uses within *The Hill Heritage Conservation Area*. The locality is characteristic of an established urban area with areas of open space.

To the north of Church Street is land zoned R4 High Density Residential, which continues down Bolton Street to land zoned B4 Mixed Use, SP3 Tourist and RE1 Public Recreation. To the east beyond Watt Street is land zoned RE1 Public Recreation. To the south is land zoned SP2 Health Services Facility, while west along Newcomen Street is land zoned R3 Medium Density Residential (see Figure 2).

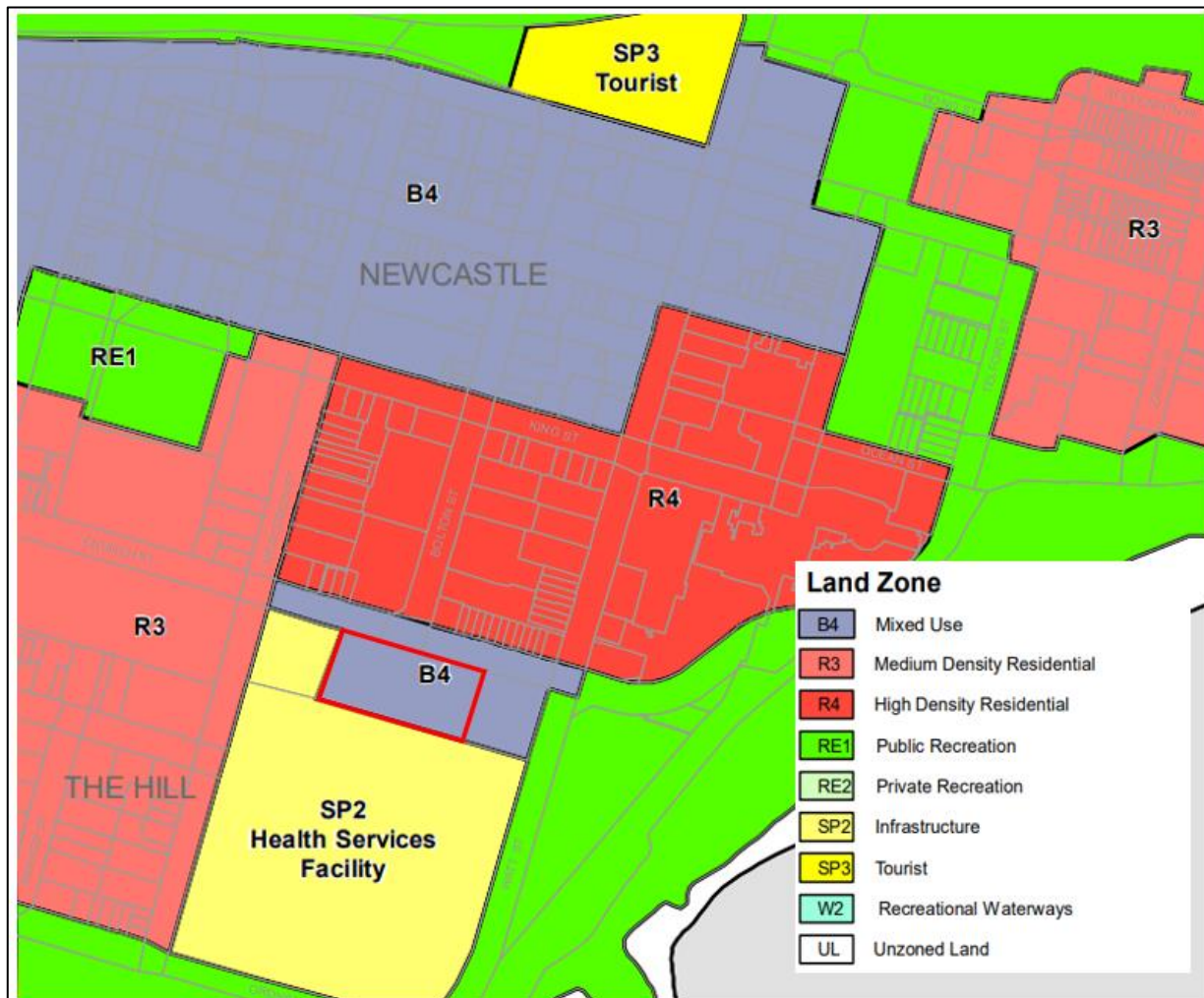


Figure 2: Current zoning of site and surrounding area, site outlined in red (Source: NLEP 2012)

3.2.2. Surrounding Development

Existing development in the vicinity of the site is described below:

- **North:** The intersection of Church Street and Bolton Street adjoins the site to the north. Directly opposite, on the north-eastern side of the intersection is the Grand Hotel and adjoining residential terraces, all of which are 3-storeys in height. To the north-west of the intersection is the new 5-storey 'Parque Apartments' (currently under construction, nearing completion), which sit within the grounds of the state heritage-listed item known as the 'Former Newcastle East Public School.' A number of residential terraces front Church Street to the north-west of the site.
- **East:** The 4-5 storey brutalist-style Newcastle Police Station and associated telecommunications tower directly adjoins the site to the east. The Police Station is located at the corner of Church and Watt Street. On the eastern side of Watt Street is Fletcher Park, which provides open space, mature Norfolk Island Pines and seating facilities. Further to the east is a cliff face that falls to Shortland Esplanade and Newcastle Beach.
- **South:** The site immediately adjoins James Fletcher Hospital campus which provides psychiatric rehabilitation services and general mental health care. The campus consists of numerous buildings of 1-2 storeys in height, ranging in architectural styles from colonial to modern, as well as private recreational grounds, an internal road network and car parking. The campus, including its grounds, form part of the state heritage-listed item known as 'Newcastle Government House and Domain'.
- **West:** Adjoining the site to the west is an additional 2-storey component of the James Fletcher Hospital campus. The building is situated on an elevated lot, approximately 1.5m higher than the site. Further to the west, beyond Church Street, is the private educational establishment known as 'Newcastle Grammar School'. The school campus comprises a number of 2 and 3 storey buildings, including the local heritage-listed 'Berkeley House Building' and 'Merrick House Building'.

Views of surrounding development are provided in the following photographs.



Figure 3: Existing commercial development and 'Former Newcastle East Public School' fronting Bolton Street to the north of the site (photo looking south)



Figure 4: Existing residential development and Newcastle Police Station fronting Church Street to the east of the site (photo looking east)



Figure 6: Existing development along Church Street, including the Grand Hotel at the corner of Bolton and Church Street (photo looking east)



Figure 5: New 5-storey 'Parque Apartments' currently under construction to the north-west of the site (photo looking north-west)



Figure 8: Existing building forming part of the James Fletcher Hospital fronting Church Street, adjoining the site to the west (photo looking south)



Figure 7: James Fletcher Hospital campus adjoining the site to the south (photo looking north)

3.2.3. Key locality features

Key features of the local context are as follows:

- **Public transport and walkability:** Numerous bus routes provide services along King Street, with the closest bus stop approximately 170m from the site's Church Street frontage. As shown in Figure 9 below, the site is approximately 425m walking distance from the Queens Wharf light rail station or 470m from the Newcastle Beach station, which connect to the Wickham Transport Interchange. The Interchange connects heavy rail, local buses and taxis. Numerous sites of interest are also within walking distance, including Newcastle Beach (435m), the Cooks Hill Medical Centre (1km), and multiple shops, general practitioners and services along Watt, King and Hunter Streets.

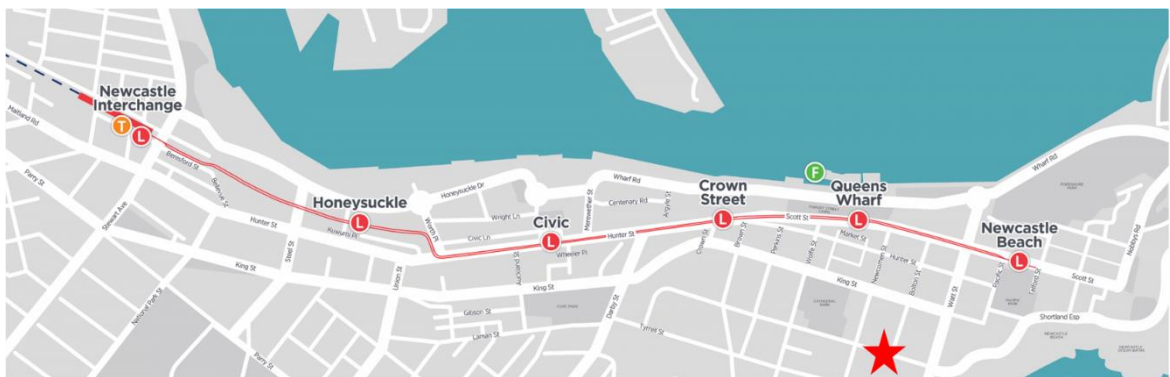


Figure 9: Newcastle Light Rail Map, site indicated with red star (Source: Revitalizing Newcastle website)

- **Administrative, cultural and educational facilities:** The Newcastle Civic precinct is located less than 1km to the north-west of the site. It contains the primary administrative and cultural facilities of Newcastle, including the City of Newcastle Administration Building, Newcastle Courts Complex, the Newcastle Museum, Art Gallery, Civic Theatre, City Hall, and the University of Newcastle's New Space Campus. The precinct also contains major public open space in the form of Wheeler Place and Civic Park.
- **Recreational opportunities:** King and Hunter Streets in the vicinity of the site provide for a range of retail, dining and entertainment activities. The site is in close proximity and provides easy access to the coast line and numerous beaches, sporting fields and parks.
- **Key views:** Due to the site's elevated position at the southern end of Bolton Street, the site benefits from a northern vista of the falling streetscape along the entire length of Bolton Street, terminating at the former Newcastle Train Station. Additionally, the site also benefits from views along Church Street to the east where the streetscape ends with Norfolk Island Pines in Fletcher Park and the Newcastle Beach Horizon. Some views to the Cathedral or also available to the west. The former Courthouse building within the site provides an impressive terminating focal point to Bolton Street, when viewed from the north. The site does not contain any 'key views' or 'vistas', as identified within the *Newcastle Development Control Plan 2012*.
- **Heritage:** The surrounding area is located within *The Hill Heritage Conservation Area* and contains numerous locally and state significant heritage items and potential archaeological heritage items. Additional discussion in relation to the site's heritage context is provided in Sections 3.3.6 and 9.2.2 of this EIS.

Site Analysis Drawings have been prepared for the proposal by Moir Landscape Architecture and Azusa Sekkei and are attached at Appendices 3 and 2, respectively. These illustrate the local environmental, planning and development context. An extract of one of these site analyses is shown at Figure 10 below.

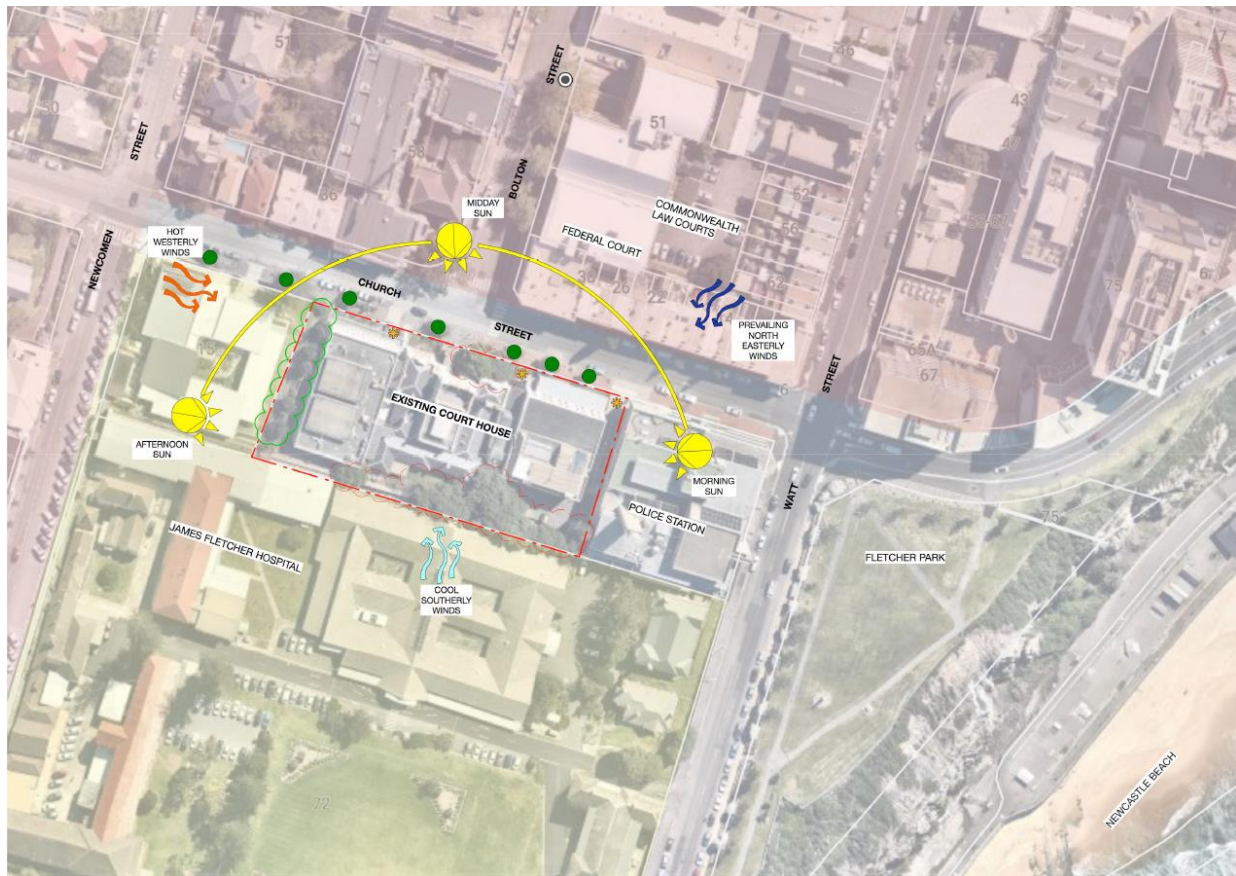


Figure 10: Site Analysis (Source: Moir Landscape Architects)

3.2.4. Strategic Planning Context & Desired Character

The Newcastle Local Planning Strategy (NLPS) describes Newcastle East as 'at its eastern end, there is commercial and retail activity focused on the former Hunter Street Mall. Residential uses are dispersed throughout this area. Taking advantage of the high level of amenity, a cluster of high-rise tourist and visitor accommodation has been developed overlooking Newcastle Beach'. It envisages the future character of the area as follows: 'a balance will be created between the residential/tourist mix and the historical character of Newcastle East'.

The key objectives for new development in the area (as contained within the NLPS) are to:

*Promote the active use of the harbour foreshore area and other open space areas;
Provide for development that enhances the existing heritage character; and
Protect the rich heritage of Newcastle East, its diverse land uses, building ages and architectural styles.*

The subject site sits outside of the north eastern portion of the Newcastle City Centre character area, known as 'East End' under the Newcastle Development Control Plan 2012 (see Figure 11).

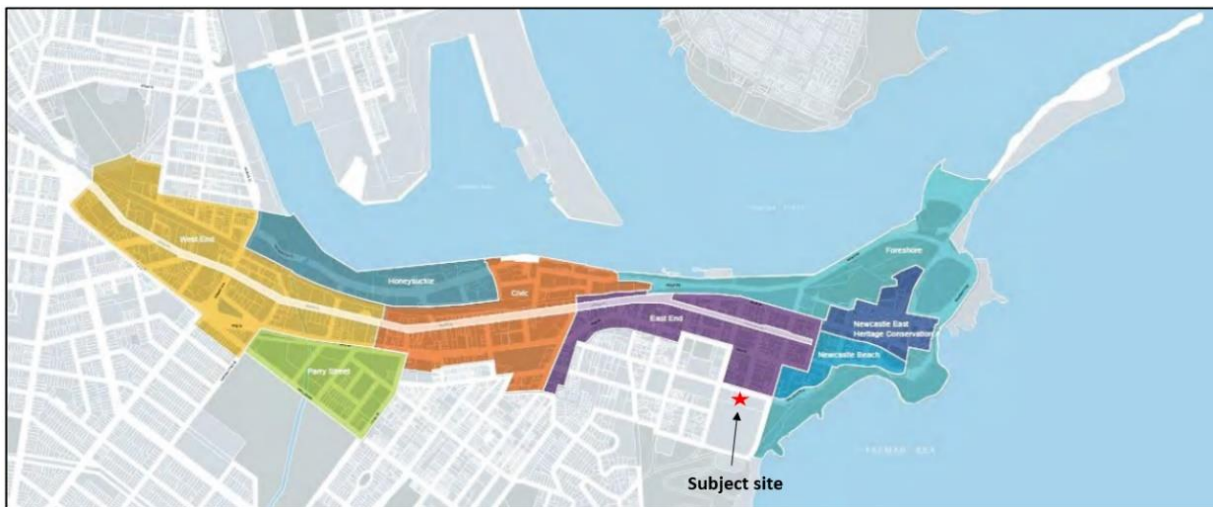


Figure 11: Extract of the Character Areas and Key Precinct Map (NDCP 2012)

3.3. The Subject Site

3.3.1. Site Details

The subject site is located at No. 9 Church Street, Newcastle, and is legally described as Lot 1 in DP 1199904. The site is under the ownership of Nihon University Group.

Plans showing the site's location, an aerial view and Deposited Plan details are provided at Figures 12-14.

The site is predominantly rectangular in shape, has an area of approximately 5,194m² and frontage to Church Street of approximately 100.27m (see the *Detailed Survey* at Appendix 4 of this EIS).

Church Street in the vicinity of the site adopts a gradual west to east slope. The site has been cut and retained along the southern and western side boundaries to create a relatively flat block, with some slightly north-east and east sloping areas. As a result, the western portion of the site is positioned up to approximately 2.5m below the adjacent Church Street footpath.



Figure 12: Site location (Source: SIX Maps)



Figure 13: Aerial view - July 2018 (Source: Nearmap)

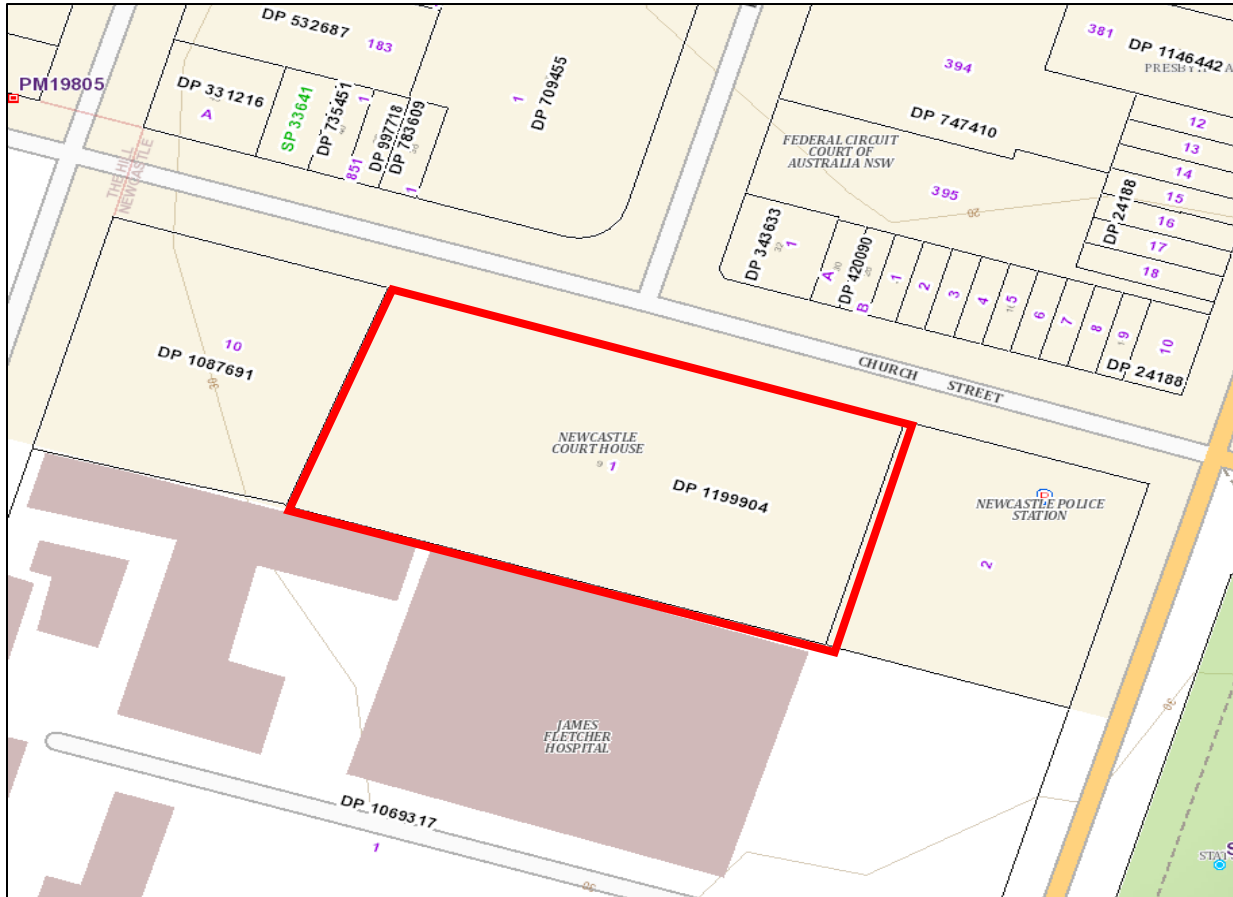


Figure 14: Deposited Plan (Source: SIX Maps)

3.3.2. Easements

As shown on the *Detailed Survey* at Appendix 4, the site is subject to the following easements:

- Rear boundary: Easement to permit encroaching structure to remain (0.05m & 0.75m wide) plus right of foot way (2.51m wide)
- Eastern boundary: restriction of use easement (3m wide) plus easement for services (1.7m wide)
- Western boundary: Easement for services (variable width, approximately 5m wide)
- Central portion: Easement for drainage of water (3m wide, limited in height)

3.3.3. Existing Development

The site currently accommodates the former Newcastle Courthouse, a part 3 / part 4-storey rendered brick 'grand Victorian Italianate' style building. The former Courthouse building is flanked by 2 non-original 3-storey buildings, comprising the eastern Administration Building constructed in 1949 and the western Supreme Court Building constructed in 1966.

The former Courthouse building was designed by Colonial Architect James Barnet and completed in 1892. The design of the building is symmetrical, with a large arched tower entrance and recessed portico leading to the central courtroom at Level 1. Parts of the former Courthouse building were altered and renovated in the early 1980s and repaired in 1991 after the Newcastle earthquake. Currently, the former Courthouse building accommodates the following key components:

- Ground Level: Prisoner cells; a court room, waiting room, staff room and book storage room; plant and servicing areas
- Level 1: pedestrian entrance and lobby; court rooms and associated magistrate, judge and judge's associate's rooms; offices and amenities
- Level 2: storage, kitchen, office and gallery
- Level 3 / Roof level: storage room
- Pedestrian access: the main access to the building is at level 1 via steps from the adjacent street level.

The originally-constructed eastern building almost doubled in size during renovations undertaken in 1982, with other minor additions occurring in 2005. The 1982 renovations involved internal refurbishment of the eastern building, a new 3-storey addition at the rear of the building, a public waiting area on the ground floor, ramps for disabled access to the main Courthouse, 2 courts of petty sessions and a 30m reinforced concrete prisoner tunnel linking the courthouse complex to the Police Station to the east.

Limited works have been undertaken to the western building, which accommodates car parking, servicing areas and prisoner cells at ground level; 2 courtrooms and associated judge, jury and judge's associate's rooms, offices and amenities at level 1; and amenities, 2 libraries, defendant rooms and other associated rooms at level 2.

As a result of the surrounding landform and slopes, the western building has been cut into the site's slope with a ramped pedestrian access to level 1. Undercover car parking (16 spaces) is located at ground level of the western building, accessible via a 2-way driveway crossing from Church Street. The car parking is partially underground at the western extent of the building and undercroft for the remainder.

An at-grade hardstand carpark area is located in the south-eastern corner of the site, behind the eastern building. The carpark accommodates approximately 18 car parking spaces and is accessible from Church Street via a 1-way gated driveway running along the site's eastern boundary.

Brick retaining walls have been constructed along the southern and western boundaries of the site, ranging between approximately 2m and 6m in height. These walls serve to retain structures within the James Fletcher Hospital. As shown in Figure 15, the western retaining wall supports part the garden area of the adjoining Hospital campus.

A cast iron palisade fence is located along the site's Church Street boundary.

Existing development within the site is illustrated in the *Site Plan* at Appendix 2, Figure 15, and the photos below.



Figure 15: Existing northern elevation (Source: Azusa Sekkei)



Figure 17: Existing former Courthouse building fronting Church Street opposite intersection with Bolton Street (photo looking south)



Figure 16: Existing Administration Building fronting Church Street (photo looking south)



Figure 18: Existing Supreme Court Building and access ramps fronting Church Street (photo looking south)



Figure 19: Existing 2-way driveway from Church Street to Supreme Court Building car park (photo looking south)



Figure 21: Existing development within site fronting Church Street, including front landscaping and street trees (photo looking south-west)

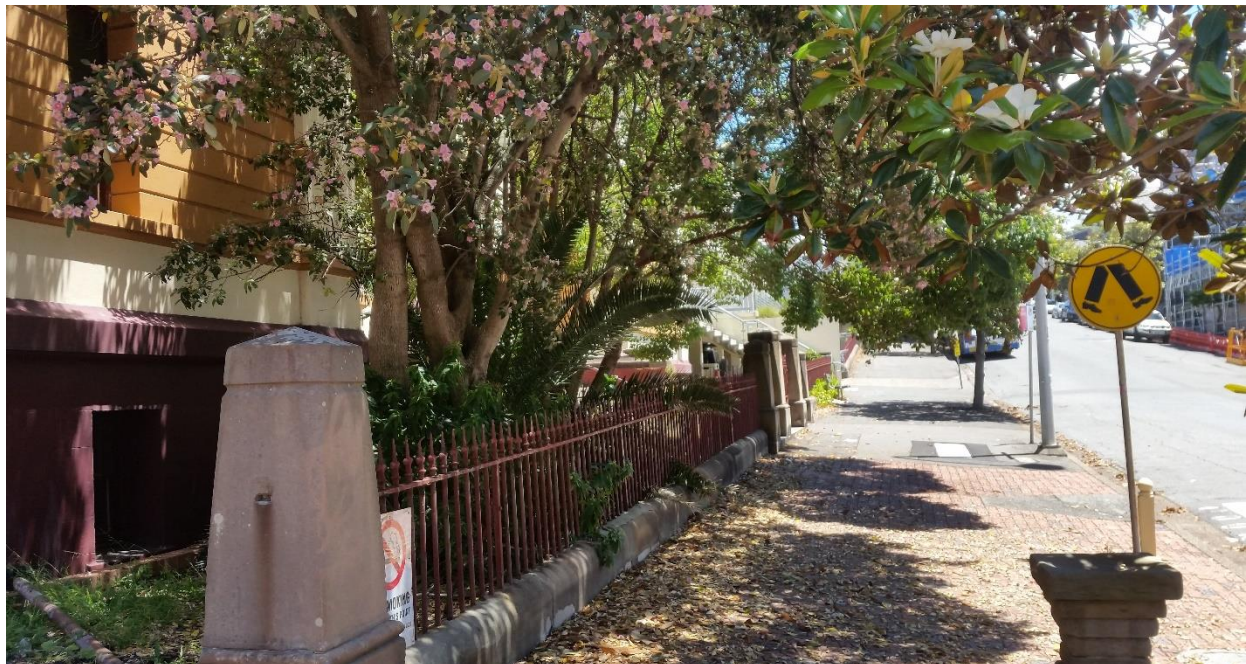


Figure 20: Site frontage to Church Street, including original front fencing and plinth (looking west)



Figure 23: Site frontage to Church Street, including original front fencing and plinth (looking west)



Figure 22: Existing gated service driveway off Church Street along site's eastern boundary, adjoining Newcastle Police Station (looking south)

3.3.4. Current use

As part of the 2011/12 Budget, the Department of Attorney General and Justice (DAGJ) was granted \$94 million for the acquisition and construction of a new courthouse facility in Newcastle. On behalf of the DAGJ, Government Property NSW acquired a site at 353 Hunter Street, Newcastle to establish the new facility. Construction of the new 7-storey courthouse facility commenced in December 2012 and was completed in April 2015.

The function of the courthouse on the site ceased following the opening of the new courthouse facility in 2015. The courthouse and annex buildings were subsequently declared surplus to Government requirements and the site was disposed of by an open market competitive process. The site is currently unused.

3.3.5. Zoning

The site is zoned B4 Mixed Use under the *Newcastle Local Environmental Plan 2012*, as shown in Figure 2.

3.3.6. Heritage

The subject site is located within *The Hill Heritage Conservation Area* and is identified as a heritage item of state significance, known as the 'Courthouse'. Part of the site also forms part of another state-listed heritage item, known as the 'Newcastle Government House and Grounds', which comprises a cluster of former and current government institution. Additional discussion in relation to the site's European heritage context is provided in Section 9.2.2 of this EIS.

It is likely that insitu or non insitu Aboriginal objects and/or deposits of conservation value are present within the site. The site may be of spiritual and ceremonial significance, hold high cultural significance with intrinsic value to the Aboriginal community and hold information regarding cultural activities of the area. Refer to Section 9.2.3 of this EIS for additional discussion of aboriginal heritage matters.

In terms of the site's archaeological potential, moderate potential exists for intact evidence of a below ground brick-lined, post-1861 culvert to the east of the former courthouse building within the site. Refer to Section 9.2.4 of this EIS for additional discussion of archaeological matters.

3.3.7. Key Natural Environmental Constraints

The site is located in an established urban area and is relatively unconstrained in terms of natural environmental constraints. Key natural environmental features or constraints of the site are as follows:

- The site is located within the NSW coastal zone, partly within the 'Coastal Environment Area' (and wholly within the 'Coastal Use Area' (see Section 7.8.4 of this EIS for further details).
- It is mapped as containing Class 5 Acid Sulfate Soils.
- The site is located within the Newcastle Mine Subsidence District. Investigations of the site found that the site has been previously undermined. Existing pillar stability and subsidence parameters are discussed in Section 9.5.2 of this EIS.
- Existing filling identified during the geotechnical investigation and the presence of an underground fuel storage tank within the adjacent Police Station site could be potential sources of contamination (see Section 9.5.4 of this EIS for further details).

- Existing vegetation within the site comprises non-native scattered trees, shrubbery and unmaintained grass. Trees and landscaping within the site were generally planted during the 1980s following the upgrades to the court buildings. Existing site vegetation is in poor condition. Tree plantings consist mostly of mature and semi mature *Lagunaria patersonii* (Norfolk Island Hibiscus) and several other exotic species that are generally located in the southern portion of the site. Five *Magnolia Grandiflora* (Little Gem) are located in Church Street fronting the site.

4. THE PROPOSAL

4.1. Overview

The proposal involves the conservation, adaptive reuse and expansion of the State heritage-listed *Courthouse* as an educational establishment with associated student accommodation.

In summary, the proposal involves the following key aspects:

- Demolition of the existing Administration Building and Supreme Court Building;
- Change of use of to the former Courthouse building from a 'public administration building' to an 'educational establishment' (proposed 'Public Building', to be utilised by both students, staff and the general public);
- Minor internal demolition works and alterations to the former *Courthouse* building to improve functionality and meet Building Code of Australia and accessibility requirements;
- Construction of two new part 3, part 4-storey buildings consisting of a 108 bed 'Residential Building' and an 'Education Building', both connected to the proposed 'Public Building' by atria;
- The 'Residential Building' is to contain an in-house 'food and drink premise' (cafeteria) at ground level;
- Service vehicle access from Church Street along the existing eastern boundary driveway;
- Ground Level car parking accommodating 20 spaces, 1 motorcycle space and 22 bicycle spaces;
- Site preparation works including removal of 29 trees within the site, earthworks, remediation works and installation of ancillary services and infrastructure; and
- Public domain works, site landscaping and rooftop communal open space.

The new 'Residential Building' would form part of the campus complex dedicated to student accommodation and support facilities, while the 'Education Building' would be dedicated to educational spaces. The former Courthouse building would house the campus' administration and management facilities as well as the conference room.

Further detail of the proposed development is provided in the *Architectural Plans* prepared by Azusa Sekki at Appendix 2, and in Section 4.4 of this EIS below.

4.2. Objectives of the Proposal

Currently operating as a private tertiary institution within Japan, Nihon has selected the former Newcastle Court House as the site on which to open its first international campus.

Nihon's vision for the new campus is to serve as a hub for international language exchange programs, primarily for Japanese students of Nihon University to learn English in an international environment, as well as for students of the University of Newcastle to learn Japanese culture and language. This is supported by a Memorandum of Understanding with the University of Newcastle.

The overall objectives of this proposal are to:

- Deliver a built form outcome that is sympathetic and in keeping with the former Courthouse building, by delivering an approach which is simple, expressive, timeless, symmetrical and with a touch of Japanese influence.

- Create an inclusive, welcoming and equitable environment, promoting a diverse multicultural experience for all users.
- Provide a safe, comfortable and liveable environment for all building users.
- Provide new, modern facilities that are fit-for-purpose for Nihon for now and into the future, while allowing for future flexibility to allow for adaption to new uses in the future.
- Provide teaching spaces, dormitory-style student accommodation and associated facilities to accommodate a rotating cohort of Nihon students.
- Provide students with the opportunity to develop legal skills within a courthouse environment.
- Provide opportunities to host mock-up trials with students of the University of Newcastle, public lectures and other cultural and academic events.
- Minimise any potential adverse impacts on surrounding land uses.

4.3. Justification for the Proposal

The application will result in the conservation, adaptive reuse and expansion of a currently unused State heritage-listed *Courthouse*. The site is located in close proximity to various public transport nodes and a wide range of services, to meet the needs of future staff and students.

The proposal will provide a boost to the city's educational capacity and facilitate innovation and cultural exchange. It would also contribute significantly to the economic wellbeing of the community through the creation of up to 100 jobs during the construction phase, and through the accommodation of up to 108 educational workers and students during operation. Additionally, the proposal establishes a student and working population which will support nearby commercial centres and shops.

The proposal strongly aligns with state strategic objectives for the area, including the *Greater Newcastle Metropolitan Plan 2036*, by strengthening Greater Newcastle's position as a major university city, with campuses for a diverse range of international universities. Importantly, the GNMP makes specific reference to the NSW Government's commitment to the establishment of Nihon University at the site, forming part of the Metropolitan education and innovation cluster. The proposal is therefore a direct positive contribution towards the realisation of the NSW Government's strategic vision for the region and the site.

The proposed alterations and additions have been sensitively designed to complement and protect the heritage significance and character of the former Courthouse building and surrounding heritage values. No adverse amenity or environmental impacts are anticipated as a result of the proposal. The proposal is consistent with existing and surrounding development and is considered appropriate in this location.

The proposal incorporates the principles of Ecological Sustainable Development through the environmental amenity considerations of the design, as well as through the implementation of the recommended mitigation measures detailed within the specific environmental assessments.

4.4. Detailed Description of Proposal

4.4.1. Development Statistics

The key statistics and elements of the proposal are summarised in Table 5 below.

Table 5: Development Statistics

Element	Proposal
Site Area	5,194m ²
Gross Floor Area (GFA)	Existing building (former Courthouse): 1,664m ² Proposed Education Building: 1,754m ² Proposed Accommodation Building: 3,187m ² Total: 6,605m ²
Floor Space Ratio (FSR)	Existing: 0.96:1 Proposed: 1.3:1
Maximum Building Height	Existing building (former Courthouse): 4 stories, no basement, RL 41.20m (to Top of Parapet) - 18.9m Proposed Education Building: part 3 / part 4 stories, no basement, RL 38.60m to top of lift shaft - 16.6m Proposed Accommodation Building: part 3 / part 4 stories, no basement, RL 38.90m to top of lift shaft - 16.6m
Accommodation	Student: 100 rooms Staff: 8 rooms (7 staff and 1 University Exchange Coordinator)
Vehicle Parking	20 car spaces (including 2 accessible) 1 motorcycle space 22 bicycle spaces
Landscaping and Open Space	Landscaping: 735m ² (including 75m ² deep soil) Communal Open Space: 1191m ²

4.4.2. Site Preparation and Ancillary Development

The development will involve the following site preparation works and ancillary development:

- Removal of the 29 trees within the subject site, hardstand areas, and existing drainage infrastructure.
- Demolition of the existing non-original southern and western buildings.
- Site remediation works, as required, in accordance with the remediation strategy that is currently being prepared (at the time of writing).

- Bulk excavations, in the range of 0.8 to 1.2m below existing ground level, to form the new building design levels following demolition. The new building footprints will extend from the existing building envelopes to within approximately 2-3 m of the brick retaining wall at the southern boundary.
- Locally deeper excavations are proposed in association with the following works:
 - Installation of services and drainage infrastructure
 - Construction of three new lift pits, one adjacent to the south-west portion of the former Courthouse building structure and two to the south-east adjacent to the existing tunnel (depths in order of 2m)
 - Establishment of strip footings (depths in the order of 0.4m to 2.2m)
 - Excavation for piles (depths in the order of 10m)
- The existing underground tunnel will be retained as much as practicable, subject to further geotechnical and structural investigations. The proposed building above the existing tunnel will be designed to bridge the existing tunnel. The connection to the police station will be blocked off with a new internal wall, at the location of the 3m wide Land Restriction Easement.
- Installation of ancillary services and infrastructure, including:
 - a below-ground rainwater tank near the site's rear boundary and connection to Council's stormwater system in Church Street.
 - a 600 KVA Pad mount kiosk at the north-west corner of the site, with the main switchboard located in the adjacent carpark of the Education Building.

4.4.3. Key Development Features

The proposed development has been designed to respond to a number of key considerations including the site analysis; the heritage significance of the site and surrounding area, including the recommendations of the site *Conservation Management Plan* (2015); existing and future built form; environmental amenity and functionality for future users; the principles of ESD; the DCP controls; the NSW Government Architect's 'Better Placed' design objectives; and specific advice obtained from Council's Urban Design Consultative Group and the OEH Heritage Division.

The proposed development incorporates the following key built and design features:

- Maximum building height of 18.9m (existing) or 16.6 (proposed), and a Floor Space Ratio of 1.3:1.
- Along the Church Street frontage, the heights of the new buildings are significantly lower than the former Courthouse building. The fourth storey and plant areas are contained to the southern/rear part of the site and are not visible from street level.
- The new buildings adopt the following setbacks:
 - 6m from Church Street to align with the existing façade of the former Courthouse building;
 - 3m from the southern boundary;
 - 5m from the eastern boundary;
 - Between 1m and 4.5m to the west from the existing retaining wall of the easement.
- The colour of the new buildings will complement and follows the existing colour scheme used on the former Courthouse building, toned down to make the whole building complex balance the surrounding environment. Generally, an earth-inspired colour scheme will be adopted.

- The two new built forms either side of the former Courthouse building are clearly defined elements between the old and new. The new built forms have a similar non-expressive language so that the details of the heritage courthouse façade are emphasised. The new buildings are connected by glass atrium structures to transition between the old and new.
- The atriums allow retention of the former Courthouse building's external side walls within and above the atriums, providing a unique space to allow stairs and ramps to the various levels of the former Courthouse from the new buildings.
- The new built forms have a strong featured L-shape wall and eave, and are aligned with the former Courthouse parapet line to emphasise a horizontal language.
- The ground floors of both new buildings contain unique functions. As such, the façade treatment above these functions is treated differently, to make the upper two storeys appear to float above the ground plane.
- Fronting on to Church Street, the two new built forms contain double height timber effect louvre screen panels, inspired by the language of a Japanese shoji screen. These screens are used to control solar heat gains and assist in privacy both to and from the buildings.
- The louvre screens have purposefully been designed differently between both new buildings to match the differing functions of each building: e.g. a smaller individual louvre screen for the accommodation building, as opposed to a more open louvre screen for the education classrooms.
- The side elevations and the rear façade of the new buildings will comprise of concrete/render finish and prefinished lightweight panel system, with expressed punch window openings.

Figures 24 and 25 show artist's impressions of the proposed development as viewed from surrounding areas. Additional artist's impressions and detailed plans are provided at Appendix 2 of this EIS.



Figure 24: Artist's impression of proposed development as viewed from Church Street, looking west (Source: Azusa Sekkei)



Figure 25: Artist's impression of proposed development as viewed from the intersection of Church Street and Bolton Street (Source: Azusa Sekkei)

4.4.4. Public Building (former Courthouse building)

The former Courthouse building will be retained, conserved and adaptively reused to provide administrative and management facilities, as well as an open public facility with a lecture hall, libraries, multipurpose hall and amenities.

As demonstrated on the *Conversion Plan* (Drawing A-010) at Appendix 2, the following minor internal and external demolition works, alterations and additions are proposed to the existing building to facilitate the proposed use:

- Ground Level:
 - Conversion of existing public waiting area, domestic violence room and courtroom (No. 6) to administration office area, locker and teacher's room, respectively
 - Conversion of existing control and staffroom to amenities
 - Demolition of existing internal stairways, steps, raised floor levels and a lift to meet accessibility standards
 - Introduction of new lift and stairs with connection to Residential Building
 - Introduction of new internal wall openings between some existing rooms
- Level 1:
 - Conversion of existing legal aid room and existing court room (No. 5) to lounge area and adjoining office
 - Connection and conversion of existing magistrate room (No.1), judge's associate (No. 4) room and judge's room (No. 4) to library cafe area with adjoining terrace
 - Connection and conversion of existing judge's associate room (No. 3) and remote witness room (No. 2) to classroom
 - Reconfiguration of existing amenities and conversion of existing jury room (No. 3)
 - Demolition of existing internal stairway and steps
- Level 2:
 - Conversion of existing probation officer room to staff room
 - No physical changes
- Level 3:
 - Conversion of storage room to usable area
 - Introduction of roof terrace around existing void with connection to the roof terrace to Education Building

The re-use of the two old courtrooms at Level 1 for mock trials allows for their complete retention as courtrooms, inclusive of the Dock and Jury area, the Witness Box and legal tables, as well as associated basement cells.

The Public Building will include the following key components:

- Ground Level:
 - Administration office room with connection to new Residential Building, a locker room and teacher's room
 - 6 subfloor rooms and 1 monitor room

- 2 cell rooms and 2 general rooms and 1 interview room
- A library and adjoining room
- Female, male and accessible amenities
- Corridors and circulation space, including connection to the new Residential and Education Buildings
- Level 1:
 - An entry lobby
 - Lecture hall and multi-purpose room
 - Loungeroom
 - Gallery and storage
 - Conserved judge room, magistrate room and 2 professors' offices
 - An outdoor terrace
 - New and old library
 - Female, male and accessible amenities
 - Corridors and circulation space, including connection to the new Residential and Education Buildings
- Level 2:
 - A lobby with adjoining gallery
 - A small kitchen and staff room
 - A small ancillary room
- Level 3:
 - An antechamber
 - A roof terrace with connection to the roof terrace to Education Building

Primary pedestrian access to the Public Building will be via the main campus entrance, located at the north-western corner of the proposed Residential Building.

4.4.5. Education Building

The existing Supreme Court Building (western building) will be demolished and replaced with a new part 3 / part 4-storey building. The new building will accommodate three floors of classrooms above ground level car parking. A variety of classroom sizes are proposed to provide flexibility, positioned around a central void and lounge area over Levels 1 and 2.

The building will include the following key components:

- Ground Level:
 - 20 car parking spaces
 - 1 motorcycle space
 - 22 bicycle storage spaces
 - 2 stair accesses and 1 lift to the building's upper levels, as well as separate external stairs
 - Main switch board room
- Level 1:

- 7 small classrooms ranging in size from 30m² - 64m², 3 of which form a flexible active learning space (171m²)
- 2 language rooms (51m² and 42m²)
- An open lounge area (57m²) adjacent to a terrace (46m²) with void to above and below
- 3 storage rooms (20m² - 22m²)
- Accessible, female and male amenities
- Service rooms
- Circulation corridors, connection to the Public Building, and 2 stair and 1 lift accesses to the building's upper and lower levels, as well as separate external stairs
- Level 2:
 - 7 small classrooms ranging in size from 30m² - 64m², 3 of which form a flexible active learning space (171m²)
 - 2 medium sized classrooms (66m² and 68m²)
 - An open lounge area (28m²) adjacent to a terrace (15m²) with void above and below
 - 3 storage rooms (13m² - 20m²)
 - Accessible, female and male amenities
 - Service rooms
 - Circulation corridors and 2 stair and 1 lift accesses to the building's upper and lower levels
- Level 3:
 - 2 small classrooms (28m² and 38m²)
 - 1 lecture room (128m²)
 - An outdoor roof terrace with seating and garden areas and connection to roof terrace above the Public Building
 - Accessible, female and male amenities
 - Service rooms
 - Circulation corridors and 2 stair and 1 lift accesses to the building's lower levels
 - Mechanical plant areas

Primary pedestrian access to the Education Building will be from the main campus entrance, leading through the Public Building.

4.4.6. Residential Building

The existing Administration Building (eastern building) will be demolished and replaced with a new part 3 / part 4 storey building. The building will provide 100 individual rooms for students, 7 teacher accommodation rooms for professors and long staying researchers, 1 staff accommodation room for the 1 University Exchange Coordinator, as well as shared facilities (including a cafeteria, lounge areas and terraces).

Student rooms will accommodate single beds, storage and a study desk. Rooms will be clustered into 'units' comprising 2-4 rooms each, directly connected to a shared lobby space with a single access point from the internal corridors. Provision of student rooms is proposed as follows:

- 3 x 2 room units (6 student rooms), ranging in size from 25-33m² per unit

- 6 x 3 room units (18 student rooms), ranging in size from 36-45m² per unit
- 19 x 4 room units (76 student rooms), ranging in size from 52-57m² per unit

The University Exchange Coordinator room will be 45m² in size and will include a separate kitchen, living and dining room, bedroom and bathroom. The teacher accommodation rooms will include beds, storage and study desks, kitchenettes and private bathrooms. Five of the teacher accommodation rooms will be 18m² in size, while the remaining two will be 29m² in size including space for a small dining table.

The new building will include the following key components:

- Ground Level:
 - Pedestrian entrance from the street
 - A student cafeteria and lounge area with adjacent outdoor terrace fronting the street and a kitchen
 - 6 student accommodation rooms (with shared lobbies)
 - 1 staff accommodation room
 - Accessible, female and male amenities
 - Separate laundry and housekeeping rooms
 - Servicing rooms, including 2 centralised garbage rooms, loading space, mechanical rooms, store room, main switch board room
 - Circulation corridors, connection to the Public Building, and 2 stair and lift accesses to the building's upper levels
- Levels 1 and 2:
 - 43 student accommodation rooms (12 shared lobbies) on Level 1 and 44 student accommodation rooms (12 shared lobbies) on Level 2
 - A terrace on each level
 - Accessible, female and male amenities on each level
 - Storage and service rooms on each level
 - A laundry room and kitchen on each level
 - Circulation corridors, connection to the Public Building, and 2 stair and lift accesses to the building's upper and lower levels
- Level 3:
 - 7 student accommodation rooms (2 shared lobbies)
 - 7 teacher accommodation rooms
 - Accessible, female and male amenities
 - Storage and service rooms
 - A laundry room
 - Circulation corridors, connection to the Public Building, and 2 stair and lift accesses to the building's lower levels
 - An outdoor roof terrace with seating and garden areas
 - Mechanical plant areas

4.4.7. Signage

Identification signage, in the form of a red logo and silver metallic letters fixed to a new wall fronting Church Street, is proposed in front of the new Residential Building. The wall is required to be constructed adjacent to the main site service point beside the driveway entrance for service and delivery vehicles. The wall is a service code requirement and is designed to the minimum acceptable size. The wall will be finished in tiles to match the new building and the signage.

The wall will be approximately 4.2m high and 5.6 wide, while the signage will be approximately 0.8m high and 4.8m wide.

The proposed signage can be carried out as exempt development pursuant to Division 4 and Schedule 1 of *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* (refer to Section 7.8.5 of this EIS).

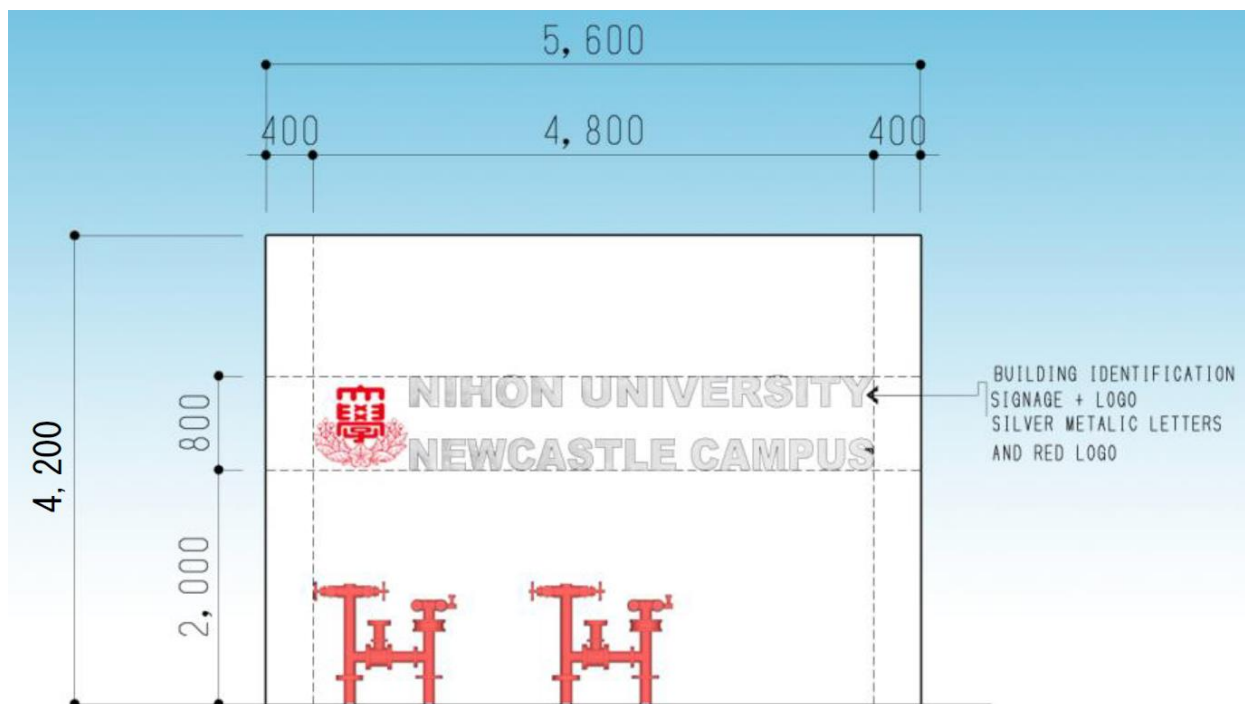


Figure 26: Proposed wall and identification signage (Source: Azusa Sekkei)

4.4.8. Landscaping, Open Space and Public Domain Works

The proposal includes site landscaping, communal open space, and public domain works, as indicated in the landscape documentation prepared by Moir Landscape Architecture (Appendix 3). The intent for the proposed landscaping scheme is to mirror the development's relationship of old and new and to meet student needs for outdoor areas by considering the limited spaces and best use of light and seasonal

variation in the landscape elements. The overall landscape design follows the concepts of 'enhancing student life in Newcastle' and 'the past meets the present'.

An extract of the Landscape Plans showing the proposed front setback landscape treated in provided in Figure 27.



Figure 27: Proposed landscape treatment to Church Street elevation (Source: Moir Landscape Architecture)

Key features of the proposed landscaping scheme are as follows:

- Retention and protection of the 5 street trees fronting the site. Tree protection measures are included in the *Arboricultural Impact Assessment Report* at Appendix 5.
- Retention of existing original cast iron palisade front fencing (with new brick edge to replace existing concrete), bollards and plinth fronting the site
- Retention of the former public bubbler
- Reuse of existing special brick paving in the footpath fronting the site as feature banding around the new front paving, to the kerb edge of the site
- Concrete paving with saw cut in large size for entry plaza
- 2 new feature trees (*Prunus 'Shimidsu Sakura'*, Japanese Flowering Cherry) in open lawn fronting the former Courthouse building
- Low hedge planting (*Gardenia jasminoides*, Cape Jasmine) in terraced concrete planters fronting the new Education Building
- Low hedge planting (*Gardenia jasminoides*, Cape Jasmine) and low maintenance shrubs for privacy (*Westringia fruticosa*, Coastal Rosemary) fronting the new Residential Building
- Retention of existing vegetation along the site's western boundary and introduction of a garden bed with feature planting for seasonal interests
- Random stepping stone in decomposed granite, garden bed with feature trees for seasonal interests (*Acer palmatum*, Japanese Maple) and bamboo screening along rear boundary
- Nature garden with random stepping stones and fern planting (*Cyathea australis*, Rough Tree Fern) between the buildings to the rear of the site
- Rooftop terrace with glazed balustrades, timber decking, shade structures removable timber planters with coastal plantings and zen gardens with feature rocks and decomposed granite paving. The roof top terrace offers a large space for an outdoor relaxation. The wooden deck and a Japanese

zen stone garden at the corner, together with plants in the boxes, would offer a private garden for the exclusive student use.

4.4.9. Vehicular access, parking and servicing

The proposal will continue to utilise the site's existing vehicular accesses off Church Street.

Twenty (20) car parking spaces (including 2 accessible spaces), 1 motorcycle parking spaces and 22 bicycle storage spaces will be provided within the proposed Education Building (western building) at ground floor, accessible via the existing 2-way driveway off Church Street. Vehicle access to the car park will be controlled via an automatic sectional overhead door with secure access control.

Service vehicles will continue to access the site via the existing 1-way driveway off Church Street at the eastern boundary. Servicing of the kitchens and plant areas will be undertaken by small commercial vans and small rigid vehicles with short turnover periods. No large vehicles are proposed to service the site.

Operational waste from the proposed development will be stored in 2 centralised garbage rooms located on Ground Floor of the Residential Building, adjacent to the service driveway. Individual bins will be located throughout each of the buildings for separated recycling and garbage waste. These individual bins will be collected on a daily basis by a cleaner/building manager and transported to the centralised garbage rooms. Waste collection will occur up to 3 times per week and will be undertaken by an independent waste contractor, engaged and managed directly by the building owner. At the time of collection, the building manager will transport the bins to the street via the service driveway.

Vehicular access, servicing and parking provision is demonstrated on the *Car Circulation Diagram & Services* included at Appendix 2 and discussed further in Section 9.4 of this EIS.

4.4.10. Operation Details

The University is intended to operate year-round, offering 24-hour services to students 7 days a week. Teaching periods are to be confirmed at a later date, but are anticipated as follows:

- Yearly / Monthly:
 - The months of March, July-August and December are holiday period in Japan. These periods will be dedicated for the language exchange programs for students from Nihon University and affiliated schools.
 - The months of April-June, September-November, January-February are semester times in Japan. These periods will be dedicated for university students from Nihon to participate in various exchange programs offered, some in collaboration with the University of Newcastle (details are currently under consideration).
- Weekly: The language or other exchange programs will be offered Monday to Saturday and open campus programs will be offered on some Sundays (details are currently under consideration).
- Daily: 8:00am to 8:00pm

Up to 100 Students Japanese exchange students from Nihon University (including junior high students from a related school) would stay at the new campus for one to two months to experience international living and practice English. The students would be housed in the Residential Building and would take English courses in the Education Building.

Although not finalised, it is intended that teaching and training programs will align with the Nihon Faculty of Law's current Curriculum, including mock-up trials. It is also intended to open the doors to students of the University of Newcastle to experience mock-up trials, debating with visiting Japanese students, and cross learn the judicial systems of both countries in the environment of the Courthouse.

It is also planned to organise lectures open to the public in the former Courthouse building (the Public Building), and in some of the classrooms when not in use, as part of social contribution activities of Nihon University. Such open lectures could be on judicial and law matters but also on cultural issues such as Tea Ceremony, Calligraphy, Flower Arrangement, and other cultural-oriented activities.

The cafeteria will be managed by Nihon for student and staff use and will operate daily, between the hours of 6:30am and 10:00pm.

The proposed roof-top terraces will be available for use by students and teachers only, and will not be open to the general public. Students will have access to the roof-top terraces between the hours of 7:00am to 9:00pm, 7 days per week, with use of the roof-top terraces restricted outside these hours.

4.4.11. Jobs creation

It is estimated that the proposed development will result in the following employment generation:

- Construction: The proposal will have the capacity to generate in the order of 100 additional jobs at peak construction time.
- Operational: The intended staff requirements will comprise approximately 8-12 teaching staff and researchers, 5-8 administration staff, as well as approximately 3-4 additional hospitality, cleaning and maintenance staff. Staff numbers are approximate only at this stage, and subject to finalisation of Nihon University's operational requirements.

4.4.12. Cost of Works

The proposed development has a CIV of \$41,237,000.00 (see the *Capital Investment Value Estimate* provided at Appendix 6). The estimated s94A contributions for the proposed development is provided in the *Section 94A Estimate* at Appendix 7. This estimate was prepared having regard to Clause 7.12 of the Regulation. Pursuant to Subclause 7.12(3)(m), the 'costs of any development that is the adaptive reuse of a heritage item' have not been included in the estimate.

4.5. Options Analysis

4.5.1. Analysis of a suitable site

Nihon is a privately-operated tertiary institution within Japan, offering a multi-disciplinary array of educational courses and research projects. It has been actively developing dynamic collaborations with numerous overseas universities and promoting its students to various international exchange programs.

As a commemorative activity to celebrate the University's 130th Anniversary, and as part of the Japanese Government's *New Growth Strategy: Internationalisation of Japanese Universities*, Nihon set a direction to open its first overseas campus and has been investigating candidate sites around the world. Australia was chosen due to its proximity to Japan, and Newcastle was chosen for its quiet and safe city environment that is suitable for a comfortable study environment for exchange students, with support from the University of Newcastle.

To meet Nihon's requirements, a suitable site needed to:

- Support a range of functional teaching spaces, associated student accommodation and other support facilities
- Be in close proximity to good public transport, support services, as well as recreational, social and cultural opportunities
- Be suitably separated from potential noise generating sources
- Be in reasonable proximity to the University of Newcastle campuses, preferably the City Campus due to its law/business focus
- Be located in a safe and secure environment, for the safety of staff and students

The current site was therefore chosen due to its highly-accessible location and its proximity to the City Campus and a range of support services. The former Courthouse building provided a perfect opportunity for Nihon, not only due to its built aesthetic, but its symbolism as a historic law facility and its construction coinciding a year earlier to the establishment of Nihon University law school.

4.5.2. Alternative Designs

A rigorous design process has been undertaken to derive the proposed design option. This process involved two key phases, namely:

- consideration of all viable options for conservation, including retention of the existing non-original buildings, having regard to the *Conservation Management Plan* (2015) and the future use of the site; and
- following the outcomes of the first phase, developing specific building layouts and designs that are functional, accessible and fit for purpose and respect the site's heritage values.

Heritage conservation

Nihon requires the following quantity and configuration of rooms to accommodate 100 students on site:

- 1 large classroom to accommodate 100 students
- 2 Medium classrooms to accommodate 50 students
- 2 Active Learning classrooms with partitions to suit to variable size

- 10 small classrooms for individual teaching with 10-30 seating capacity
- 2 lecture-halls that could also be served as mock-up trial court for teaching purposes
- Offices for professors
- Additional ancillary rooms to cater to student needs, including lounge spaces, toilets and common areas

Having regard to Nihon's operational requirements, the *Statement of Heritage Impact* (SoHI) prepared for the proposed development considered all viable options for the conservation and adaptive re-use of the non-original buildings (see Appendix 8). In summary, the SoHI made the following findings:

- **Administrative Building:** The existing building is substantially undersized for the accommodation of students. Due to extensive renovations undertaken in 1982, the building is practically unrecognisable from its original 1940s design and its heritage contribution to the site is graded as little.
- **Supreme Court Building:** Adaptive reuse of the building to provide the required teaching areas would require the insertion of an additional floor. While technically feasible, insertion of an additional floor would severely compromise the heritage integrity of the building's original internal design. In addition, due to the level differences between this building and the former Courthouse building, achieving accessible access to all levels would be difficult, requiring extensive demolition and re-building work. Adaptive reuse of the building would therefore destroy the interior heritage and require the blank western precast concrete facade to be altered to obtain natural light into the building's new smaller educational spaces. The precast facade to the street, while contributing to the streetscape, is not a unique design and its retention by itself is a form of "facadism".

Design Development

Various design options were considered for the new buildings, out of which four main options were further investigated, namely "Classical", "Louvre", "Glass", and "Balcony". The 'Design Option Studies – 1' drawing (Drawing A011) included within the *Architectural Plans* at Appendix 2 graphically shows the various schemes considered.

Through consultation with Council's Urban Design Consultative Group and the OEH Heritage Division, the "Louvre" Option was determined to be the most appropriate outcome for the following reasons:

- A design that respects the heritage building and emphasises the courthouse facade, with a simple timeless design;
- A symmetric design with strong emphasis of alignment with the courthouse parapet line and footprint;
- A floating composition, where the two new buildings appear to hover over the ground plane and around the heritage courthouse;
- Japanese styled influences through use of timber screens and detailing; and
- Variations in details to give emphasis to the new and old elements.

The final design incorporates the "Louvre" Option and reflects the above design principles.

4.5.3. Impact of not proceeding with the proposal

The 'do nothing' approach involves the proponent not providing an educational establishment at the site. This option was considered undesirable for the following reasons:

- The site could remain unused, particularly given its heritage listing which limits opportunities for redevelopment and reuse;
- Without the site being used, the cost of upkeep to the heritage building could become unmanageable;
- Hindering Greater Newcastle's position as a major university city with campuses for a diverse range of international universities;
- Loss of social and cultural benefits of the community, including opportunities for cross-cultural exchange; and
- Loss of economic benefits to the local community, including the opportunity for job creation and flow on benefits to associated services.

To this end, the impact of not proceeding with the proposal would be unacceptable. A 'do nothing' approach would have implications for the conservation of the former Courthouse building, as well as the economic and social welfare of the Hunter Region and NSW.

5. SECRETARY'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS

This EIS has been prepared to address the issues outlined in Schedule 2, Part 3, Clause 6 and 7 of the *Environmental Planning and Assessment Regulation 2000* and the Secretary's Environmental Assessment Requirements (SEARS) specifically for the development.

The SEARS were issued by the NSW Department of Planning and Environment on 21 December 2018 and a copy is attached at Appendix 1.

Table 6 summarises the SEARS and includes a reference identifying where each requirement has been addressed in this EIS and the accompanying technical studies.

Table 6: SEARS

SEARS / Key Issues	Where addressed in EIS
1. Statutory and Strategic Context	Sections 7 and 8
2. Policies	Section 8
3. Built Form and Urban Design	Section 4 and 9
4. Staging	N/A - the proposal is not a staged/concept DA
5. Environmental Amenity	Section 9
6. Transport and Accessibility	Section 9
7. Ecologically Sustainable Development (ESD)	Sections 7 and 9
8. Heritage	Sections 7 and 9
9. Aboriginal Heritage	Sections 7 and 9
10. Noise and Vibration	Sections 7 and 9
11. Contamination	Sections 7 and 9
12. Utilities	Section 9
13. Contributions	Section 4
14. Drainage	Section 9
15. Biodiversity Assessment	Sections 7 and 9

16. Sediment, Erosion and Dust Controls	Section 9
17. Waste	Section 9
18. Construction Hours	Section 9
Plans and Documents	All of the required plans and documentation stipulated in this section of the SEARs accompany this EIS as appendices.
Consultation	Section 6

6. CONSULTATION

6.1. Agency consultation

6.1.1. SEARs Referrals

During preparation of the SEARs, the DPE referred the SSDA to the following public agencies:

- Transport for NSW
- Office of Environment & Heritage
- Heritage Council of NSW
- Environmental Protection Authority
- Roads & Maritime Services

Table 7 summarises the key issues raised by each agency that was contacted by DPE and includes a reference identifying where each issue has been addressed in this EIS.

Table 7: Agency Referrals

Agency	Date Notified	Response Date	Key Issues	Where addressed in EIS
Transport for NSW	06/12/2018	20/12/2018	Details of the proposal's operation, including teaching periods, and any transport services available to students Prepare a draft Travel Access Guide for teachers and students living on campus	Sections 4 and 9
OEH	06/12/2018	19/12/2018	A BDAR is required, unless a waiver is granted Refer to OEH 2011 <i>Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW</i>	Sections 7 and 9
Heritage Council	06/12/2018	14/12/2018	Prepare a Heritage Impact Statement to assess heritage significance and impacts of the proposal on heritage matters (European and Aboriginal), demonstrate compliance the CMP (2015), recommend mitigation	Section 9

			and management measures, and include an interpretation plan Prepare a Historical Archeological Assessment to identify potential relics, assess their significance and any impacts on archeological matters, and recommend mitigation measures	
EPA	06/12/2018	14/12/2018	No comment/impact	N/A
RMS	06/12/2018	10/12/2018	Refer to relevant RMS and DPE guidelines with regard to traffic and transport impacts Prepare a traffic and transport study including consideration of current site access and traffic movements, anticipate construction and operational traffic generation and predicted traffic movements/flows, construction and operational traffic impacts (cumulative), any necessary road infrastructure upgrades, SIDRA modelling of intersection impacts, other impacts on pedestrians/cyclists and public transport	Section 9

6.1.2. Consultation Overview

Engagement with a variety of government agencies was initiated by the proponent early on in the design process, from August 2018. Additional consultation was undertaken following receipt of the SEARs to clarify agency requirements, discuss methodologies, and to seek feedback. Overall, the engagement process involved consideration of a range of matters, including design, environmental impact and approval pathways, and encompassed the following agencies:

- Ausgrid
- Subsidence Advisory (SA) NSW
- Hunter Water
- NBN Co
- City of Newcastle, including Council's Urban Design Consultative Group (UDCG)
- NSW Department of Planning and Environment (DPE)
- Office of Environment and Heritage (OEH) - Heritage Division
- OEH - Environment Division

- Roads and Maritime Services (RMS)
- Government Architect NSW via Newcastle Council's Urban Design Consultative Group (UDCG)

Table 8 outlines the agencies contacted during preparation of the EIS, the key issues raised by each agency, and includes a reference identifying where each issue has been addressed in this EIS. Additional information regarding the consultation process is provided in the *Consultation Summary Report* at Appendix 9.

Table 8: Agencies contacted

Agency	Contact made	Key Issues Raised	Where addressed in EIS
Ausgrid	Initial discussions held with Marline from Ausgrid	Advice regarding requirements for a 600 KVA Pad mount kiosk	Sections 4 and 9
Hunter Water	Statement of available pressure provided on 21 September 2018 Building Plan Assessment and Development Assessment (Section 50 Compliance Certificate) lodged on 19 February 2019	Advice regarding likely water demands of the development	Section 9
SA NSW	Initial discussions held with Kieran Black from SA NSW Initial meeting held on 20 September 2018 Building application lodged on 20 February 2019	Preliminary advice regarding implications of mine workings beneath the site	Section 9
Council (development section)	Pre-DA meeting held on 19 September 2018 with Council officers	Advice regarding, SSD / CIV, height restriction, car parking, heritage impact of demolition/alterations to the former Courthouse building, contamination, service vehicles and waste management	Sections 4 and 9
Government Architect via Council (UDCG)	Meeting held on 17 October 2018	Advice regarding further consideration in the design such as landscaping, amenity and built form aesthetics	Sections 4 and 9

DPE	Phone and email correspondence with David Gibson of DPE during January 2019	Advice regarding Aboriginal Heritage and Biodiversity Assessment requirements	Sections 7 and 9
OEH Heritage	- Meeting held on 17 October 2018 A presentation has been scheduled with the Heritage Council for 6 March 2019	General comments around items to be addressed within the Heritage Impact Statement, particularly around the justification for the demolition of the Supreme Court building	Sections 4 and 9
OEH Environment	- Correspondence with Brendan Mee of OEH	Advice regarding BDAR Waiver	Sections 7 and 9
RMS	Consultation with Marc Desmond from RMS in early February 2019	Advice on SEARs requirements, including traffic survey requirements, Construction Traffic Management Plan and Green Travel Plan	Section 9

6.2. Community consultation

Community consultation was undertaken by the project team in two key phases during preparation of the EIS:

- preliminary consultation with directly adjoining landowners during the early design stage; and
- a letterbox drop to nearby properties following the receipt of the SEARs.

Table 9 outlines the community consultation process undertaken, with additional information provided in the *Consultation Summary Report* at Appendix 9.

Table 9: Community consultation

Stakeholder	Contact made	Key Issues Raised	Where addressed in EIS
Hunter New England Health	Meeting held with Scott Pascoe from HNE in mid-October 2018	Structural rectification works to the heritage retaining wall between the two properties	Sections 4 and 9
NSW Police Force	Meeting held with Sgt Darren Holmes of Newcastle Police Station on 12 November 2018	Existing underground prisoner tunnel, existing Electrical Substation cables, construction traffic management, police vehicle parking during construction, site	Sections 4 and 9

		contamination and building plant considerations	
Nearby properties (see Figure 28)	Letter box drop undertaken in February 2019 A copy of the notification letter is attached at Appendix 10. The letter includes an outline of the proposed development, including Nihon's vision for the site, and provides a link to additional information at the DPE's Major Projects site.	One community submission was received by CPSD during the consultation period regarding potential acoustic impacts from the roof-top terrace A response letter was sent to the respondent on 22 February 2019, outlining the proposed use of the roof-top terrace (see Appendix 26). A revised letter was sent to the respondent on 17 April 2019 outlining a minor increase in the allowable use of the roof-top terrace by 1 additional hour per day (see Appendix 27).	Section 9



Subject Site

Figure 28: Letter box drop recipients indicated by red line

6.3. EIS Public Exhibition and Post Exhibition

This EIS will be placed on public exhibition for a minimum period of 28 days. Any submissions received during public exhibition of this SSDA will be considered by the proponent, as required under the EP&A Act and Regulation.

The proponent will continue to commit resources to satisfy consultation requirements during the public exhibition phase and throughout the life of the project.

7. STATUTORY PLANNING CONSIDERATIONS

7.1. Overview

The relevant statutory framework considered in the preparation of this SSDA comprises:

- *Environmental Planning and Assessment Act 1979;*
- *Environmental Planning and Assessment Regulation 2000;*
- *Biodiversity Conservation Act 2016;*
- *Coal Mine Subsidence Compensation Act 2017;*
- *Heritage Act 1977;*
- *State Environmental Planning Policy No 55 - Remediation of Land;*
- *State Environmental Planning Policy No 64 - Advertising and Signage;*
- *State Environmental Planning Policy (Affordable Rental Housing) 2009;*
- *State Environmental Planning Policy (Coastal Management) 2018;*
- *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017;*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *State Environmental Planning Policy (State and Regional Development) 2011; and*
- *Newcastle Local Environmental Plan 2012.*

The following sections provide an assessment of the proposal under these statutory matters for consideration.

7.2. Environmental Planning and Assessment Act 1979

7.2.1. Section 1.3 – Objects

The *Environmental Planning and Assessment Act 1979* (the EP&A Act) is the principle planning and development legislation in New South Wales. In accordance with Section 1.3, the objectives of the EP&A Act are:

1.3 Objects of Act

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*

- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),
- (g) to promote good design and amenity of the built environment,
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,
- (j) to provide increased opportunity for community participation in environmental planning and assessment.

For the reasons set out below, it is considered that the proposed development satisfies the above stated objects of the EP&A Act:

- The proposal will produce an overall net community benefit due to the site being conserved and used as an educational establishment;
- The proposal will facilitate the orderly and economic use and development of land as the subject site is of an appropriate size, location and land use zoning to accommodate an educational establishment and associated ancillary development in a city centre location;
- The proposal will promote excellent design and amenity of the site, in particular the state heritage-listed Courthouse, which will be conserved and enhanced through respectful adaptive reuse and ongoing management;
- The proposal will not result in an increased demand on housing supply through the provision of on-site student accommodation;
- It will create additional employment opportunities during the construction phase and ongoing employment both locally and internationally during operational phase;
- Appropriate utility services are available to serve the subject site; and
- There will be no unreasonable adverse environmental impacts.

7.2.2. Section 4.15 of EP&A Act 1979

Section 4.15(1) of the EP&A Act as amended specifies the matters which a consent authority must consider when determining a development application. The relevant matters for consideration under Section 4.15 of the EP&A Act are addressed in the Table below.

Table 10: Section 4.15 of EP&A Act 1979

Section	Comment
Section 4.15(1)(a)(i) Any environmental planning instrument	Consideration of relevant instruments is discussed in Section 7
Section 4.15(1)(a)(ii) Any draft environmental planning instrument	Consideration of relevant draft instruments is discussed in Section 8

Section 4.15(1)(a)(iii) Any development control plan	Consideration of the relevant development control plan is discussed in Section 8
Section 4.15(1)(a)(iiia) Any planning agreement	Not relevant to this application
Section 4.15(1)(a)(iv) Matters prescribed by the regulations	Refer to Section 7.3
Section 4.15(1)(a)(v) Any coastal zone management plan	Not relevant to this application
Section 4.15(1)(b) - (e)	Refer to Section 9

7.2.3. Section 4.41 of EP&A Act 1979

Section 4.41(1) of the EP&A Act specifies authorisations that are not required for SSD. Of relevance to the current proposal, the following authorisations are not required:

- an approval under Part 4, or an excavation permit under section 139, of the Heritage Act 1977 [Section 4.41(1)(c)]; and
- an Aboriginal heritage impact permit under section 90 of the National Parks and Wildlife Act 1974 [Section 4.41(1)(d)].

7.3. Environmental Planning and Assessment Regulation 2000

7.3.1. Clause 50 – How must a development application be made

The nominated documentation required to support a development application is provided as part of this EIS.

7.3.2. Clause 92 – Demolition

All demolition work will be undertaken in accordance with Clause 92 of the Regulation requiring the consent authority to consider *AS 2601 - 1991: The Demolition of Structures*.

7.3.3. Clause 98 – Compliance with the BCA

Pursuant to the prescribed conditions under Clause 98 of the Regulation, any building work *'must be carried out in accordance with the requirements of the Building Code of Australia'*. A *BCA Compliance Statement* has been prepared by DixGardiner Pty Ltd and is provided at Appendix 11. The Statement indicates that the development is capable of complying with the requirements of the BCA.

7.3.4. Requirements for Preparing an EIS - Schedule 2, Clauses 6 & 7

Clause 6 and 7 of Schedule 2 of the EP&A Regulation prescribe the requirements for preparing an EIS. This EIS has been prepared in accordance with the EP&A Regulation as set out in Table 11.

Table 11: EP&A Regulation - Schedule 2 Requirements

Section	Comment
4 Integrated development—requirements of approval bodies (1) An application for environmental assessment requirements must, in the case of a development application for integrated development, also include particulars of the approvals that are required.	N/A. Section 4.46 of the EP&A Act states that <i>'Integrated development is development (not being State significant development or complying development).'</i>
6 Form of environmental impact statement An environmental impact statement must contain the following information: (a) the name, address and professional qualifications of the person by whom the statement is prepared, (b) the name and address of the responsible person, (c) the address of the land: (i) in respect of which the development application is to be made, or (ii) on which the activity or infrastructure to which the statement relates is to be carried out, (d) a description of the development, activity or infrastructure to which the statement relates, (e) an assessment by the person by whom the statement is prepared of the environmental impact of the development, activity or infrastructure to which the statement relates, dealing with the matters referred to in this Schedule, (f) a declaration by the person by whom the statement is prepared to the effect that: (i) the statement has been prepared in accordance with this Schedule, and	All of these matters have been addressed in the body of this EIS.

(ii) the statement contains all available information that is relevant to the environmental assessment of the development, activity or infrastructure to which the statement relates, and (iii) that the information contained in the statement is neither false nor misleading.	
7 Content of environmental impact statement (1) An environmental impact statement must also include each of the following: (a) a summary of the environmental impact statement, (b) a statement of the objectives of the development, activity or infrastructure, (c) an analysis of any feasible alternatives to the carrying out of the development, activity or infrastructure, having regard to its objectives, including the consequences of not carrying out the development, activity or infrastructure, (d) an analysis of the development, activity or infrastructure, including: (i) a full description of the development, activity or infrastructure, and (ii) a general description of the environment likely to be affected by the development, activity or infrastructure, together with a detailed description of those aspects of the environment that are likely to be significantly affected, and (iii) the likely impact on the environment of the development, activity or infrastructure, and (iv) a full description of the measures proposed to mitigate any adverse effects of the development, activity or infrastructure on the environment, and (v) a list of any approvals that must be obtained under any other Act or law before the development, activity or infrastructure may lawfully be carried out, (e) a compilation (in a single section of the environmental impact statement) of the measures referred to in item (d) (iv),	In response to this clause, the following is noted: ▪ A summary of the EIS is undertaken in the Executive Summary in Section 1 of this EIS; ▪ A statement of the objectives of the development is undertaken in Section 4.2 of this EIS; ▪ An analysis of feasible alternatives and the consequences of not carrying out the development is undertaken in Section 4.5 of this EIS. ▪ An analysis of the development is undertaken in Section 4 of this EIS; ▪ An analysis of the likely impact on the environment is undertaken in Sections 7 and 9 of this EIS; ▪ A full description of the measures proposed to mitigate any adverse effects of the development is undertaken in Section 9 and 10 of this EIS; ▪ A list of any approvals that must be obtained under any other Act or law before the development, activity or infrastructure may lawfully be carried out is provided in Sections 7.4-7.7 of this EIS; ▪ A list of all of the measures referred to in (d)(iv) is in Sections 9 and 10 of this EIS; ▪ The proposed development is consistent with principles of ESD, as set out in Section 7.3.6 of this EIS.

(f) the reasons justifying the carrying out of the development, activity or infrastructure in the manner proposed, having regard to biophysical, economic and social considerations, including the principles of ecologically sustainable development set out in subclause (4).

(2) Subclause (1) is subject to the environmental assessment requirements that relate to the environmental impact statement.

(4) The principles of ecologically sustainable development are summarised as follows:

- (a) the precautionary principle
- (b) inter-generational equity
- (c) conservation of biological diversity and ecological integrity
- (d) improved valuation, pricing and incentive mechanisms

7.3.5. Approvals Required - Schedule 2, Clause 7(1)(d)(v)

In relation to Clause 7(1)(d)(v), Sections 7.4 to 7.7 of this EIS sets out the approvals required before this development may lawfully be carried out.

7.3.6. Ecologically Sustainable Development - Schedule 2, Clause 7(4)

In accordance with Clause 7(4), consideration has been given to the principles of ESD in selecting the site and throughout the design process.

Ecological sustainability requires a combination of good planning and an effective and an environmentally sound approach to design, operation and management. The principles of ESD should be considered and implemented throughout the entire life cycle of a project, including during project formulation and planning, when considered options and alternatives, during construction, for the operational life of the proposal, and during and decommissioning or reuse.

The principles of ESD have been considered and implemented as follows:

- **Precautionary Principle** – no serious or irreversible environmental damage is expected due to the operation of the site. All potential impacts during the construction stage have been assessed, and environmental controls proposed where required.
- **Inter-generational Equity** – the project will ensure a lower demand for resources than the existing development by incorporating sustainable materials, energy and water efficient measures and solar passive design elements into the design. Retention and reuse of the existing heritage building will ensure the efficient re-use of built resources. Tree removal is to be offset by additional landscaping and tree planting. All waste generated from the proposal will be dealt with in ecologically safe methods.

- **Conservation of Biological Diversity and Ecological Integrity** – there is limited biological diversity on the current site due to the property being previously developed. The proposed development will have limited, if any impact on the current level of biological diversity and ecological integrity. Tree removal is to be offset by additional landscaping and tree planting. Stringent environmental controls are proposed during construction to ensure the proposal will not result in any direct or indirect impacts on ecological values.
- **Improved Valuation, Pricing and Incentive Mechanisms** – this project will integrate a number of initiatives which aim to internalise pollution and other undesirable environmental outcomes. Environmentally responsible building practices and recycling of construction waste will be incorporated into the Construction Management Plan.

The broader ESD considerations of the design, a preliminary consideration of building performance and a description of how the development responds to the predicted impacts of climate change is provided in Section 9.3.1 of this EIS.

The proposal incorporates the principles of ESD through the performance measures proposed, as well as through the implementation of the recommended mitigation measures detailed within the specific environmental assessments. Consequently, the proposal will not create a significant environmental impact and aligns with the ESD requirements identified within Clause 7(4) of Schedule 2 of the EP&A Regulation.

7.4. Biodiversity Conservation Act 2016

The *Biodiversity Conservation Act 2016* (BC Act) lists and protects threatened species, populations and ecological communities that are under threat of extinction in NSW. Impacts to threatened species and endangered ecological communities listed under the BC Act are required to be assessed in accordance with Section 7.3 of the BC Act and Applicants must also consider whether their proposal will exceed the following Biodiversity Offset Scheme Development Thresholds:

1. Exceeding the clearing threshold on an area of native vegetation;
2. Carrying out development on land included in the Biodiversity Values Land Map; or
3. Having a 'significant effect' on threatened species or ecological communities.

Section 7.9 of the BC Act applies to SSDAs under Part 4 of the EP&A Act. Section 7.9(2) requires '*any such application is to be accompanied by a biodiversity development assessment report unless the Planning Agency Head and the Environment Agency Head determine that the proposed development is not likely to have any significant impact on biodiversity values.*'

The subject site is located in an urban setting, with no native or significant vegetation. Accordingly, pursuant to Section 7.9(2) of the BC Act, a BDAR waiver request was prepared for the proposal by EMM Consulting and issued to the DPE on 11 February 2019 (see Appendix 13).

Waivers from the Planning Agency Head (dated 25 February 2018) and the Environment Agency Head (dated 26 February 2019) have been obtained with respect to this SSDA, which determine that there is no need for the SSDA to submit a BDAR. Refer to Appendices 14 and 15.

7.5. Coal Mine Subsidence Compensation Act 2017

The development also involves the alteration of an existing building and the erection of new buildings within a mine subsidence district, and therefore requires approval under section 22 of the *Coal Mine Subsidence Compensation Act 2017*.

An application for the proposed development was submitted to Subsidence Advisory (SA) NSW on 20 February 2019. The detailed design of the proposal will have appropriate regard to SA NSW approval requirements (refer to the table of commitments at Section 10 of this EIS.).

7.6. Heritage Act 1977

The development involves undertaking works on a State-listed heritage item, and therefore would ordinarily require approval under Section 57 of the *Heritage Act 1977*, as well as an excavation permit under Section 139. However, pursuant to Section 4.41 of the EP&A Act, these approvals are not required for SSDAs.

7.7. National Parks and Wildlife Act 1974

An Aboriginal heritage impact permit under Section 90 of the *National Parks and Wildlife Act 1974* is not required at this stage, pending further investigations (refer Section 9.2.3 of this EIS). Notwithstanding, pursuant to Section 4.41 of the EP&A Act, a Section 91 permit is not required for SSDAs.

7.8. State Environmental Planning Policies

7.8.1. State Environmental Planning Policy No 55 - Remediation of Land

The objective of this SEPP is to provide a state-wide planning approach to the remediation of contaminated land for the purpose of reducing risks to human health and the environment.

Relevant to this proposal, Clause 7 provides that a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated. Further, if the land is contaminated, the consent authority must be satisfied that the land is suitable (or will be made suitable, after remediation) for the proposed use.

Existing filling identified during the geotechnical investigation and the presence of an underground fuel storage tank within the adjacent Police Station site could be potential sources of contamination (see Appendix 24). Due to the presence of existing buildings within the site, additional subsurface environmental investigation is considered to be unfeasible prior to demolition of the existing Administration Building and Supreme Court Building (proposed as part of this application). As noted in the *Phase 1 Environmental Site Assessment - Technical Note* prepared by Cardno (see Appendix 24):

Approximately 90% of the site is currently covered by either buildings or hardstand limiting access to soils. Any conclusions drawn from the results of sampling such a small portion of the site would not be representative of the site as a whole and therefore conclusions as to the Site's suitability would be unable to drawn. In particular, as the exact location and status of the former engine workshop and fuel/oil storage facilities reportedly located at 1 Church Street (Police Station) is unknown; investigations along the eastern boundary are currently hindered by the existing infrastructure.

Accordingly, it is proposed to undertake additional investigations post-demolition to characterise contamination levels within the existing fill. Additionally, contamination associated with the underground tank will be investigated by conducting a search of available information, coupled with subsurface environmental investigation.

Since any required remediation works would be 'Category 1' works under Clause 9, consent for site remediation works is being sought as part of this application. In this regard, at the time of writing, a Remediation Action Plan (RAP) is currently being prepared by Cardno based on known site conditions, and will be revised following additional investigations if necessary (see Appendix 28). The RAP will be provided to the DPE prior to determination. As such, the consent authority can be satisfied with respect to Clause 7.

Additional details regarding proposed contamination investigations are provided in Section 9.5.4 of this EIS and have been adopted in the table of commitments in Section 10.

7.8.2. State Environmental Planning Policy No 64 - Advertising and Signage

The proposed signage can be carried out as exempt development pursuant to Division 4 and Schedule 1 of *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*. Accordingly, this SEPP does not apply.

7.8.3. State Environmental Planning Policy (Affordable Rental Housing) 2009

The Affordable Housing SEPP aims to facilitate new affordable housing through incentives and variations to development standards.

The proposed development involves the provision of ancillary accommodation for students and staff. Specifically, the proposed Residential Building will accommodate 100 individual rooms for students, 7 teacher accommodation rooms for professors and long staying researchers, 1 staff accommodation room for the 1 University Exchange Coordinator, as well as shared facilities (including a cafeteria, lounge areas and outdoor terraces).

The teacher / staff accommodation rooms are a form of 'boarding house'. However, the student accommodation rooms would be used as the students' principal place of residence for less than 3 months, and therefore do not meet the definition of 'boarding house'. Accordingly, Division 3 of the Affordable Housing SEPP applies to the teacher / staff accommodation rooms (and, by extension, a portion of the shared facilities) but not the student accommodation rooms.

The Affordable Housing SEPP provides important standards and requirements for the development of boarding house proposals. The proposal's compliance with the relevant provisions of the SEPP are addressed below. The specific standards pertaining to boarding rooms relate to the teacher / staff accommodation rooms only. Due to the difficulty in apportioning the communal areas of the Residential Building to building's 'boarding house' and 'non-boarding house' components, the more general standards relating to built form, building design and the like have been applied to the Residential Building as a whole.

29 Standards that cannot be used to refuse consent

Clause 29 sets out standards which cannot be used as grounds to refuse development consent. These are addressed in Table 12 below.

Table 12: Compliance with Clause 29 non-refusal standards

Subclause	Comment	Comply
29 (1) A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than: (a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or	The site is not subject to a prescribed FSR under the NLEP 2012. Notwithstanding, it is noteworthy that the proposed Residential Building adopts a similar bulk and scale to the existing eastern building. Accordingly, the proposed Residential Building is considered to be an appropriate density and scale in the context of the subject site.	N/A
(b) if the development is on land within a zone in which no residential accommodation is permitted—the existing maximum floor space ratio for any form of development permitted on the land, or	As above.	N/A
(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register—the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus: (i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or (ii) 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.	The site is listed as an item of state heritage significance.	N/A

(2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds: (a) building height If the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land,	Whilst the proposed Residential Building will exceed the maximum building height permitted for the site under the NLEP, this height and scale is considered appropriate in the context of the subject site.	✓
(b) landscaped area If the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,	The site's existing front landscaping has been redesigned to reflect the revised site layout and is compatible with existing site character and the surrounding streetscape.	✓
(c) solar access Where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,	The solar analysis study included within the <i>Architectural Plans</i> (Drawing A120) at Appendix 2 indicates that the north facing cafeteria would receive direct sunlight at the winter solstice for a minimum of 4 hours between 10am and 3pm.	✓
(d) private open space If at least the following private open space areas are provided (other than the front setback area): (i) one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers, (ii) if accommodation is provided on site for a boarding house manager—one area of at least 8 square metres with a minimum dimension of 2.5 metres is	The roof terrace above the Residential Building provides more than 500m² of private open space with minimum dimensions in excess of 3m. While the University exchange manager's accommodation room does not have direct access to private open space, areas of landscaping directly adjoin the room connecting to ground level communal open space.	Acceptable

provided adjacent to that accommodation,		
(e) parking If: (i) in the case of development carried out by or on behalf of a social housing provider in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and (ii) in the case of development carried out by or on behalf of a social housing provider not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and (iia) in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room, and (iii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site,	Twenty car parking spaces are proposed, in excess of requirements. Refer to Section 9.4.1 of this EIS for further discussion in relation to car parking provision.	✓
(f) accommodation size If each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least: (i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or (ii) 16 square metres in any other case.	All boarding rooms (i.e. the teacher/staff accommodation rooms) have areas in excess of 12m² (excluding kitchen and bathroom facilities).	✓

(3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.	Note. Each boarding room (i.e. the teacher/staff accommodation rooms) contains private kitchen and bathroom facilities.	✓
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30 Standards for boarding houses

Clause 30 sets out development standards that must be complied with. The proposal's compliance with these standards is set out in Table 13.

Table 13: Compliance with Clause 30 standards

Subclause	Comment	Comply
(1) A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following: (a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,	A large communal living/dining area is provided at Ground Level of the Residential Building, as well as communal terraces at each of the remaining levels.	✓
(b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres,	With the exception of the University exchange manager's room (45m ² including kitchen and bathroom facilities), no boarding room (i.e. the teacher/staff accommodation rooms) will have an area in excess of 25m ² (excluding kitchen and bathroom facilities).	Acceptable
(c) no boarding room will be occupied by more than 2 adult lodgers,	Each boarding room (i.e. the teacher/staff accommodation rooms) will be occupied by 1 lodger, only.	✓
(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,	Each boarding room (i.e. the teacher/staff accommodation rooms) contains private kitchen and bathroom facilities.	✓
(e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or	A staff room is provided at Ground Level of the Residential Building, for use by the University exchange manager.	✓

on-site dwelling will be provided for a boarding house manager,		
(g) if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use,	A café with outdoor terrace is proposed at Ground Level of the Residential Building fronting the street. No boarding rooms (i.e. the teacher/staff accommodation rooms) will front the street at Ground Level.	✓
(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.	One motorcycle parking space and 22 bicycle storage spaces are proposed. Refer to Section 9.4.1 of this EIS for further discussion in relation to motorcycle and bicycle parking provision.	Acceptable

30A Character of local area

Clause 30A requires that a consent authority must not consent to development of a boarding house unless it has taken into consideration whether the design of the development is compatible with the character of the local area.

As discussed in Section 9.2.1 of this EIS, the proposed Residential Building appropriately responds to its local context and will result not result in any adverse built form impacts. The setting of the Residential Building has been retained within the streetscape by the design of the development reflecting the bulk and scale of the existing building being removed.

7.8.4. State Environmental Planning Policy (Coastal Management) 2018

The State Government recently implemented a new coastal management framework. As part of this framework, *State Environmental Planning Policy (Coastal Management) 2018* was released. The SEPP establishes a new, strategic land use planning framework for coastal management and will support implementation of the management objectives set out in the *Coastal Management Act 2016*. It provides the single land use planning policy for coastal development and brings together and updates provisions from SEPP 14 (Coastal Wetlands), SEPP 26 (Littoral Rainforests) and SEPP 71 (Coastal Protection).

The subject site is located within the 'coastal zone' and therefore the SEPP applies.

As indicated below, the site is also located partly within the 'Coastal Environment Area' (see Figure 29) and wholly within the 'Coastal Use Area' (see Figure 30). It is not located within any other 'coastal area' pursuant to the Coastal Management SEPP maps.

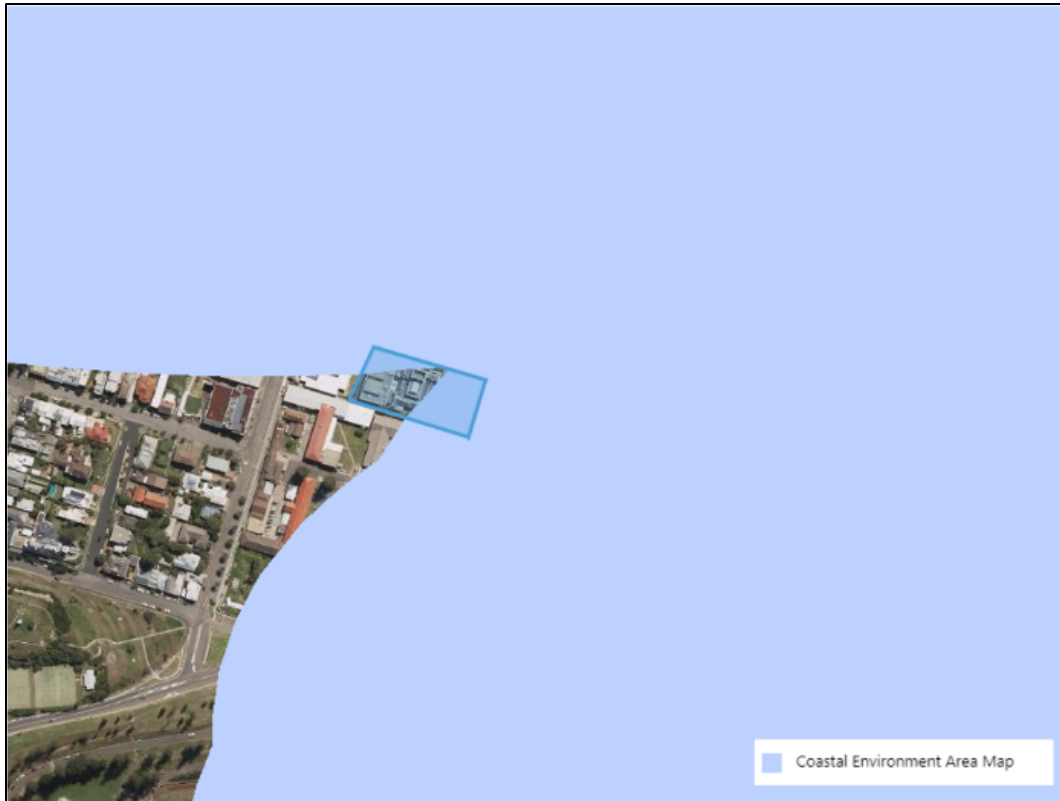


Figure 29: Extract of Coastal Management SEPP maps - 'Coastal Environment Area'



Figure 30: Extract of Coastal Management SEPP maps - 'Coastal Use Area'

The proposal's compliance with the relevant provisions of the SEPP are outlined in Table 14 below. In summary, the proposal complies.

Table 14: Compliance with the Coastal Management SEPP

Clause	Comment	Comply
13 Development on land within the coastal environment area	The site is within the 'Coastal Environment Area' (see Figure 29). The proposal is considered against the relevant matters of consideration in the following sections:	-
13(1)(a)	A <i>Stormwater Management Plan</i> has been prepared for the proposal (see Appendix 16). This presents an appropriate stormwater management regime which will protect the integrity and resilience of the hydrological environment.	✓

13(1)(b)	The site is significantly separated from the coast. There are not likely to be any special coastal hazards that may impact upon the site, nor will the proposed development impact or increase the likelihood of coastal impacts.	✓
13(1)(c)	The site is not in proximity to any sensitive coastal lakes. The proposal will not have any detrimental impacts on water quality, due to the proposed stormwater management regime.	✓
13(1)(d)	The site is significantly separated from any marine vegetation, headlands or rock platforms. As the stormwater from the development site would be appropriately managed, no impacts on these features are anticipated.	✓
13(1)(e)	The proposal will have no impact on public access to the foreshore or other significant coastal environments.	✓
13(1)(f)	Appropriate mitigation measures are proposed at Appendix 17, and a full Aboriginal Cultural Heritage Assessment is currently being undertaken, to ensure the proposed development will not adversely impact on Aboriginal cultural heritage.	✓
13(1)(g)	The proposal would have no impact on the surf zone.	✓
13(2)	Pursuant to this subclause, the proposal is designed, sited and would be managed to avoid an adverse impact on the matters for consideration listed above.	✓
14 Development on land within the coastal use area	The site is within the 'Coastal Use Area' (see Figure 30). The proposal is considered against the relevant matters of consideration in the following sections:	-
14(1)(a)(i)	As discussed above, the proposal will have no impact on public access to the foreshore.	✓
14(1)(a)(ii)	The proposal will not overshadow the foreshore, nor will it result in loss of views to the foreshore from any public place.	✓
14(1)(a)(iii)	The proposal will not result in any adverse impacts on the visual amenity and scenic qualities of the foreshore.	✓
14(1)(a)(iv)	As discussed above, the proposed development will not result in any adverse impact on Aboriginal cultural heritage.	✓

14(1)(a)(v)	As discussed in Sections 9.2.2, 9.2.3 and 9.2.4 of this EIS, the proposed development will not result in any adverse impacts on cultural and built environment heritage.	✓
14(1)(b)	Pursuant to this subclause, the proposal is designed, sited and would be managed to avoid an adverse impact on the matters for consideration listed above.	✓
15 Development in coastal zone generally - development not to increase risk of coastal hazards	The subject site is significantly separated from the coastal foreshore. There are not likely to be any special coastal hazards that may impact upon the site, nor will the proposed development impact or increase the likelihood of coastal impacts.	✓
16 Development in coastal zone generally - coastal management programs to be considered	The proposal is not inconsistent with the provisions of the <i>Newcastle Coastal Zone Management Plan 2018</i> .	✓

7.8.5. State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

The objective of this SEPP is to provide a simplified and streamlined approval process for educational establishments with consistent development design considerations.

Pursuant to Clause 45, development for the purpose of a university and associated residential accommodation for students may be carried out by any person with consent on land in a prescribed zone. The site is located within a prescribed zone (B4 mixed use). Accordingly, the development is permissible with consent pursuant to the provision of the Education SEPP.

Clause 57 stipulates that an educational establishment that will accommodate 50 or more students requires concurrence from the Roads and Maritime Services (RMS) due to it being a traffic generating development. Consultation has been undertaken with RMS and the EIS has been informed by a *Traffic and Parking Impact Assessment* (Appendix 18) which found that *'the subject site will operate well, with limited on-street traffic or parking impacts in the immediate vicinity'* (refer to Sections 6.1 and 9.4.1 of this EIS).

Pursuant to Division 4 and Schedule 1, the proposed identification signage will be carried out as exempt development. Importantly, having regard to Clause 17(3)(e), the *Statement of Heritage Impact* at Appendix 8 found that *'the signage is of an acceptable size and does not impact on the HCA or the 1892 former court building. Similarly, the wall and sign do not impact on the heritage significance of the Buchanan row of terrace houses opposite.'* The proposed signage also meets the relevant development standards for identification signage contained in Schedule 1. Specifically, the signage has a total surface area well below 8m² (i.e. 3.84m²), is located wholly within the property boundary, will not be illuminated or electronic, and is less than 6m above existing ground level.

7.8.6. State Environmental Planning Policy (Infrastructure) 2007

This SEPP aims to facilitate the effective delivery of infrastructure across NSW.

Clause 104 relates to 'traffic generating development'. This clause does not apply as the development will not generate 200 or more motor vehicles per hour. Notwithstanding, it is anticipated that DPE will refer this development application to the RMS for its comments. Detailed consideration of the road safety and parking implications of the proposal is provided in Section 9.4.1 of this EIS.

7.8.7. State Environmental Planning Policy (State and Regional Development) 2011

The aim of this policy, relevant to this proposal, is to identify development that is State significant development (SSD).

Part 2 of the SEPP applies to SSD and Clause 8(1) stipulates that:

- (1) Development is declared to be State significant development for the purposes of the Act if:*
- (a) the development on the land concerned is, by the operation of an environmental planning instrument, not permissible without development consent under Part 4 of the Act, and*
 - (b) the development is specified in Schedule 1 or 2.*

The proposed development has a Capital Investment Value of \$41.2 million and falls within the 'educational establishments' category pursuant to Clause 15(3) of Schedule 1 of the SEPP. Accordingly, the proposed development is classified as SSD.

7.9. Newcastle Local Environmental Plan 2012

The *Newcastle Local Environmental Plan 2012* (NLEP) applies to the subject site. The provisions relevant to the proposed concept development are addressed below.

In summary, the proposed development will comply with all but one of the provisions of the NLEP.

The proposed development exceeds the maximum Height of Buildings development standard prescribed for the site under Clause 4.3 of the NLEP. A request to vary this development standard pursuant to Clause 4.6 of the NLEP is included at Appendix 19. Importantly, the existing buildings within the site exceed the 10m building height limit, the heights of the new buildings are significantly lower than the former Courthouse building, and the fourth storey and plant areas are contained to the southern/rear part of the site and not visible from street level.

7.9.1. Aims of Plan

The proposal involves a well-designed and significant educational establishment in a well-serviced location within Newcastle's East End. It is located in close proximity to various public transport nodes and a wide range of services. Additionally, the proposal will result in the ongoing use, conservation and maintenance of the State heritage-listed Courthouse. The proposed alterations and additions have been sensitively designed to complement and protect the heritage significance and character of the Courthouse and surrounding area. The proposal will provide a boost to the city's educational capacity, thereby assisting in strengthening the regional position of the Newcastle CBD and providing an international gateway to Asia.

It would also contribute significantly to the economic wellbeing of the community through the creation of up to 100 jobs during the construction phase, and through the accommodation of educational workers and students during operation.

7.9.2. Zone Objectives and Permissibility

As shown in Figure 2, the site is zoned B4 Mixed Use. The proposal complies with the relevant objectives of the B4 zone as it:

- provides an educational establishment and associated student accommodation that will serve the needs of international students and staff;
- the Public Building will be accessible to the local and wider community;
- the proposal will be positioned within a highly accessible area, in proximity to public transportation, services and shops as well as recreational opportunities at the nearby Fletcher Park, King Edward Park, Pacific Park, Foreshore Park and Newcastle Beach;
- encourages and supports walking and cycling through the provision of end-of-trip facilities for staff, students and visitors; and
- establishes a student and working population which will support nearby commercial centres and shops along King Street and Hunter Street, helping to strengthen the role of Newcastle as the regional retail centre.

The development of 'educational establishments' is permissible with consent in the zone. The proposed staff accommodation is also permissible with consent as a 'boarding house', a type of 'residential accommodation'. For the avoidance of doubt, the student accommodation would be used as the students' principal place of residence for less than 3 months, and therefore does not meet the definition of 'boarding house'. It is noted that student accommodation is an innominate land use, however would be permissible either as ancillary to an 'educational establishment' or as 'residential accommodation' generally.

The proposed café, a type of 'food and drink premises' is also permissible with consent in the zone.

7.9.3. Height of Buildings

The maximum height of buildings provided on the Height of Buildings Map is 10m (see Figure 31). The proposed new buildings reach a maximum building height of 16.6m as measured from ground level (existing) to the top of the lift overrun (Accommodation Building), exceeding the prescribed maximum height by 6.6m.

There is considered to be appropriate circumstances to justify this exceedance. A separate submission under Clause 4.6 of the NLEP in this regard is appended to this EIS (see Appendix 19).

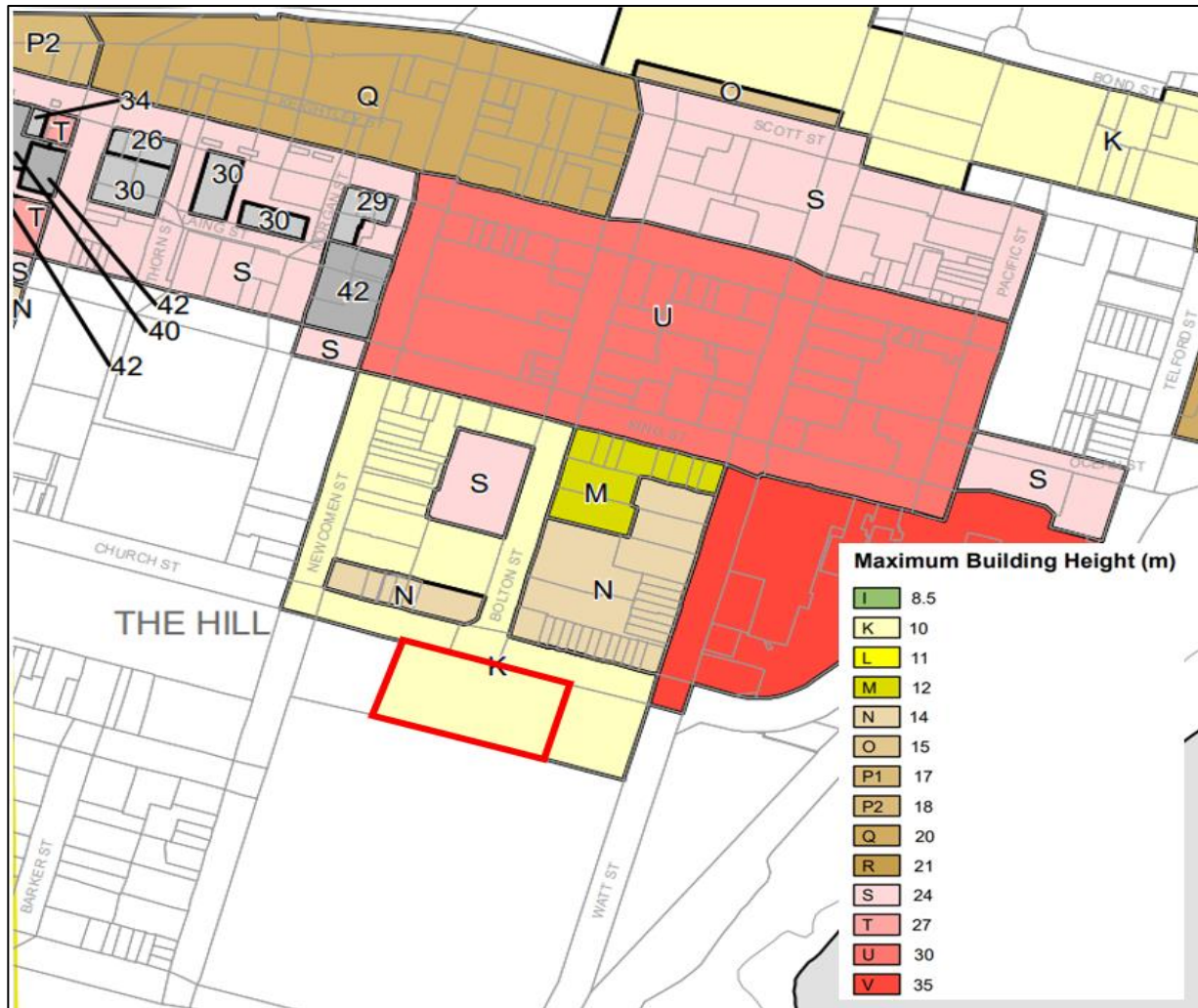


Figure 31: Height of Buildings Map (Source: NLEP 2012)

7.9.4. Floor Space Ratio

The site is not subject to a maximum FSR under the Floor Space Ratio Map. The proposed development has an FSR of 1.3:1 which is not dissimilar to the site's existing FSR of 0.96:1 and is therefore considered an appropriate density for the site and the surrounding locality.

7.9.5. Heritage Conservation

Pursuant to Clause 5.10, consent is being sought for:

- the demolition of both non-original buildings which form part of the overall state-listed heritage item known as *Newcastle Government House and Domain*. These buildings will be rebuilt to accommodate student and staff accommodation and education facilities;
- internal demolition, alterations and additions to the state-listed *Courthouse* to establish the primary education facility; and
- erection of a buildings on land that is within the *Newcastle City Centre Heritage Conservation Area*.

The impact of the proposal on the heritage significance of the conservation area, the *Courthouse* and the *Newcastle Government House and Domain*, as well as and other nearby heritage items, has been assessed as part of the *Statement of Heritage Impact* (SoHI) prepared for the proposal by John Carr Heritage Design (see Appendix 8). The SoHI draws on the most recent Conservation Management Plan (CMP) for the site, prepared by Tanner Kibble Denton Architects in 2015. It concludes that the proposal is consistent with the key conservation recommendations for the site outlined in the CMP and will have minimal impact on heritage values. Further discussion on European heritage is provided in Section 9.2.2 of this EIS.

In terms of Aboriginal heritage, appropriate mitigation measures are proposed at Appendix 17, and a full Aboriginal Cultural Heritage Assessment is currently being undertaken, to ensure the proposed development will not adversely impact on Aboriginal cultural heritage

In addition, a *Baseline Archaeological Assessment* (BAA) was prepared for the site by Archaeological Management & Consulting Group and is provided at Appendix 20. The BAA notes that there is moderate potential for intact evidence of a below ground brick-lined, post-1861 culvert to the east of the original court house building. The BAA provides recommendations to ensure that potential archaeological material will not be adversely impacted by the proposed development. These measures are discussed in Section 9.2.4 of this EIS and have been included in the table of commitments in Section 10.



The site is mapped as containing 'Class 5' soils (see Figure 33). This clause requires the preparation of an acid sulfate soil management plan (or preliminary assessment indicating a management plan is not required) if works are proposed within 500m of adjacent Class 1, 2, 3 or 4 land that is below 5m AHD and by which the watertable is likely to be lowered below 1m.

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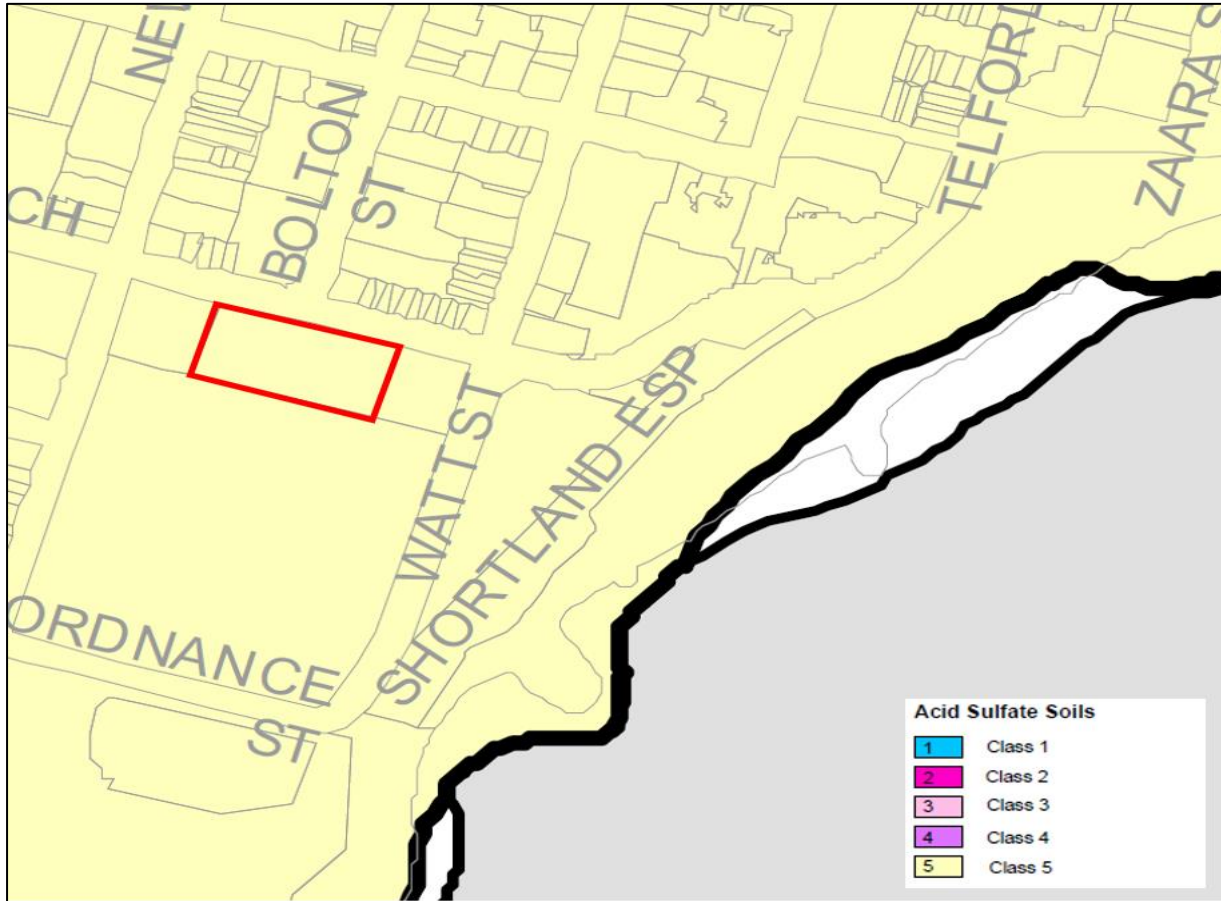


Figure 33: Acid Sulfate Soils Map (Source: NLEP 2012)

7.9.7. Earthworks

The proposal will involve some minor earthworks associated with the levelling of the building footprint, installation of building footings and services and other associated activities.

The proposal is not likely to have detrimental impacts on soil stability or drainage patterns, as outlined in Sections 9.3.4 and 9.3.5 of this EIS. An *Erosion and Sediment Control Plan* is attached at Appendix 16. Appropriate soil waste classification and disposal requirements will be discussed in the Remediation Action Plan that (at the time of writing) is currently being prepared.

As mentioned in Section 7.9.5 of this EIS above, mitigation measures are proposed to ensure that potential archaeological material will not be adversely impacted by the proposed development.

7.9.8. Newcastle City Centre

As shown in Figure 34, the subject site is not located within the Newcastle City Centre, and therefore Part 7 of the NLEP does not apply.

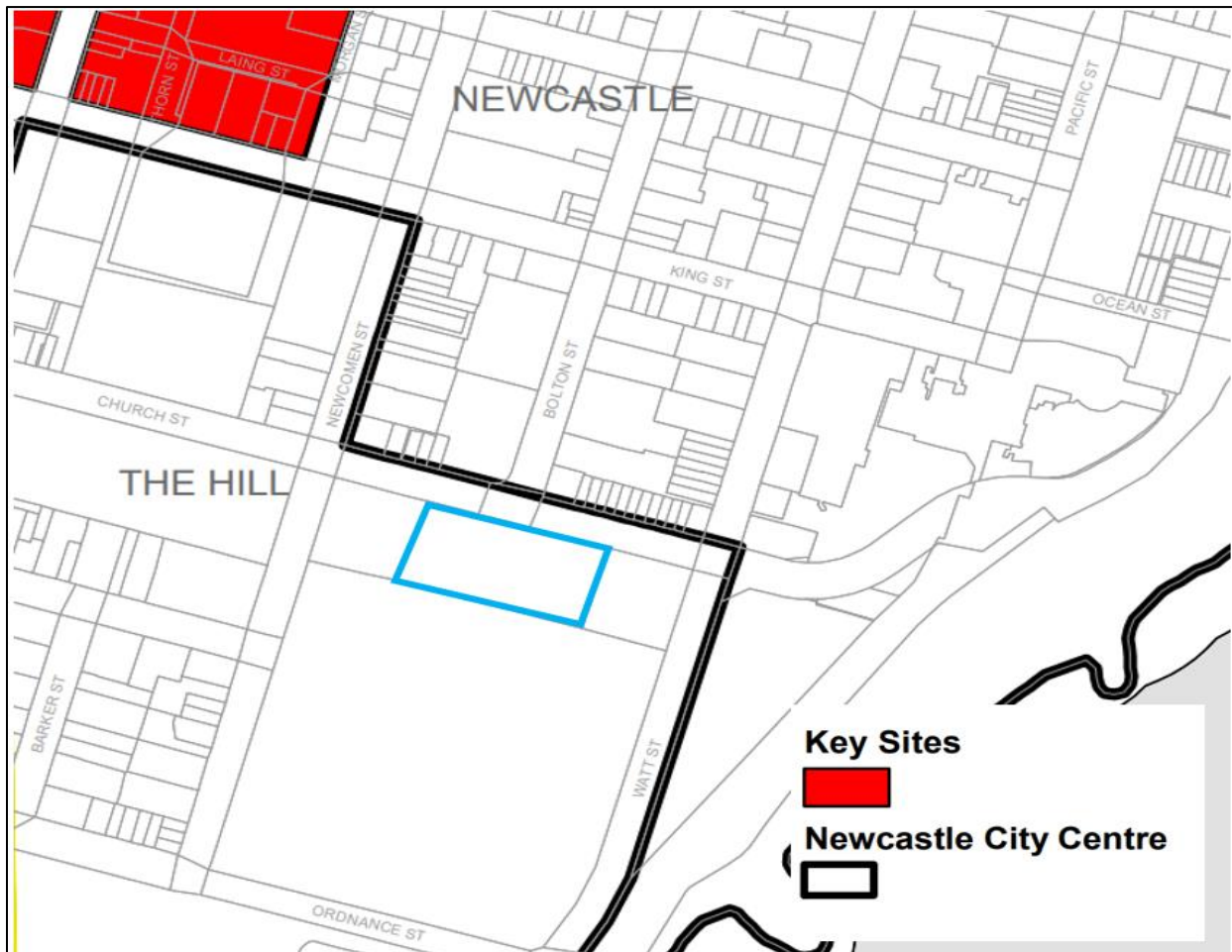


Figure 34: Key Sites Map (Newcastle City Centre Map) (Source: NLEP 2012)

8. OTHER PLANNING CONSIDERATIONS

The relevant planning framework considered in the preparation of this EIS, as required by the SEARs, comprises:

- *Hunter Regional Plan 2036;*
- *Greater Newcastle Metropolitan Plan 2036;*
- *Future Transport Strategy 2056;*
- *Better Placed - An integrated design policy for the built environment of NSW 2017;*
- *Crime Prevention Through Environmental Design (CPTED) Principles;*
- *Healthy Urban Development Checklist;* and
- *Newcastle Development Control Plan 2012.*

8.1. Hunter Regional Plan 2036

The *Hunter Regional Plan 2036* (HRP), released by the NSW Government in 2016, establishes a 20-year blueprint for the future of the Hunter as Australia's 'leading regional economy'. To achieve this vision, the HRP sets out a number of goals, directions and actions to guide the NSW Government's land use planning priorities and decisions over the next 20 years. The HRP sets clear directions anticipating predicted demographic, economic, social and environmental impacts.

The proposal is generally consistent with the goals and priorities of the HRP as it will facilitate the following priorities and directions:

- Direction 1: Grow Greater Newcastle as Australia's next metropolitan city;
- Direction 3: Revitalise Newcastle City Centre;
- Direction 17: Create healthy built environments through good design;
- Direction 19: Identify and protect the region's heritage;
- Direction 21: Create a compact settlement; and
- Direction 22: Promote housing diversity.

Importantly, the proposal will assist in developing a Centre of National Excellence for Health and Education by expanding a secondary University presence in the city centre supported by the University of Newcastle.

8.2. Greater Newcastle Metropolitan Plan 2036

Released by the NSW Government in 2017, the *Greater Newcastle Metropolitan Plan 2036* (GNMP) is the greater-regional strategy applying to the subject site. The Metro Plan aims to guide the Greater Newcastle land-use planning priorities and decisions for the next 20 years. Its vision is to establish the Greater Newcastle as a globally recognised and competitive city offering a balanced lifestyle and strong governance.

The proposal is consistent with the following strategies which align with the GNMP's goals and outcomes:

- Strategy 1: Reinforce the revitalisation of the Newcastle City Centre and expand transformation along the waterside;
- Strategy 5: Expand education and innovation clusters;

- Strategy 16: Prioritise the delivery of infill housing opportunities within the existing urban area; and
- Contributes to the desired role of the Newcastle City Centre Catalyst area by expanding the educational and innovation precincts.

Of particular relevance to the proposed development at the site is 'Strategy 5 Expand education and innovation clusters' under 'Outcome 1: Create a workforce skilled and ready for the new economy'. This Strategy identifies that *'Greater Newcastle will be one of Australia's major university cities with a number of international education and research institutions clustered throughout the metropolitan area.'*

Importantly, the GNMP makes specific reference to the NSW Government's commitment to the establishment of Nihon University at the site, forming part of the Metropolitan education and innovation cluster. The proposal is therefore a direct positive contribution towards the realisation of the NSW Government's strategic vision for the region and the site.

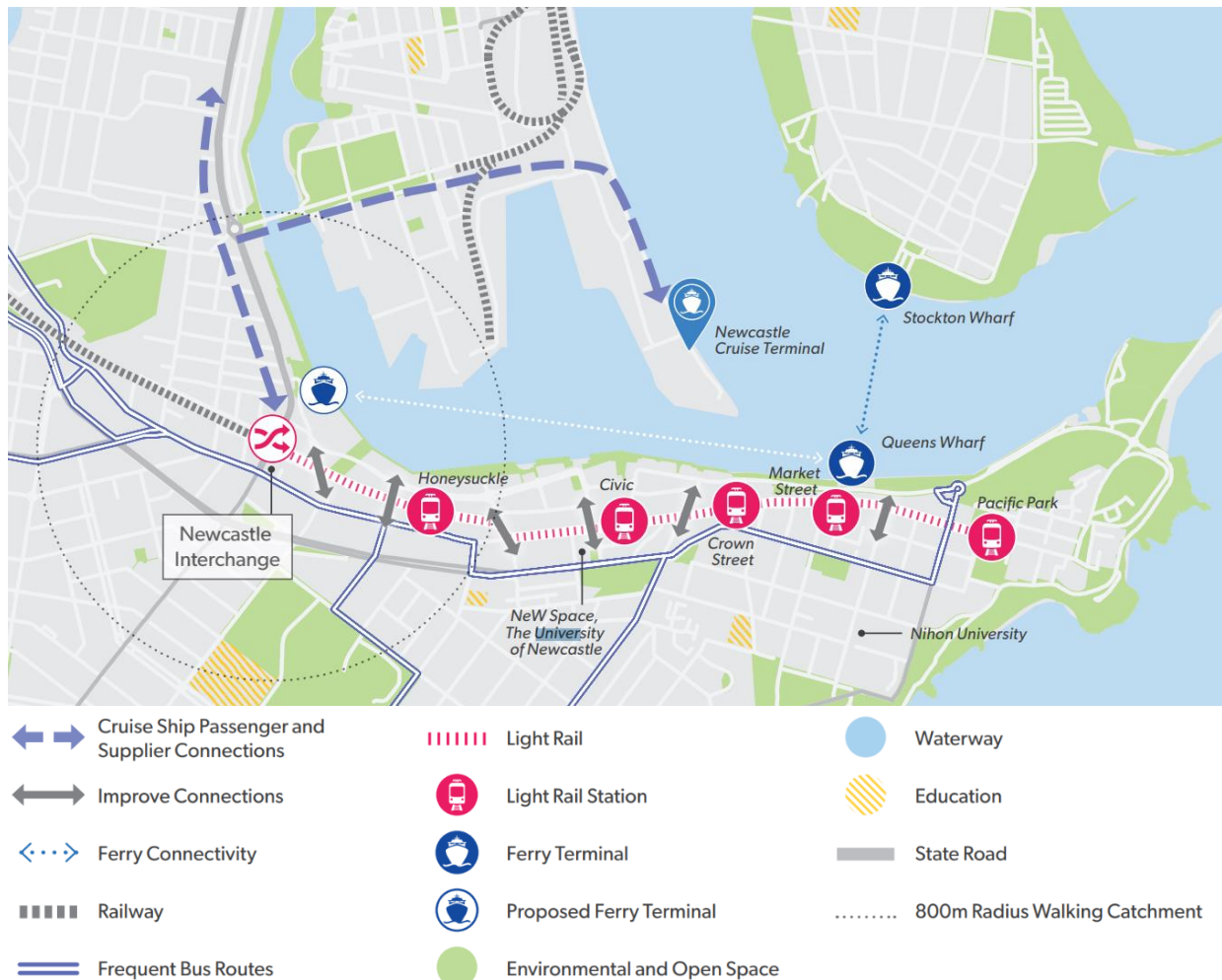


Figure 35: Nihon University shown on 'Connectivity Newcastle City Centre Map' (Source: Greater Newcastle Metro Plan 2036)

8.3. Future Transport Strategy 2056 and supporting plans

The *Future Transport Strategy 2056* (the Strategy) and supporting plans seek to update the *NSW Long Term Transport Master Plan 2012*. It is a suite of strategies and plans for transport developed in concert with the Greater Sydney Commission's Sydney Region Plan, Infrastructure NSW's State Infrastructure Strategy, and the DPE's regional plans, to provide an integrated vision for the State.

The Supporting Plans are more detailed issues-based or place-based planning documents that help to implement the Strategy across NSW.

The Strategy outlines six state-wide outcomes which provide a framework to enable change and innovation within the transport network. The Strategy's outcomes relate to the proposed development as outlined in Table 15 below.

Table 15: Future Transport Strategy 2056

Future Transport Statewide Outcomes	Customer Outcomes	Comment/Response
1. Customer Focused	Convenient and responsive to customer needs	The proposed development will not affect the site's accessibility to the wider transport network. Public transport, such as bus and light rail services, are available to students, staff and visitors.
2. Successful Places	Sustaining and enhancing the liveability of our places	The site is serviced by public transport, supported by a safe road environment, suitable pathways, and convenient access for vehicles and pedestrians.
3. A Strong Economy	Connecting people and places in the growing city	The proposal enables convenient access to increased jobs and services by public or active transport.
4. Safety & Performance	Safety, efficiently and reliably moving people and goods	The site is serviced by a safe and reliable transport system, with convenient access to other centres.
5. Accessible Services	Accessible for all customers	The site provides accessible transport for all commuters.
6. Sustainable	Makes the best use of available resources and assets	The proposal will support environmentally sustainable travel through preparation of a Green Travel Plan. For further details refer to Section 9.4.1 of this EIS.

8.4. Better Placed - An integrated design policy for NSW 2017

Better Placed: an integrated design policy for the built environment of NSW (Better Placed) was released by the NSW Government Architects Office in August 2017 as is described as follows:

Better Placed is a policy for our collective aspirations, needs and expectations in designing NSW. It is about enhancing all aspects of our urban environments, to create better places, spaces and buildings, and thereby better cities, towns and suburbs. To achieve this, good design needs to be at the centre of all development processes from the project definition to concept design and through to construction and maintenance.

Better Placed is an integrated design policy for the built environment of NSW which advocates for sharing the responsibility in delivering good processes and outcomes for NSW, with a focus on "good design".

Better Placed identifies seven Design Objectives for NSW including, better fit, better performance, better for community, better for people, better working, better value & better look and feel.

The Executive Architect outlined how high-quality design has been achieved through the proposal, in accordance with the seven Design Objectives, as follows:

Better Fit – contextual, local and of its place

The two new built forms are designed to complement and emphasise the existing heritage courthouse building and the surrounding context. The design has respectfully considered the local character and heritage context through non-obtrusive elements, such as a simple, modest and timeless design, with a colour scheme that follows and compliments the existing buildings and neighbourhood.

Better Performance – sustainable, adaptable and durable

Environmental sustainable responsive design has been incorporated into the design, to ensure an approach which is meeting the expectations of a sustainable development.

Solar heat gains through glazing to the northern and western facades is controlled by the introduction of louvre screens in front of the glazed elements. The neighbouring Police Station to the east, shades the eastern facing student accommodation glazing.

Careful consideration was given to the material selections, which have been considered for their durability and adaptability, and also considering on-going maintenance requirements.

The design will be subject to the Section J Energy Efficient requirements, dictated by the National Construction Code. The building fabric, glazing, mechanical systems, lighting controls and energy metering will be designed to comply.

Better for community – inclusive connected and diverse

The design is an inclusive, welcoming and equitable environment, promoting a diverse multicultural experience for all users. As the complex will be used as an exchange program University campus building, for Nihon students visiting from Japan, it will bring a diverse student population to the local area. Through possible collaborations with University of Newcastle students and other local people, the complex will bring together people from wide ranging backgrounds and experiences, promoting international relationships and helping build a more inclusive community.

Through the use of warm and natural colour palate, it will symbolically provide a gentle and welcoming image to all building visitors.

Better for people – safe, comfortable and liveable

The complex has been designed to provide a safe, comfortable and liveable environment for all building users. The students living in the student accommodation facilities will be mainly short stay exchange students from Japan, accompanied by their teachers. The students and teachers will be using the Education facilities for learning and studying.

The residential building has been carefully considered to provide an environment which is conducive to studying and reflect the students' cultural backgrounds. Students will use the cafeteria, student lounges, kitchens and landscaped outdoor terraces for break-out and after-hours relaxation.

The safety of the students is paramount, and the complex will be equipped with CCTV security system and an on-site security personnel, to ensure the everyday safety of the building and its occupants. Entrance to the building will be controlled by a control access system, for building occupants only.

Better working – functional, efficient and fit for purpose

The complex has been designed to be functional and fit-for-purpose for Nihon University for now and into the future. Through the adaptive re-use and refurbishment of the existing heritage courthouse building for educational and office uses, it is bringing new life to an aged building that previously had a very specific use.

Additionally, the two new buildings have been designed to meet a very specific brief for Nihon University's requirements and are fit-for-purpose. The structure of these new buildings has been designed to allow for future flexibility, to allow for adaption to new uses in the future.

Better value – creating and adding value

The design generates ongoing value for people and the community. The adaptive reuse and refurbishment of a very important State Listed heritage public building, is adding value to the community. Additionally, the complex will become a cultural centre, to promote exchange at various levels. There is a Memorandum of Understanding between Nihon University and Newcastle University, for future collaborations and exchange programs. In addition, it is proposed that the facility could be made open to the public at various times throughout the year, to provide insight into Nihon University and the programs being undertaken at the facility. The facility will be used a cultural hub, and the unique circumstance of this is it will add value and improvement to the site, community and beyond.

Better look and feel – engaging, inviting and attractive

The development as a whole has been designed to be welcoming and aesthetically pleasing. The design contributes to its surroundings and promotes positive engagement with the community and context. The two new built forms complement the existing heritage courthouse, and give a sense of unity and oneness. Although the functions of each of the 3 buildings are different, the complex as a whole works together in unison.

Through the use of an earth-like inspired colour scheme, visible landscaped roof terraces and timber look louvre screening, the design portrays a sense of warmth and an inviting impression. It contributes to its surroundings and promotes positive engagement with the community.

8.5. Crime Prevention Through Environmental Design (CPTED) Principles

CPTED is a recognised model which provides that if development is appropriately designed it can reduce the likelihood of crimes being committed. It is anticipated that introducing CPTED measures within the design of the development will assist in minimising the incidence of crime and will contribute to perceptions of increased public safety.

The 4 principles which guide CPTED are considered in Section 9.6.1 of this EIS.

8.6. Healthy Urban Development Checklist

The purpose of the *Healthy Urban Development Checklist* (HUDC) is to assist health professionals to provide advice on urban development policies, plans and proposals. It is intended to ensure that the advice provided is both comprehensive and consistent. The HUDC provides a useful mechanism for upfront guidance in the identification of key health issues, relevant supporting evidence and recommendations, also suggesting how positive effects can be maximised and negative health effects minimised.

The HUDC is structured into ten key chapters, each one focused on a characteristic that is important for healthy urban development. The proposal is consistent with the relevant provisions of the HUDC as follows:

- The proposed development will generate additional employment during construction and employment;
- A Green Travel Plan will be prepared for the campus and will include sustainable travel choices and details of programs for implementation, consistent with the HUDC objectives regarding encouragement of physical activity and reduction on car dependency;
- As set out in Section 9.6.1 of this EIS, the proposed development promotes principles of Crime Prevention Through Environmental Design (CPTED);
- The proposed development implements design quality principles which complement and respect the former Courthouse building and provide an appropriate response to the streetscape; and
- A detailed consultation process has been undertaken with relevant stakeholders to encourage stakeholder involvement in planning for the proposed development.

Overall, the proposal is consistent with the intent of the HUDC by providing a new development that contributes to social infrastructure in the locality and region and facilitates cycling and pedestrian accessibility.

8.7. Provisions of any draft environmental planning instrument

The draft environmental planning instruments applying to the proposed development at the site are considered below.

8.7.1. Draft State Environmental Planning Policy (Remediation of Land)

The state government is currently preparing a draft Remediation of Land SEPP and associated draft Contaminated Land Planning Guidelines. An explanation of intended effect for the draft SEPP was publicly exhibited between 31 January 2018 to 13 April 2018. It is understood that the SEPP will:

- provide a state-wide planning framework for the remediation of land;

- maintain the objectives and reinforce those aspects of the existing framework that have worked well;
- require planning authorities to consider the potential for land to be contaminated when determining development applications and rezoning land;
- clearly list the remediation works that require development consent; and
- introduce certification and operational requirements for remediation works that can be undertaken without development consent.

The proposed development would be capable of complying with this the draft SEPP.

8.7.2. Draft State Environmental Planning Policy (Environment) 2017

This draft SEPP provides for the protection and management of the natural environment. These areas are important to communities in delivering opportunities for physical health, economic security and cultural identity. This draft SEPP proposes to simplify and consolidate the planning requirements for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property by consolidating the following seven SEPPs:

- *State Environmental Planning Policy No. 19 – Bushland in Urban Areas;*
- *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011;*
- *State Environmental Planning Policy No. 50 – Canal Estate Development;*
- *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment;*
- *Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997);*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005; and*
- *Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.*

The site is not subject to any of the above SEPPs and as such is unlikely to be subject to the Environment SEPP when it is gazetted.

8.8. Newcastle Development Control Plan 2012

The *Newcastle Development Control Plan 2012* (the DCP) applies to the proposed development. Compliance with the relevant controls is addressed in Table 16. Note that satisfaction of the DCP Objectives will be achieved through compliance with the specific controls in each section.

Table 16 demonstrates that the proposal is compliant with the majority of the prescriptive controls of the DCP, and more importantly, consistent with all relevant objectives and/or performance-based controls. The only minor variation sought is in relation to numerical compliance with Council's car parking rate. CPSD is of the opinion that this variation is acceptable, and has been suitably justified by the project traffic consultant who concluded that the proposed car parking provision is acceptable for the proposed development particularly due to the site's highly accessible location and the proposed use of the site predominately by international students.

Table 16: Compliance with Newcastle DCP 2012

Relevant Control	Comment	Comply
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3.11 Community Services		
Aims of this section	The proposal is consistent with the aims of this section as it maintains and enhances the streetscape, amenity and character of the area; provides an educational establishment in a highly accessible location; and will encourage social interaction and community participation, including through proposed programs with local students.	✓
3.11.01 Building design	As discussed throughout this EIS, the proposed new buildings have been designed to integrate with existing site development and surrounding built form. The proposal is entirely suitable in this location and no adverse impacts on the locality are anticipated.	✓
4.03 Mine Subsidence		
Land to which this section applies	The subject site is located within the Newcastle Mine Subsidence District. An application for the proposed development was submitted to Subsidence Advisory (SA) NSW on 20 February 2019. A copy of the approval will be provided to DPE upon receipt. Mine subsidence is discussed further in Section 9.5.2 of this EIS.	✓
4.04 Safety and Security		
4.04.01 Crime prevention & public safety	As outlined in Section 9.6.1 of this EIS, the proposal incorporates appropriate CPTED principles in the design.	✓
4.04.02 Crime risk assessment	Crime risk matters, including exterior design and layout, surveillance and sightlines, lighting and signage / wayfinding, are considered in Section 9.6.1 of this EIS.	✓
4.04.03 Principles for specific uses	Section 9.6.1 of this EIS addresses principles relevant to the listed land uses. Detailed requirements (e.g. lighting levels) would be addressed at the detailed design stage.	✓
4.05 Social Impact		
4.05.01 Social impact	The proposal would not trigger the requirement for a formal social impact statement pursuant to Council's Social Impact Assessment Policy for Development Applications. The social impacts of the proposal are discussed in Section 9.6 of this EIS.	✓
5.01 Soil Management		

5.01.01 Erosion prevention	An <i>Erosion and Sediment Control Plan</i> is provided at Appendix 16. Prevention measures and sediment control measures are discussed further in Section 9.3.5 of this EIS.	
5.01.02 Sediment control	As above.	✓
5.01.03 Cut & fill	Elevations / sections showing existing site levels and proposed new levels are provided in the Architectural Plans at Appendix 2. The proposed earthworks will be informed by the geotechnical investigation prepared for the site (Appendix 21), and additional investigations undertaken (refer to table of commitments in Section 10). Minimal filling is proposed, and no excavation is proposed external to the building footprint. Excavation to a maximum depth of 10m is proposed within the building footprint, and therefore the works are not required to be designed and certified by a Structural Engineer at the DA phase. The proposed stormwater management regime for the site is appropriate, as outlined in Section 9.3.4 of this EIS.	✓
5.02 Land Contamination		
5.02.01 Plan making & development assessment	As discussed in Section 7.8.1 of this EIS, the site is capable of complying with the requirements of SEPP 55 with regard to potential soil contamination.	✓
5.04 Aboriginal Heritage		
5.04.01 Due diligence & development assessment	Appropriate mitigation measures are proposed at Appendix 17, and a full Aboriginal Cultural Heritage Assessment is currently being undertaken, to ensure the proposed development will not harm Aboriginal objects. Refer to Section 9.2.3 of this EIS for further details.	✓
5.05 Heritage Items		
5.05.01 General principles	A <i>Statement of Heritage Impact</i> (SoHI) in support of the DA has been prepared by John Carr Heritage (see Appendix 8) and provides heritage input into the design of the proposed adaptive reuse of the heritage item. The SoHI considers the most recent <i>Conservation Management Plan</i> (CMP) for the site.	✓

	The DCP is addressed in Section 2.6 of the SoHI where it is concluded that the proposed development is consistent with the general principles contained in this control. In particular, the SoHI notes: ▪ <i>The development is consistent with the requirements of the CMP schedules for each room or area based on level of significance.</i> ▪ <i>The development retains the heritage significance of the item by retaining the building and internal rooms of high significance. It also constructs the two new buildings in the same proportions as the existing in relation to bulk and scale.</i> ▪ <i>Adaption [has been] reserved for areas of moderate and little significance.</i>	
5.05.02 Integrating heritage items into new developments	With respect to this control, the SoHI notes: ▪ <i>The heritage significance of the former courthouse is conserved by preserving the areas/rooms within the building as they currently exist while using them for educational purposes;</i> ▪ <i>The setting of the building has been retained within the streetscape by the design of the development reflecting the bulk and scale of the existing buildings being removed;</i> ▪ <i>All repairs and reconstruction work associated with the courthouse building is to match the existing as scheduled by the CMP;</i> ▪ <i>There are no interventions that affect the long-term preservation of the heritage fabric.</i>	✓
5.05.03 Changing the use of a heritage item	With respect to this control, the SoHI notes: <i>The objectives for the change of use of the heritage item have been satisfied by adapting its current use as a courthouse, for use in an education institution. The controls Items 1 (a to f) and Item 2 have been complied with in the proposed adaptive reuse of the former court building. Interpretation of the site is to be developed at a later stage of these works. New services within the building follow the recommendations in the CMP by their location in areas of Moderate or Little heritage significance due to past renovations removing significant fabric.</i>	✓
5.05.04 Conserving significant elements of adjoining public domain	As outlined in the SoHI, this control has been addressed as follows: ▪ <i>Retention of the cast iron palisade fence to the church Street boundary of the site;</i> ▪ <i>Retention and relaying of the special brick paving to the kerb edge of the site;</i> ▪ <i>Retention of existing street trees in front of the subject site;</i> ▪ <i>Selected tree replacement within the site without obscuring the building;</i>	✓

	- Retention of the former public bubbler as a water feature in the footpath; - Preservation of existing kerb & guttering.	
5.05.05 Subdividing or amalgamating land on which a heritage item is situated	It is not proposed to subdivide or amalgamate the site.	N/A
5.05.06 Development in the vicinity of a heritage item	The proposed development will not have a negative impact on the significance of any nearby heritage items. Refer to Appendix 8 and Section 9.2.2 of this EIS for further discussion.	✓
5.06 Archaeological Management		
5.06.01 Archaeological management	A <i>Baseline Archaeological Assessment</i> (BAA) is provided at Appendix 20. The BAA provides recommendations to ensure that potential archaeological material will not be adversely impacted by the proposed development. These measures are discussed in Section 9.2.4 of this EIS and have been included in the table of commitments in Section 10.	✓
6.02 Heritage Conservation Areas		
6.02.02 Materials and details in heritage conservation areas	The proposed material palette is illustrated at Appendix 2 (Drawing A105). The proposed materials, colours and detail have been designed to complement the character of <i>The Hill Heritage Conservation Area</i> .	✓
6.02.03 Accommodating vehicles in heritage conservation areas	With the exception of the access driveway, the car park will not be noticeably visible from the street due to its position below street level. The car park will be incorporated into the design of the Education Building.	✓
6.02.05 Gardens in heritage conservation areas	Existing site landscaping has been redesigned to reflect a more simplistic Japanese style of garden and plant selection which is believed to be more appropriate for the redesigned site layout, the buildings and the harsh exposure to the coastal environment.	✓
Section 6.02.07 Infill	As outlined in the SoHI, this control has been addressed as follows:	✓

Development in a Heritage Conservation Area	▪ <i>[The proposal involves] maintain[ance] of an underground car parking area and provision of two new infill buildings that blend and add character to the streetscape while preserving the dominance of the existing heritage item.</i> ▪ <i>The two new buildings are designed with a matching bulk and scale to the former buildings with the advantage that they have elements of similar detail and are separated from the court building by two glass atriums.</i> ▪ <i>The overall presentation to the street and surrounding area will be similar to but better than currently exists, providing a harmonious site for the new Nihon University's Newcastle Campus.</i> The subject site is located within the Legal Precinct of <i>The Hill Heritage Conservation Area</i>. The SoHI notes that the proposed development responds to and respects the heritage significance of the area by 'creating a design that sits comfortably with the former courthouse allowing it to remain as the dominant building while at the same time creating two buildings on either side with a similar design, bulk and scale, both subservient to the heritage item.' With respect to views of the former Courthouse building, the SoHI notes the following: ▪ <i>The Hill Heritage Conservation Area is comprised of buildings at various heights and vegetation that screens many views across the area towards the city. Views from other areas close by to the subject site such as within the James Fletcher Hospital to the rear of the courthouse are blocked by buildings on the site, in this case, the Thwaites Building screens part of the view to the subject site from the large recreation ground on that site. The tower of the courthouse however in most cases can still be observed and will remain dominant.</i>	
7.02 Landscape, Open Space & Visual Amenity		
7.02.01 Categories of development	The proposal is a Category 3 development. A <i>Site Survey</i> is attached at Appendix 2. The required Landscape Documentation, including a Site Analysis Plan and Design Report, has been prepared by Moir Landscape Architecture and is attached at Appendix 3.	✓
7.02.02 General controls	Opportunities for ground level site landscaping are relatively limited. Notwithstanding, approximately 14% of the site area is proposed for landscape planting with 10% proposed for deep soil planting. Retention of the street trees and proposed landscaping within the front setback (including 2 new feature trees) would help to soften the built form, maximise the amenity of the public domain, and provide visual integration with the street.	✓

	Appropriate plant species have been selected with due consideration to CPTED principles, maintenance requirements, privacy needs and to maximise amenity for students and the public.	
7.02.04 Car parking	No external at-grade car parking is proposed.	✓
7.02.06 Green walls and roof space	The proposed planting on structures would be appropriate to the species and soil conditions, as conceptually indicated in the plans at Appendix 3. Additional specifications can be provided at the detailed design stage, as required.	✓
7.03 Traffic, Parking & Access		
7.03.01 Traffic studies & plans	<u>A. Traffic impact study</u> A <i>Traffic and Parking Impact Assessment</i> (TPIA) is attached at Appendix 18, addressing the requirements of the DCP.	✓
	<u>B. Construction traffic management plan</u> A construction traffic management plan will be prepared at the Construction Certificate stage (refer to table of commitments in Section 10).	✓
7.03.02 Parking provision	<u>A. Parking Rates</u> The DCP on-site car parking requirements for the proposed development are discussed in detail in Section 9.4.1 of this EIS. The proposed parking provision results in a shortfall under the DCP standard.	Acceptable
	<u>B. Variations to parking rates</u> The TPIA considers that the parking deficiency can be justified, particularly due to the site's highly accessible location and the proposed use of the site predominately by international students. It is emphasised that Nihon students will stay for 1-2 months, only, and will not have Australian drivers' licenses. Overall, the TPIA found that the minor variation to the DCP car parking rate is considered acceptable in the circumstances and the proposed development can be supported from a parking impact perspective.	
	<u>C. Bike parking</u> As discussed in Section 9.4.1 of this EIS, adequate bicycle parking is provided.	✓

	<u>D. Motorbike parking</u> As discussed in Section 9.4.1 of this EIS, adequate motorbike parking is provided.	✓
	<u>E. Parking for people with a disability</u> Two accessible shared spaces are proposed in the ground level car park. These spaces are conveniently located and will be appropriately signposted in accordance with AS2890 and AS1428.	✓
7.03.03 Travel demand management	<u>A. Public transport</u> The TPIA notes that the subject site is well serviced by public transport options.	✓
	<u>B. Green Travel Plan</u> A Green Travel Plan for the site will be developed and available for implementation at the commencement of site operations.	✓
	<u>C. End of trip facilities</u> Twenty-two bicycle spaces are proposed within the car park to encourage trips by cycling.	✓
7.03.04 Design & layout of parking & access	The TPIA considers that the proposed car park layout and vehicular access arrangements would generally comply with the requirements of the DCP as well as AS2890. The suitability of the proposed service access is discussed in Section 9.4.1 of this EIS.	✓
7.04 Movement Networks		
7.04.01 Network	The proposal does not involve any new movement networks or modifications to existing movement networks.	N/A
7.05 Energy Efficiency		
7.05.01 Business development	The proposed cafeteria at the ground floor incorporate a number of measures to maximise natural / passive climate control, including glazed frontages to allow sunlight penetration. Appropriate energy-saving fixtures will be utilised within the cafeteria. Specifications can be provided at detailed design stage, if required.	✓
7.06 Stormwater		
7.06.01 Plan requirements	A <i>Concept Stormwater Design</i> (CSD) has been prepared for the proposal to adequately cater for stormwater control and discharge (see	✓

	Appendix 16). An <i>Erosion and Sediment Control Plan</i> has also been prepared and is attached at Appendix 16.	
7.06.02 All development	The CSD addresses the DCP requirements. Refer to Appendix 16 and Section 9.3.4 of this EIS for further discussion.	✓
7.06.03 Infrastructure	The proposal does not create a Council stormwater asset.	N/A
7.06 Water Efficiency		
7.07.01 Water efficiency	Appropriate water-saving fixtures will be utilised within the proposal. Specifications can be provided at detailed design stage, if required.	✓
7.08 Waste Management		
7.08.01 General requirements	A <i>Waste Management Report - Building Operation</i> (WMR) has been prepared for the proposal (Appendix 11). The positioning of the proposed centralised garbage rooms, individual bins and service driveway are indicated in the Architectural Plans included at Appendix 2.	✓
7.08.02 Demolition & construction	Details of waste management procedures for the demolition and construction phases of the proposed development will be formalised in a Construction Waste Management Plan at the Construction Certificate stage (refer to the table of commitments at Section 10 of this EIS).	✓
7.08.03 Operational waste	Refer to Section 9.4.3 of this EIS for details.	✓

9. ENVIRONMENTAL IMPACT ASSESSMENT

9.1. Overview

In addition to the statutory and strategic controls addressed in Section 7 and 8 of this EIS, the SEARs state that the environmental impacts of the proposal must be assessed, and specify key issues be considered. These relate to: built form and urban design; environmental amenity; transport and accessibility; ecologically sustainable development; heritage (European, Non-European, Archaeological); noise and vibration; contamination; utilities; drainage; sediment, erosion and dust; waste; and biodiversity.

This section contains the assessment of those and other relevant considerations and includes recommended mitigation measures where necessary. Recommended mitigation measures have been included in the table of commitments in Section 10 of this EIS.

In evaluating the assessment undertaken in Sections 7, 8 and particularly, Section 9, an environmental risk assessment is provided in a matrix format.

As discussed in the following sections, the site is considered entirely suitable for the proposed development and only minor environmental controls are required to ensure the proposal will not impact on the surrounding environment.

The proposal incorporates the principles of Ecological Sustainable Development (ESD) through the environmental amenity considerations of the design, as well as through the implementation of the recommended mitigation measures detailed within the specific environmental assessments.

9.2. Built Environment

9.2.1. Built Form Context and Streetscape Character

The site's built form context and surrounding streetscape character is described in Section 3.2 of this EIS.

The proposed development responds to this context through the retention of the former Courthouse building and new buildings on either side that are recessive and simplistic in design. The new buildings have been configured to adopt a similar form to the existing buildings flanking the former Courthouse building (see Figure 36). In addition, the following is noted:

- The front setback of the new buildings will align with the existing façade of the former Courthouse building.
- The new buildings will maintain 3-storey frontages to Church Street. The fourth storey components of each building will be significantly setback such that they are not noticeably visible from the streetscape and do not alter the bulk or scale of the development, with the exception of the roof terrace pergolas which will be articulated to blend within the building form.
- The colour of the new buildings will complement and follow the existing colour scheme used on the existing former Courthouse building, toned down to make the whole building complex complement the surrounding environment. Generally, an earth-inspired colour scheme will be adopted.
- The two new built forms either side of the former Courthouse building are clearly defined elements between the old and new. The new built forms have a similar non-expressive language so that the details of the heritage courthouse façade are emphasised. The new buildings are connected by glass atrium structures to transition between the old and new.

- The new built forms have a strong featured L-shape wall and eave, and are aligned with the former Courthouse parapet line to emphasise a horizontal language.
- The façade treatment above ground floors makes the upper two storeys of the new buildings appear to float above the ground plane.
- Fronting on to Church Street, the two new built forms contain double height timber effect louvre screen panels, inspired by the language of a Japanese shoji screen, to create visual interest.
- Existing site landscaping has been redesigned to reflect a more simplistic Japanese style of garden and plant selection which is believed to be more appropriate for the redesigned site layout.

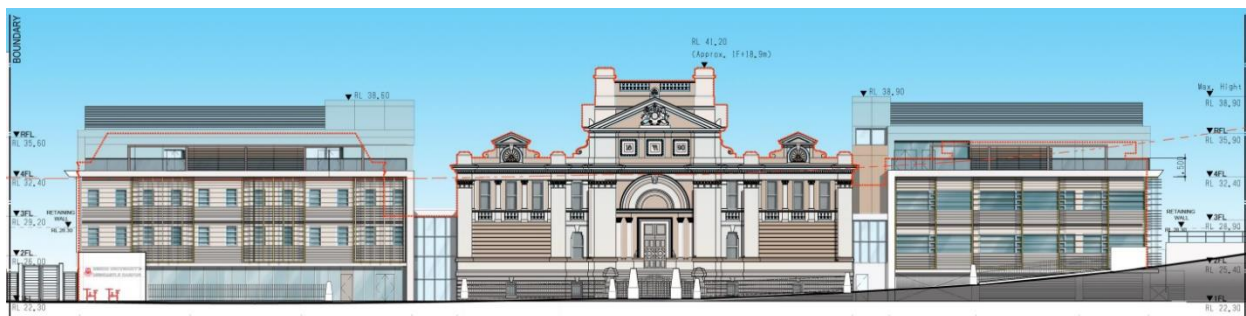


Figure 36: Northern elevation showing existing elevation outlined in red (Source: Azusa Sekkei)

Overall, CPSD is satisfied that the development appropriately responds to its local context and will result not result in any adverse built form impacts.

9.2.2. European Heritage

The subject site is identified as a heritage item of state significance, known as the 'Courthouse'. Part of the site also forms part of another state-listed heritage item, known as the 'Newcastle Government House and Grounds', which comprises a cluster of former and current government institution. Additionally, the subject site is located within *The Hill Heritage Conservation Area* and is surrounded by numerous locally and state significant heritage items.

Heritage is perhaps the most important aspect of this proposal. Accordingly, formulation of the proposed scheme was driven from a heritage conservation perspective, with heritage input into the design process being provided since the project's inception. In addition, a *Statement of Heritage Impact* (SoHI) has been prepared for the proposed development to consider all viable options for conservation and to assess the impact of the proposed development on the heritage significance of the subject site and surrounding area (see Appendix 8). Further, at the time of writing, City Plan Heritage is currently preparing an Interpretation Plan. This Plan which will be provided within 4-6 weeks of lodgment of this SSDA to form part of the assessment process. The *Letter of Confirmation of Engagement* at Appendix 25 outlines the proposed methodology and contents of the Plan.

The SoHI provides a detailed history of the subject site. In summary, the former Courthouse building was designed by Colonial Architect James Barnet and completed in 1892. Two new buildings were added to the site in the following century, namely the eastern Administration Building completed in 1949 and the western Supreme Court Building completed in 1966. The administration building almost doubled in size in

the 1982 renovations with minor additions occurring in 2005. Parts of the Courthouse building were altered and renovated in the early 1980s and repaired in 1991 following the Newcastle earthquake.

The SoHI considers the most recent *Conservation Management Plan* (CMP) for the site, prepared by Tanner Kibble Denton Architects in 2015. The CMP was prepared to provide a comprehensive understanding of the cultural significance of the building and to inform and guide planning decisions for the future adaptation and redevelopment of the site. It provides detailed conservation and redevelopment policies and key conservation recommendations for the site.

The CMP identifies the Newcastle Courthouse as a place of high heritage significance, comprising several important stages of development. Based on a study of the three individual buildings that make up the former Newcastle Court House, the CMP provides an overall heritage grading for the three main buildings on the site. In summary, the following is noted:

- *The 1892 Courthouse is a component of high heritage significance and should be retained and conserved... There is opportunity to regain the original design intent of the 1892 Courthouse by replacing the flanking additions with wings that are more deferential in character, scale and appearance and which allow the building to be appreciated as a free-standing building.*
- *The 1949 Wing is an item of little heritage significance and can be retained and adapted. ... If in the future, replacement of the building is considered, any new building must be designed in a way that acknowledges the significance of the 1892 Courthouse and is deferential to it in terms of siting, scale, detailed resolution and materials.*
- *The 1966 Wing is an item of moderate heritage significance and can be retained and adapted. If in the future, replacement of the building is considered, any new building must be designed in a way that acknowledges the significance of the 1892 Courthouse and is deferential to it in terms of siting, scale, detailed resolution and materials.*

The CMP was used to establish the heritage significance and background for the current proposal and to guide conservation and design decisions. The CMP schedule of internal rooms and their level of significance was used to assist with the adaptive reuse of the available spaces within the former Courthouse building.

The SoHI provides a comprehensive impact assessment of the proposal against the conservation and redevelopment policies and key conservation recommendations for the site outlined in the CMP. The SoHI analyses the extent of these potential impacts and the measures taken to mitigate any negative impacts. In summary, the SoHI found that the proposal will have minimal impact on the heritage significance of the place, the item and the surrounding heritage conservation area for the following reasons:

- *The demolition of the 1948 building to allow for the construction of a new residential accommodation building is consistent with the findings of the CMP with the building having little heritage significance due to extensive alterations and additions;*
- *The demolition of the 1966 building to allow for the construction of a new educational building is consistent with the findings of the CMP with adaptive re-use options examined and finding the alterations and additions required compromised the building to the extent that the heritage significance previously graded as moderate would be reduced to little with the extent of internal alterations;*
- *The retention of the courthouse building interiors assessed as high heritage significance being retained in detail and re-used as part of the education facilities is consistent with the recommendations of the CMP;*

- *The adaptive re-use of other areas within the courthouse building assessed as little or moderate heritage significance being adapted for uses requiring greater alterations or servicing is consistent with the findings of the CMP;*
- *The construction of the two new buildings on the site being designed with a similar mass and scale to the previous building, locating additional height to the southern portion of the structures, thereby allowing the northern facades to remain subservient to the central court building;*
- *Separating the two new buildings from the courthouse building by glazed atriums to provide a visual break in the masonry;*
- *The creation of two new buildings of similar design creates a harmonious northern elevation to Church Street, Bolton Street and the surrounding area.*
- *The new buildings have been designed to blend with the setting using a contemporary design and materials in a similar manner to other nearby recent buildings.*
- *The proposal provides a long term re-use of the place and provides for the security and maintenance of the buildings and site.*

CPSD is therefore satisfied that, subject to the implementation of the below mitigation measures, the SoHI has addressed the relevant heritage guidelines and as, concluded in the SoHI, the *'the overall development has minimal impact on the heritage significance of the courthouse building, the nearby individually listed heritage items and the surrounding heritage conservation area'* (p30).

The following actions are recommended in the SoHI to minimise disturbance and/or enhance the interpretation of the heritage significance of the item or area:

- *The eastern former Administration building be externally archivally recorded only.*
Reason - the entire building has been assessed as being of little significance due to the extent of alterations, however an external record of all buildings would be historically beneficial.
- *The 1892 and 1966 court buildings be externally and internally archivally recorded.*
Reason - to comply with the recommendations of the CMP.
- *Australian red cedar joinery removed and not re-used in the works be tagged and securely stored on site.*
Reason - to allow for future reinstatement.
- *Sections of wall removed between rooms in areas of High significance should leave a 110 mm brick nib.*
Reason - new openings are limited to a maximum height in the CMP and the thickness of float & set plaster in the two rooms may differ resulting in a slight but noticeable change of wall plane.
- *The Interpretation Plan be completed and submitted for Heritage Council Approval.*
Reason - at time of writing the Interpretation Plan was currently being prepared [and will be submitted for consideration prior to determination of the application].

The SoHI's recommendations have been included in the table of commitments in Section 10 of this EIS.

9.2.3. Aboriginal Heritage

A *Due Diligence Aboriginal Archaeological Assessment* (DDAAA) of the subject site was prepared by Archaeological Management & Consulting Group (AMAC) and Streat Archaeological Services Pty Ltd (see Appendix 17). While this assessment was limited to a desktop study of the site, AMAC has also been

commissioned to undertake a full Aboriginal Cultural Heritage Assessment, including consultation and archaeological test excavation in accordance with the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (the 'Protection Code'), the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* (the 'Investigation Code') and the *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (the 'Consultation Guidelines'). The consultation process commenced on 29 January 2019 and, at the time of writing, has reached Stage 2 in accordance with the Consultation Guidelines.

Key findings of the DDAAA are as follows:

- While the site has moderate/major surface disturbances, due to the deep soil profile of the soil landscape, it is likely that insitu or non insitu Aboriginal objects and/or deposits of conservation value are present.
- The *Hunter Region and Central Coast Aboriginal Cultural Landscape Map* indicates the area to be of spiritual and ceremonial significance.
- Although the area may have low archaeological significance, it may hold high cultural significance with intrinsic value to the Aboriginal community.
- The surrounding landscape features present indicate that sub-surface Aboriginal objects and/or deposits are likely in undisturbed areas and are likely to be considered of low to moderate Aboriginal archaeological significance.
- Based on the proximity of water and major water tributaries, it is likely that Aboriginal movement and land use would be channeled to this location and therefore the site may hold information regarding cultural activities of the area.

Based on the above findings, and following consultation with the proponent and the OEH Heritage Division, the DDAAA makes the following key recommendations:

- Further assessment is required in the form of a full Aboriginal Cultural Heritage Assessment (ACHA), including full Aboriginal community consultation in accordance with the Consultation Guidelines (currently underway at the time of writing).
- Subsequent to the preparation of the ACHA report, a program of systematic, sub surface archaeological test excavation in accordance with the Investigation Code should be undertaken to establish the nature and extent of any archaeological objects and/or deposits that are/may be present (currently underway at the time of writing).
- If archaeological test excavation reveals no Aboriginal archaeological objects or deposits, the proposed development should be allowed to 'proceed with caution'. The timing of any test excavation will be dependent on the appointment of building contractors and will occur prior to demolition and building excavation works being undertaken within the subject site.
- If archaeological test excavation reveals Aboriginal archaeological objects or deposits, once the nature and extent of the archaeological site has been established through test excavation and this data has been analysed and synthesised into a report, and before any ground disturbance takes place, all development staff, contractors and workers should be briefed prior to works commencing on site as to the status of the area and their responsibilities in ensuring preservation of the said area. They should also be informed of their responsibilities regarding any Indigenous archaeological deposits and/or objects that may be located during the following development.
- Should any human remains be located during the following development;
 - All excavation in the immediate vicinity of any objects of deposits shall cease immediately and the NSW police and OEH's Enviroline be informed as soon as possible.

- Once it has been established that the human remains are Aboriginal ancestral remains, OEH and the relevant Registered Aboriginal Parties will identify the appropriate course of action.

The DDAAA's recommendations have been included in the table of commitments in Section 10 of this EIS.

9.2.4. Archaeological

A *Baseline Archaeological Assessment* (BAA) was prepared for the site by Archaeological Management & Consulting Group and is provided at Appendix 20. The purpose of the BAA was to identify what relics, if any, are likely to be present within the subject site, assess their significance, consider the impacts from the proposal on any potential relics and provide recommendations for their protection, as required. The BAA was informed by a site inspection, consideration of the site's geotechnical characteristics, as well as a review of previous heritage studies undertaken of the site, historical imagery and photographs.

The former Courthouse building forms the earliest known development phase of the subject site. In terms of the site's physical evidence, the BAA notes the following:

- Low archaeological potential exists for undocumented archaeological material to survive relating to the agricultural use of the site during the 19th century. Notwithstanding, the site may contain archaeological remains demonstrating early to mid-19th century agricultural activities associated with the nearby military barracks, later converted into a hospital asylum and Catholic parsonage ('Kirkwood House'), such as post holes for fence lines, artefact scatters, evidence of drainage or cultivation marks.
- There is moderate potential for intact evidence of a below ground brick-lined, post-1861 culvert to the east of the former Courthouse building.
- Low potential exists for undocumented archaeological evidence relating to use of the courthouse during the late 19th and 20th century as well as evidence of World War Two air raid shelters.

The BAA notes the archaeological record of the subject site is considered to be of potential local archaeological significance. Specifically, having regard to the site's archaeological significance, the BAA notes the following:

- Any evidence indicating a link between the nearby military barracks hospital asylum or parsonage and the subject site is considered a valuable contribution to the historical development of Newcastle in providing information regarding early land uses of the site.
- Any intact evidence of the brick-lined culvert will contribute valuable information to the historical record regarding late 19th century stormwater management systems in Newcastle.
- Though not anticipated, any archaeological remains providing new or additional information regarding the operation of Newcastle's second courthouse is considered a valuable contribution in expanding the corpus of information relating to the development and provision of the justice system in the Newcastle district during the late 19th and 20th centuries.

The proposal involves earthworks associated with the levelling of the building footprint, installation of building footings and services and other associated activities. Consequently, the BAA makes the following key recommendations:

- Prepare an Archaeological Research Design and Excavation Methodology as part of an overall s60 permit application to the Heritage Division during the construction documentation phase to develop mitigation measures to manage the archaeological resource at the site.

- The s60 permit application will need to be endorsed by the Heritage Division prior to any excavation work on site.

The BAA's recommendations have been included in the table of commitments in Section 10 of this EIS.

9.2.5. Visual Impact

Numerous elements have been incorporated into the design to maximise the visual amenity and minimise the visual impact of the development when viewed from public areas and adjoining development.

The following visual impact analyses have been undertaken and considered in the development of the design:

Perspective	Comment
	This is a birds-eye perspective of the development, taken from a north-western vantage point, looking down onto the site and neighbouring context. This view shows how the development fits within its context, and illustrates 3 storeys of new built form along Church Street, with the fourth storey setback on the rear portion of the site. This view also illustrates the design of the upper roof terraces, with proposed shade structures, timber decking and landscape features. The roof terraces are wrapped in glazed balustrades, set back from the edges of the buildings to be a recessive element.
	This view is taken from eye level, standing in the centre of Bolton Street, just below the T-intersection with Church Street. This main view of the front of the development shows the simple symmetric design, which puts the existing heritage courthouse building at the centre of the design and illustrates its importance within the context. This view illustrates that the new buildings respect the heritage building and at immediate street level, comply with the 10m building height limit. Each building has its own language relative to its functions, yet work seamlessly together as a composition. The “L-shaped” forms hugging the two new buildings, as well as the glazed infill elements, emphasise the distinction between new and old.



This view is taken from eye level, standing on Church Street, opposite the north-eastern boundary point of the site. The view looks towards the building, and in a westerly direction up Church Street. From this view, the strength of the existing heritage courthouse is the dominant feature, with the “L-shaped” wall element of the Residential Building providing the separation between new and old.

The view focuses on the Residential Building, with a small format timber effect louvre screening running in front of a series of punch windows beyond to each of the student rooms.

The softness and warmth of the materials and colours is evident in this view. Additionally, the effect of the upper two storeys floating above the ground plane is quite evident and a strong element to the design.

The roof terraces and top floor are hidden from view, with the street of building presenting as only 3-storeys in height.



This view is taken from eye level, standing on the high side of Church Street, opposite the Hunter New England James Fletcher Hospital Campus. The view looks towards the building and is looking in an easterly direction down Church Street.

Similar to the Residential Building perspective above, this view the existing heritage courthouse is still clearly dominant, and again the “L-shaped” wall element distinguishes the new built form. The view focuses on the Education Building, with a larger format timber effect louvre screen design with glazing to the classrooms set beyond. This illustrates that the classrooms will receive ample natural light, with provisions for sunshade control and privacy to/from the neighbouring properties.

Overall, the proposed development is considered to provide an attractive design outcome with excellent visual amenity. No adverse visual impacts are anticipated.

9.2.6. View Loss

The surrounding area comprises an undulating topography, buildings at various heights, and vegetation that screens many views across the area towards the city. Existing views through the site from the public

domain and existing development are limited. In particular, it is understood that no clear views are currently available through the site to the Cathedral, harbour or coastline from any existing residential development of key public domain areas. Importantly, the site does not contain any 'key views' or 'vistas', as identified within the Newcastle Development Control Plan 2012.

The proposed development will generally maintain existing built form within the site, through the retention of the former Courthouse building and the replacement of the buildings with a similar built form to existing. Accordingly, no adverse view loss impacts are anticipated as a result of the proposed development.

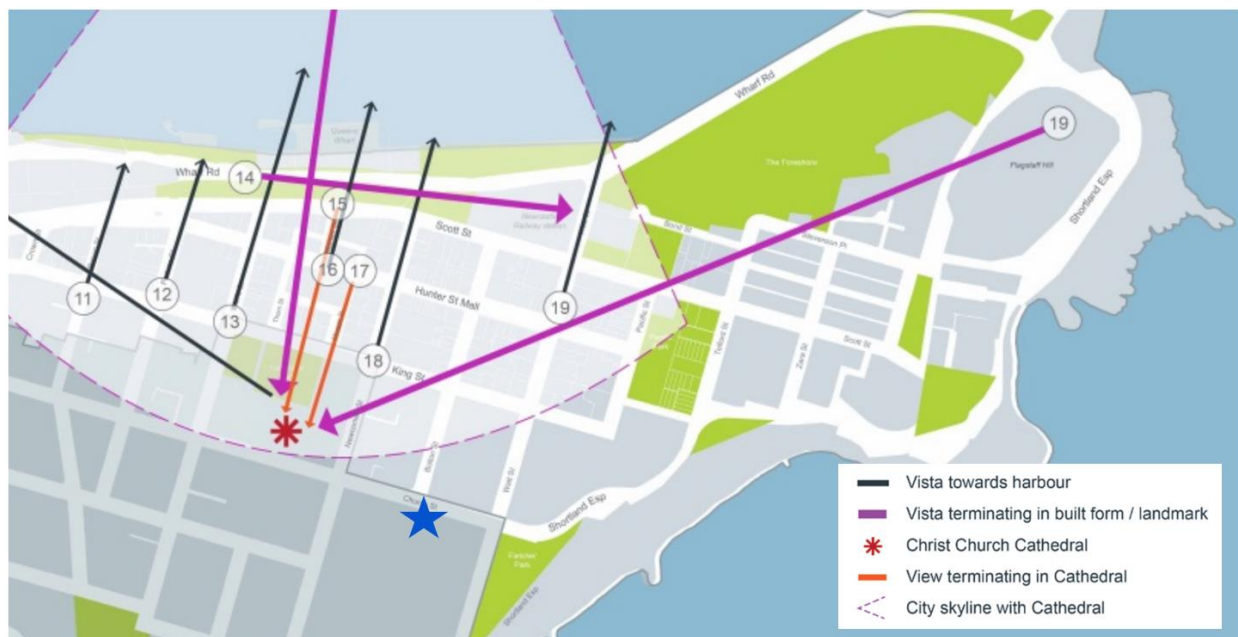


Figure 37: Extract of 'Figure 6.01-24: Views and Vistas Map', indicating site with blue star (Source: NDCP 2012)

9.2.7. Overshadowing

Shadow diagrams and 3D models have been prepared for the proposal by Azusa Sekkei and are included in the *Architectural Plans* at Appendix 2. These diagrams show the overshadowing impacts of the existing and new buildings on the site and surrounding area during the 'worst-case' overshadowing scenario (21st June - the winter solstice).

As indicated in Figures 38-45, due to existing ground level changes between the site and adjoining land, shadows cast by the existing and proposed buildings are generally confined within the site's boundaries during the winter solstice. External shadow impacts from the new buildings during the winter solstice, between 9:00am and 3:00pm, are summarised as follows:

- Some overshadowing to the garden area of the adjoining James Fletcher Hospital site to the west will occur during the morning period, however this will be limited to less than 1 hour.
- Overshadowing of the Hospital site to the south is exceedingly minor in the context of this large site and will not affect any areas of usable open space.

- No overshadowing of nearby residential development or the public domain will occur.

In light of the above, no unreasonable adverse impacts with regard to overshadowing will result from the proposal.

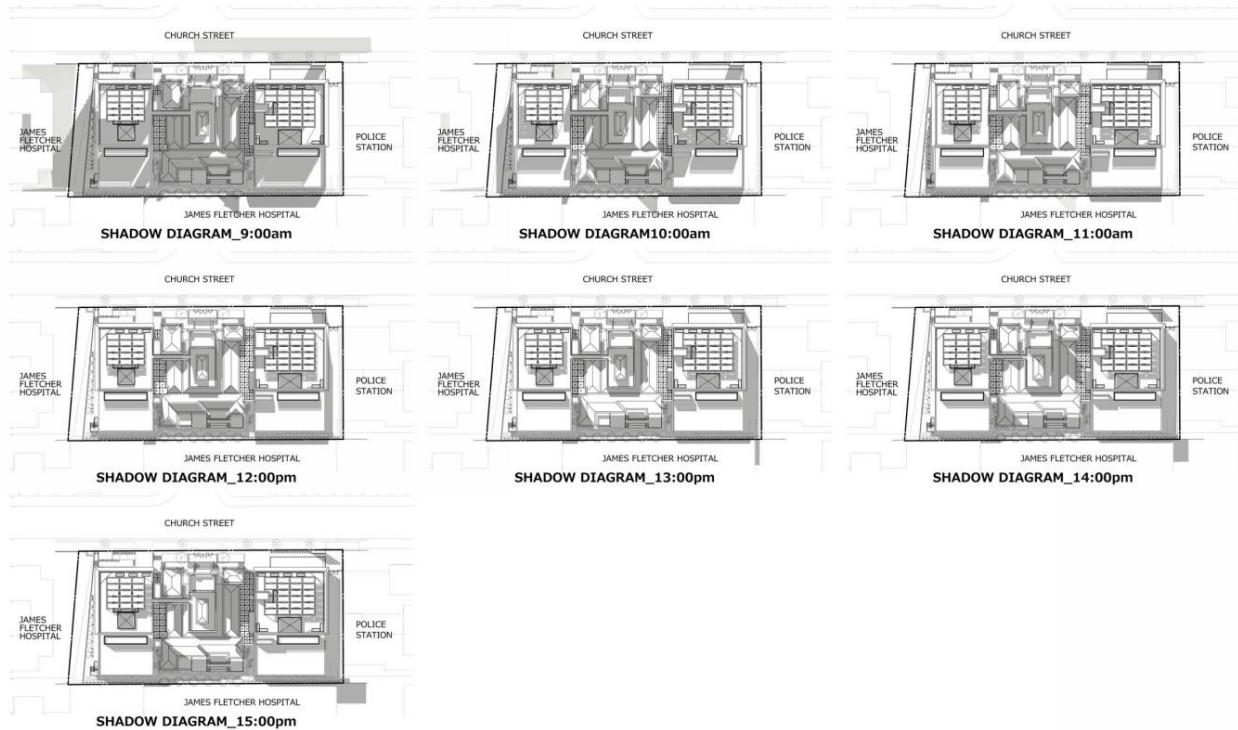


Figure 38: Shadow impact of proposed development during winter solstice (Source: Azusa Sekkei)

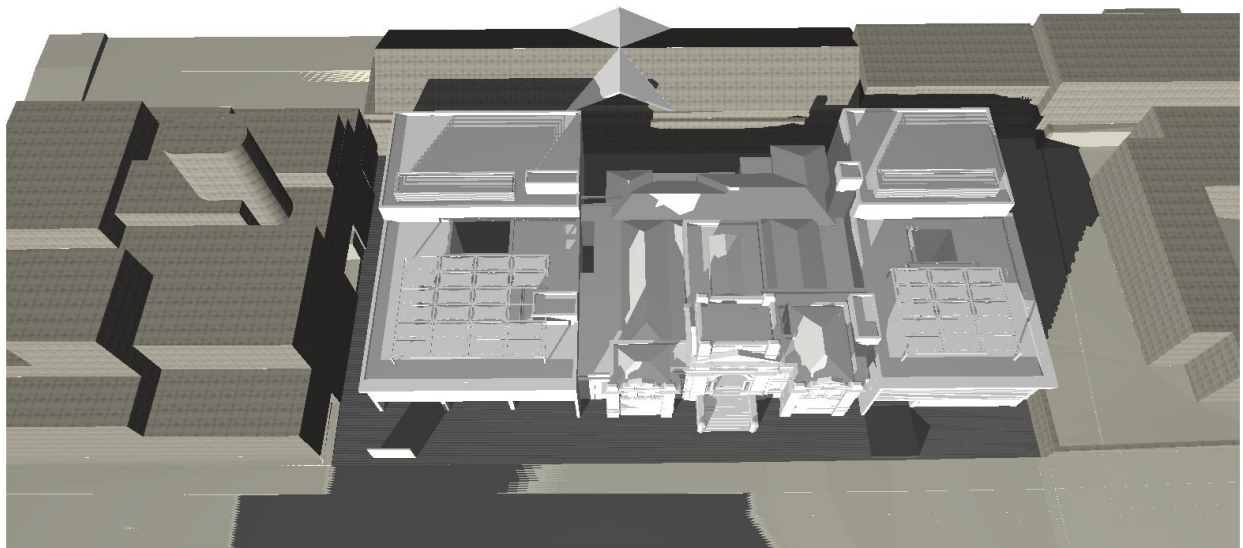


Figure 39: 3D Model showing shadow impact of proposed development at 9:00am, winter solstice (Source: Azusa Sekkei)

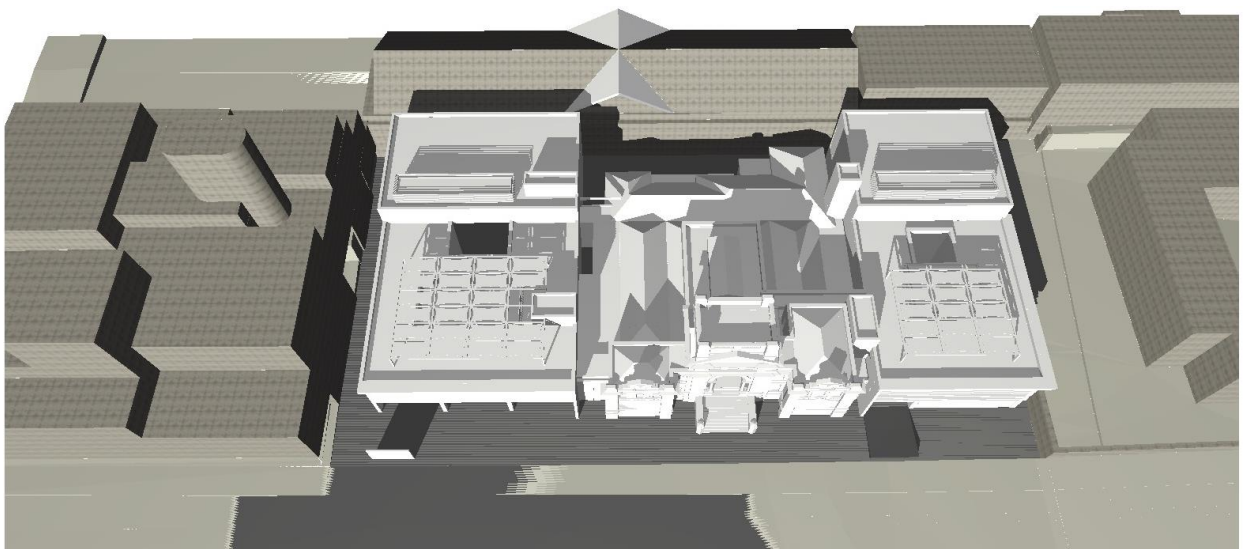


Figure 40: 3D Model showing shadow impact of proposed development at 10:00am, winter solstice (Source: Azusa Sekkei)



Figure 41: 3D Model showing shadow impact of proposed development at 11:00am, winter solstice (Source: Azusa Sekkei)



Figure 42: 3D Model showing shadow impact of proposed development at 12:00pm, winter solstice (Source: Azusa Sekkei)



Figure 43: 3D Model showing shadow impact of proposed development at 1:00pm, winter solstice (Source: Azusa Sekkei)



Figure 44: 3D Model showing shadow impact of proposed development at 2:00pm, winter solstice (Source: Azusa Sekkei)

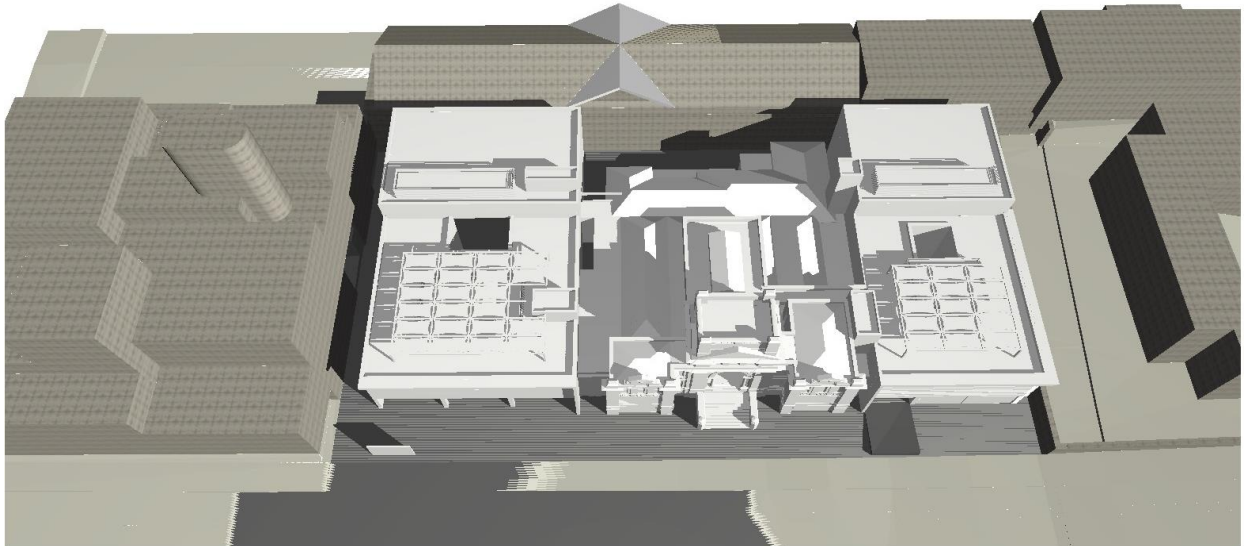


Figure 45: 3D Model showing shadow impact of proposed development at 3:00pm, winter solstice (Source: Azusa Sekkei)

9.2.8. Construction Noise and Vibration

To address potential construction noise or vibration impacts of the proposal, a *Noise and Vibration Assessment* (NVA) was prepared for the proposal by EMM Consulting (see Appendix 23). It sought to determine the potential noise and vibration impacts to surrounding development during the construction phase of the development and to ensure that noise levels comply with the requirements of the various authorities. It established short-term background noise level measurements through attended noise level surveys in close proximity to the site, and then analysed potential noise and vibration levels associated with the proposed construction works based on established criteria appropriate to the site and surrounding land uses.

The locations of the noise monitoring survey and nearby receivers are shown in Figure 46. The nearest noise-sensitive receptor locations are residential developments located on Bolton and Church Streets, approximately 20m north of the site (R1 and R3).



Figure 46: Noise monitoring and assessment locations (Source: EMM Consulting)

Based on this assessment, the NVA made the following key findings:

- As would be expected with typical construction works of this nature and in proximity to neighbours, predictions indicate that construction noise levels are likely to be above the noise management levels without mitigation at times during proposed construction activity. This is common for such situations. Given that the predictions assume equipment operating simultaneously and at the nearest locations to the relevant residential dwellings and commercial spaces it is likely that actual construction noise levels would be less than those predicted for the majority of the time.
- It is also possible that vibration levels generated at the project site could be above the relevant human comfort and structural vibration criteria.

Consequently, the NVA provides the following site-specific noise and vibration mitigation and management measures that will be implemented at the site during construction works:

- Construction hours will be restricted to the standard hours recommended in the ICNG;
- Information should be provided to neighbours before and during construction through media such as letterbox drops, meetings or individual contact.

- *The use of a site information board at the front of the site, with the name of the organisation responsible for the site and their contact details, hours of operation and regular information updates. This signage should be clearly visible from the outside and include after-hours emergency contact details.*
- *The use of existing structures, temporary site buildings and materials stockpiles as noise barriers, where practicable.*
- *Where practicable, place as much distance as possible between noisy plant or equipment and residences and other sensitive land uses.*
- *Minimise the number of plant items operating concurrently when in close proximity to surrounding receivers.*
- *Minimise the need for vehicle reversing for example, by arranging for one-way site traffic routes.*
- *Noise and vibration monitoring should be adopted as a management strategy throughout the construction works. The purpose of monitoring would be to validate background noise levels, the construction noise predictions and to confirm that the noise and vibration levels from individual items of equipment are not excessive. Ideally, monitoring would be undertaken at the commencement of works and during (or soon after) any significant change in activity.*

In addition to the above measures, the NVA provides further good practice recommendations which relate to: adoption of general noise and vibration management practices contained in AS2436-2010 (universal work practices, plant and equipment and work scheduling); noise and vibration monitoring; and community consultation and complaints handling.

The recommended site-specific measures and 'good practice' procedures will be included in the Construction Management Plan (CMP) prepared for the site to ensure there are no unreasonable noise or vibration impacts to neighbours.

The CMP will also have reference to the SoHI's recommendations to ensure control of vibration is reduced to avoid local area damage and damage to the former courthouse building by:

- Monitoring vibration with sensors;
- Dismantling building elements such as pre-cast concrete walls where possible; and
- Limiting the use of compaction machines in preparing the site.

Preparation of a CMP at the Construction Certificate stage, including the above recommended mitigation measures, is included in the table of commitments at Section 10 of this EIS.

9.2.9. Operational Noise

The proposal includes roof terraces, a caféteria (and associated outdoor terrace), mechanical plant, car parking and servicing areas, all of which have the potential to produce noise impacts to the surrounding area. The *Noise and Vibration Assessment* (NVA) prepared by EMM Consulting (see Appendix 23) assessed the potential noise impacts to surrounding development during the operation phase of the development to ensure that noise levels comply with relevant requirements.

The NVA made the following key findings:

- Mechanical plant selections will be finalised during the detailed design of the project, with reference to the relevant noise criteria. Plant areas will be located internally or on the roof level. Assuming the

use of conventional plant equipment and noise mitigation methods, it is expected that relevant criteria will be met.

- Located at either end of the development, it is unlikely that cumulative noise impacts from the semi-underground car park and service driveway would occur. Site servicing (including garbage collection) of the proposed development would be similar in nature and commensurate with the uses surrounding the site. Accordingly, the acoustic impacts arising from servicing are considered to be negligible.
- Noise emanating from the use of the semi-underground car park is expected to provide a worst-case scenario regarding traffic noise. Based on a highly conservative estimate, the predicted noise level due to onsite vehicle activity is LAeq,15minute 47 dB at the nearest residential locations, which is well below the most stringent (i.e. night-time) PNTL of LAeq,15minute 50 dB. As such, traffic noise from the development is unlikely to cause impacts at surrounding residences.
- The ground floor cafeteria (and associated outdoor terrace) will be open between the hours of 6:30am to 10:00pm, 7 days per week. The cafeteria will be managed by Nihon University and noise from the outdoor areas would be appropriately managed to ensure there is minimal disturbance to nearby residents
- The rooftop terraces will be accessible to students between the hours of 7:00am to 9:00pm, 7 days per week. The proposed roof-top terraces will be available for use by students only and will not be open to the general public. The terraces are intended to provide spaces for students to study, relax or meet with friends, rather than as an area for hosting events or large groups. In order to attenuate any noise impacts that may arise, 1.5m high glazed balustrades are proposed to surround the rooftop terraces.
- Conservative sound power levels for the cafeteria and roof-top terraces have been adopted to account for potential high student noise levels. Many of the current surrounding land uses are commercial premises with similar operations and operating hours. Therefore, the level and profile of noise emanating from the premise is expected to be similar in nature to the surrounding ambient environment. The assessment identified that the LAeq,15-minute noise levels from the project are predicted to satisfy the relevant project noise trigger levels at all assessment locations, during all assessment periods. As such, it is unlikely the nature of sound emissions from the proposed development will cause any community response or noticeable change in the surrounding acoustic environment.

The NVE recommends implementation of the following measures with the aim of ensuring operational noise levels remain below the relevant goals:

- 1.5-metre-high glazed balustrades around both roof-top terrace areas;
- students will have access to the roof-top terraces between the hours of 7:00am to 9:00pm only (ie no night-time use);
- the cafeteria is proposed to operate between the hours of 6:30am and 10:00pm (ie no night-time operations);
- the mechanical plant areas for the development are proposed to be located internally or on a rooftop level; and
- rooftop mechanical plant areas are to be enclosed or surrounded with appropriate acoustic barriers.

The NVA's recommendations have been included in the table of commitments in Section 10 of this EIS. Accordingly, the proposed development is unlikely to result in any adverse noise impacts to the surrounding area.

9.2.10. Building and Construction

The proposed development has been designed in accordance with all the relevant controls of the BCA. A *BCA Compliance Statement* has been prepared by DixGardiner Pty Ltd and is provided at Appendix 11. This Statement sets out a number of recommendations to ensure that the proposed building, alterations and additions are capable of achieving compliance with the requirements of the BCA and relevant adopted standards without undue modification to the design or appearance of the building. The Statement indicates that the development is capable of complying with the requirements of the BCA.

Compliance with the BCA will be further demonstrated with the Construction Certificate documentation. A Construction Management Plan (CMP) will be prepared by the appointed contractor, once the terms of any approval granted by DPE are known. Accordingly, it is anticipated that DPE will include appropriate conditions within any consent notice requiring the preparation and approval of a CMP prior to works commencing.

Preparation of a CMP at the Construction Certificate stage is included in the table of commitments at Section 10 of this EIS.

9.2.11. Internal Amenity

The environmental amenity considerations of the design have been outlined by the Executive Architect and are discussed in the following sections.

Solar Access

The site is constrained on east, south and western boundaries by either buildings or retaining wall structures of varying heights. Immediately along the Eastern boundary of the site is the Newcastle Police Station, which is 4-5 storeys in height.

Based on the solar analysis study of the existing conditions (Architectural Plans, drawing A120), the following is noted:

- the site is significantly overshadowed by the Police Station and the buildings on the opposite side of Church Street between 9:00am and 11:00am on the Winter Solstice.
- the north facing cafeteria, classrooms, and student accommodation rooms would receive direct sunlight at the winter solstice for a minimum 4 hours between 10:00am and 3:00pm, without being affected by the shadows of the neighbouring buildings.
- for the rooms facing east, west and south, the habitable areas would not be affected by the shadows of the neighbouring buildings for 4 hours between 10:00am and 3:00pm depending on their location, thus receiving natural light at some time of the day during the winter solstice.
- The roof-top communal areas will receive excellent solar access year-round.

In summary, the majority of habitable spaces have access to natural light, however direct sunlight is limited to north facing rooms.

Visual Privacy

Visual privacy both into and out of the development was considered during the design development. The northern façade of the Residential Building facing Church Street incorporates a louvre screen system to assist in visual privacy both to/from the street and the buildings across the road. In addition, it is proposed to install blinds or curtains to further increase privacy to these rooms.

The east, south and western facing boundary façade windows will rely on blinds or curtains to assist with visual privacy. It should be noted that the east and southern windows look onto the blank walls of the adjacent Police Station and retaining wall of the James Fletcher Hospital site.

Internal noise levels

The new buildings are designed to satisfy the codes and regulations for acoustic measures, and will meet deemed to satisfy requirements in accordance with the National Construction Code.

It is understood that the former Courthouse building will not require any acoustic treatment for noise transference based on its historical use as a Court House inclusive of the requirements for silence during court sessions.

Other Amenity Considerations

It was an important design consideration to provide various areas within the development for students to use for breakout and refuge during their downtime. This was achieved through the incorporation of roof terraces above the Education and Residential Buildings, the provision of internalised terrace areas within the new buildings, and the provision of a southern terrace at the rear of the former Courthouse building.

These spaces are intended to be used by students during their breaks, and also for relaxation outside of class hours. These areas provide access to natural light and fresh air, and a connection to nature.

The roof terraces offer magnificent views to the city, large spaces for outdoor relaxation. The timber deck, Japanese zen stone garden and landscaping offer a private retreat for the exclusive use of students.

The Southern terrace has been designed as an intimate external communication space, facing a Japanese inspired garden. The space offers a calm and tranquil space to sit and relax in the fresh air. During autumn, students can enjoy the colourful landscaping.

9.3. Natural Environment

9.3.1. Ecologically Sustainable Development

The principles of ESD contained in Clause 7(4) of Schedule 2 of the EP&A Regulation are specifically addressed in Section 7.3.6 of this EIS.

The broader ESD considerations of the design, a preliminary consideration of building performance and a description of how the development responds to the predicted impacts of climate change is provided below. Specific design elements have been included in the table of commitments at Section 10 of this EIS.

The proposal adopts the following key ESD considerations to improve the environmental performance of the development and reduce its ecological impact:

- Solar Passive Design
- Waste Management
- Energy & Water Efficient Design
- Sustainable Materials

A formal Green Star accredited rating is not a mandatory requirement under legislation, and as such is not being undertaken for this development. Notwithstanding, Table 17 summarises the operational performance of the proposed development across the nine Green Star Performance 'impact categories'. The measures reflect the four key ESD considerations outlined above.

Table 17: Operational performance of proposed development

Measure	Proposed Outcome
Management	Waste reduction implementation measures during occupation, with a strong emphasis on recycling, as outlined in the <i>Operational Waste Management Plan (Appendix 12)</i> .
Indoor Environment Quality	Selection of materials where possible with low volatile organic compounds (VOCs)
	Provision for outdoor air supply and to all classrooms and residential areas.
	Glare control to classroom and residential spaces, through performance glazing, sun shading devices and internal blinds
	A compliant indoor lighting solution, achieving minimum lighting levels required, in addition to access to indirect natural light to all classrooms and residential rooms
	Providing thermal comfort to occupants through a compliant insulated building fabric
Energy	The use of energy efficient lighting fixtures
	Reduction of energy usage through reducing solar heat gains to facades and use of performance glazing
	The use of sensors to capture human movement to control heating, cooling lighting systems
	Compliance with Section J Energy Efficient requirements, dictated by the National Construction Code. The building fabric, glazing, mechanical systems, lighting controls and energy metering will be designed to comply
	Concrete structure for thermal mass qualities
	Reducing heat loads into the building, through the use of louvre screen shading system and slab edge extrusions along the northern and western facades.

Transport	A commitment to implement a Green Travel Plan, to reduce reliance upon individual usage of car travel to and from the facility
	Easy access to public transport
	Bicycle Parking facilities, with access to showers
	Reduced carparking numbers to encourage use of alternative transport methods
Water	Stormwater will be captured and re-used in toilet flushing and irrigation
	Installation of water efficient shower heads, tapware and toilets. Target to achieve minimum WELS 3 Star rating for all fixtures
	Selection of low water plant species for landscaping treatments
Materials	Materials will be carefully selected for their durability and adaptability, and on-going maintenance requirements. Final selection of materials will be determined during the detailed design stage, and will be fully discussed with the design team and owner. Target to install materials and products that are either made from recycled products or content, or have an end-of-life scheme for recycling of a product at the end of its use
Land use and ecology	No endangered, threatened or vulnerable species affected on the site
	Improvements to the site's ecology through new landscaping strategy
Innovation	Adaptive re-use and refurbishment of the existing Heritage Building, which provides a new purpose to a vacant and run-down building
	Maintaining the embodied energy within the existing structure and lessening the potential ecological footprint and impacts upon landfill

The proposed design responds to the impacts of climate change predicted by CSIRO through the following measures:

- A fully compliant building, in accordance with NCC Section J, including a fully insulated building fabric to keep heat out of the building
- An energy efficient and compliant air conditioning system to provide relief to occupants on hot days
- A stormwater retention and re-use system, capable of capturing rainfall from extreme rainfall events
- Outdoor areas with sun shading devices allowing for occupants to sit in shade on hot summer days

- The building structure designed to the necessary wind loads based on the Australian structural codes, to respond to gustier wind conditions

The proposal incorporates the principles of ESD through the performance measures proposed, as well as through the implementation of the recommended mitigation measures detailed within the specific environmental assessments.

9.3.2. Biodiversity

A *Biodiversity Development Assessment Report Waiver* was prepared for the proposed development by EMM Consulting (see Appendix 13). The purpose of the BDARW was to determine the impacts of the proposed development on biodiversity values to support a BDAR waiver request to the OEH.

The BDARW made the following key findings:

- The site consists of non-native tree, shrubs and grasses. None of the trees or shrubs present within the site had identifiable habitat features in the form of hollows or nests.
- The integrity of the limited vegetation on site is very poor. No habitat features (including hollows, caves, rocks and nests) are present on site.
- No threatened flora or fauna were observed during the site visit. Considering the highly degraded landscape and unsuitable vegetation present it is unlikely any threatened species will occur.
- No threatened flora, fauna or ecological communities are present on site. There is no suitable habitat present on site for any threatened species.
- Habitat connectivity on site is negligible. Vegetation within the site is not considered suitable for any threatened species, with no suitable habitat located nearby. Any vegetation clearing and development on site will not impact the connectivity of habitat which facilitates the movement of threatened species across their range.
- The development will have no impact on local water bodies or hydrological processes.

CPSD is therefore satisfied that the development will not result in any adverse impacts on biodiversity.

9.3.3. Tree Management

An *Arboricultural Impact Assessment Report* (AIAR) has been prepared for the proposal by Joseph Pidutti (see Appendix 5). The AIAR assessed the potential impacts of the proposed development on the 29 trees within the subject site, the 5 street trees fronting Church Street, as well as several trees within the adjoining James Fletcher site to the west. The AIAR includes an assessment of the health, condition and retention value of those trees. In summary, the report found that, with the exception of the 5 street trees, all trees within the site should be removed to facilitate construction.

The AIAR notes that existing vegetation within the site consists mostly of mature and semi mature *Lagunaria patersonii* (Norfolk Island Hibiscus) and several other exotic species that are generally located in the rear south-eastern portion of the site. Two other trees and smaller shrub plantings are also located approximately midway along the site's frontage northern boundary. Five *Magnolia Grandiflora* (Little Gem) trees are located in Church Street fronting the site.

In general, the trees assessed display relatively good overall condition and as a group have a high retention value. Individually, however, the majority of trees have small live crown sizes and canopies that have

formed asymmetrical crowns (especially those that are positioned on the outer edges of the group). As such, individually, most trees have been assessed as having low retention values.

Specifically, the AIAR makes the following findings in relation to the existing trees within the site:

- Nine trees have been assessed as having moderate retention values and, accordingly, alternative design options are to be considered. If it can be demonstrated that it is not reasonable to retain these trees, compensatory planting will be required.
- Due to their small live crown size (less than 40m²), individually, 16 trees are considered to have low retention values.
- Due to their invasive seeds, 3 trees (*Cinnamomum camphora*) are generally considered to be an undesirable species and, combined with their poor canopy structure, have been assessed as having very low retention values.
- One tree is a dead tree and would be removed regardless of the impacts of development.

As mentioned above, all trees within the subject site are proposed to be removed for the following reasons:

- Tree Nos. 13, 14 and 17-21 are within the building footprint and as such their removal would be necessary to facilitate the development as proposed.
- Earthworks associated with demolition of the existing driveway and carparking area along the rear south-western boundary and construction of the new buildings and other associated infrastructure works will encroach well into the calculated TPZs and SRZs and canopy structure of Tree Nos. 1-12, 15, 16 and 22-29.
- Having regard to the protection zones required to retain the trees in good, safe condition, significantly reduced development footprint would still be likely result in conflict between tree roots and construction.

The AIAR recommends a number of measures to ensure adequate protection of the street trees and trees within the adjoining James Fletcher site to the west which are proposed to be retained. The AIAR's recommendations have been included in the table of commitments in Section 10 of this EIS.

9.3.4. Stormwater Management

In order to address stormwater management issues, a *Concept Stormwater Design* (CSD) has been prepared by Cardno and is attached at Appendix 16. While no increase in impervious landscaping area is proposed compared to existing site conditions, the proposal will result in an additional/refurbished roof area of 1920m². Having regard to Section 7.06 of the Newcastle DCP 2012, the CSD calculates that the volume of on-site stormwater storage required for the proposed development is 48kL.

Stormwater management, as outlined in the CSD, includes the following components:

- Installation of a 50 kilolitre below ground rainwater tank near the site's rear boundary to collect runoff from the entire additional/refurbished roof area. All runoff will pass through an approved first flush device prior to entering the tank.
- The volume of the tank will be internally reused in toilets and externally for landscape irrigation. Overflow will discharge from the site.
- Runoff from at least 90% of paved areas will be directed towards landscaping and/or swale treatments prior to discharging from the site via a pit and pipe network.

9.3.5. Soil Management

An *Erosion and Sediment Control Plan* has been prepared by Cardno and is attached at Appendix 16. As outlined in the Plan, prevention and sediment control measures will be implemented during the construction phase, including sandbag protection filters, sediment barriers, silt fences, control of stockpiles and a temporary contract vehicle access way to prevent sediment being tracked off-site. Erosion and sediment control measures will be carried out in accordance with the 'Blue Book' published by Landcom, *Managing urban stormwater: soils and construction - Volume 1, 4th Edition*.

Note that geotechnical, mine subsidence, acid sulfate soils and contamination matters are addressed in respect of the site's suitability at Sections 9.5.1, 9.5.2, 9.5.3 and 9.5.4 of this EIS.

9.3.6. Air and Microclimate

Some dust is anticipated during the construction period, particularly given demolition and excavation is involved. This impact can be managed through measures such as wetting down work areas/stockpiles, stabilising exposed areas, preventing material tracking out onto public roadways, covering loads on all departing trucks and working to weather conditions. The proposal is otherwise not expected to give rise to any long term or adverse impacts on local or regional air quality.

A Construction Management Plan will be provided by the builder, once appointed, prior to the issue of the Construction Certificate (refer to the table of commitments at Section 10 of this EIS).

9.4. Movement and Access

9.4.1. Traffic, Parking and Access

A *Traffic and Parking Impact Assessment* (TPIA) has been prepared for the proposal by Better Transport Futures and is included at Appendix 18. The TPIA assessed the potential traffic and parking impacts of the proposed development taking into consideration the site's existing and historical vehicular access and parking arrangements, the current and future local traffic environment, and relevant standards and Council requirements. Key outcomes of the TPIA are addressed in the following sections.

Overall, the TPIA found that the *'based on the proposed supply of parking, which will cater well for staff needs, as well as the high level of public transport access ... the subject site will operate well, with limited on-street traffic or parking impacts in the immediate vicinity'* [p23].

Existing and Future Traffic Environment

The TPIA provides details of the road network serving the site and the existing and future traffic environment. Some of the key characteristics are as follows:

- The site fronts Church Street opposite the T-intersection with Bolton Street. The intersection operates under priority control.
- Church, Bolton, Newcomen and Watt Streets are all local roads, comprising two lane two-way urban streets with kerb side parallel parking lanes on both sides of the road.
- All on-street parking in the vicinity of the site is time-restricted paid parking, controlled by street meters. The Bolton Street carpark is located to the north of the subject site, and is available for public parking as well as tenant parking, on a timed pay basis.

- All local road intersections in the vicinity of the site operate under priority control, with stop sign / give way sign control to reinforce priority on the 4-way junctions.
- Watt Street is closed from Wharf Road to Shortland Esplanade for a period of 6 to 8 weeks from late October each year, associated with the Newcastle 500 V8 Supercars meetings. The race meeting is anticipated to continue until 2021, with a 5-year option available to extend the life of the race meeting.
- Road work construction has also commenced on redevelopment of the Newcastle Herald building site on the corner of Newcomen Street and King Street. It is also understood that redevelopment of the Bolton Street Car Park site is currently being considered, with any new development likely to retain the site's car parking function.
- Based on the result of traffic surveys undertaken in February 2019, existing intersection and road performance in the vicinity of the site is very good, operating at the highest Level of Service ranges of A/B. All mid-block sections of the local road network operate at well within their technical and functional capacity levels. Variations in the observed flows were within expected ranges for fluctuation in daily flows, and for different days of the week.
- The Parque Newcastle East development currently under construction, with access to Bolton Street just north of Church Street, will have some traffic impacts on the nearby junction of Church and Bolton Street. Importantly, however, even allowing for this development and the proposed development at the subject site, the intersection volumes will remain at a level below which capacity analysis is unnecessary.
- Bus routes run along Church, Watt and King Streets and nearest light rail station is located approximately 400m to the north of the site. The combination of bus routes and light rail services linking to the heavy rail network provides public transport access across the Hunter Region, and beyond.
- Walking and cycling facilities in the immediate vicinity of the subject site are typical of an established business district, with footpaths formed along both sides of all roads, existing and planned cycling facilities and electric bike share services.

Proposed Development - Traffic Generation & Impacts on the Road Network

Traffic generation associated with the proposed development will be limited to staff movements and service vehicles, and is considered to be less than the comparable activity associated with the former site use. Nihon students will stay for 1-2 months, only, and will not have Australian or International Drivers Licenses.

Notwithstanding the very minor nature of the traffic and transport generations of this proposal, traffic survey data collection and intersection modelling was completed. For the purposes of a "worst case" analysis, the TPIA applied a traffic generation estimate for the proposed development of 20 peak period trips. This conservative estimate is based on 100% of on-site parking being accessed during peak periods, which is highly unlikely given that all staff and students will reside on site. The potential trip distribution pattern of this traffic throughout the local road network is illustrated within the TPIA.

Based on a highly conservative assumption such that 100% of the nominated traffic generation passes through the busiest approach intersection to the subject site, being Church Street / Watt Street / The Esplanade, and even allowing for growth (2% p.a.), the intersection performance remains at very high service levels (Service Level A/B).

Any 'special events' (such as public lectures) would be restricted to the fixed existing capacity of the Courthouse, and would therefore be no different to any past major events at the Courthouse, such as major trial open to the public.

Accordingly, having regard to the above analysis, the TPIA concludes that *'there will be no discernible traffic impacts [resulting from the proposed development] when compared to the former site use'*.

Travel Demand Management

End of trip facilities proposed include 22 bicycle and 1 motorcycle parking spaces. This is a comparable rate to that provided for other accommodation / residential type land uses.

Student off campus after hours transport needs are expected to be well catered for by the range of public transport, walking and cycling options available for movement within the Newcastle CBD and beyond. The recommended Green Travel Plan will provide students and staff with information on the available alternatives for their movement needs, and will also cater to 'special events'.

The TPIA found that no upgrades to existing pedestrian, cycling or public transport facilities would be considered warranted as a result of the proposal.

Proposed Vehicle Access and Servicing

No changes are proposed to vehicle access for the site, with the existing basement car park entrance being replicated in the new building structure. There is provision for up to 20 parking spaces, with space and access aisle dimensions generally confirming to the requirements of AS/NZS 2890.1:2004 Parking facilities - Off-street car parking.

Service vehicles will continue to access the site via the existing driveway off Church Street at the eastern boundary. Servicing of the kitchens and plants areas will be undertaken by small commercial vans and small rigid vehicles with short turnover periods. No large vehicles are proposed to service the site. Service vehicles will access the site by performing a reversing manoeuvre to enter the site, and then exit the site in a forward direction.

Garbage collection from the site will occur on street, in accordance with the recommendations of the *Operational Waste Management Report* (Appendix 12).

With respect to arrival and departure of other service vehicles, these are also able to be addressed by way of a management plan for the site. In this way, reverse manoeuvres at the property boundary can be limited to one only (permissible with consent under the Australian Standard.) This would preferably be on entering, and also subject to consideration of both safety and obstruction to other on-street traffic.

Proposed Parking

The site is located adjacent to the LEP City Centre boundary and is adjoined by a number of regional facilities that are consistent with City Centre activities. Accordingly, the TPIA considers that the City Centre rate should be applied to the site for consistency.

Existing on-site car parking provision reflects the Department of Attorney General and Justice Car Parking Policy which generally prohibit private vehicle parking within Departmental sites. In addition, Court users and visitors were not provided with car parking for security reasons. Providing 34 car parking spaces (16 basement spaces and 18 outdoor spaces), the site previously operated under a historical car parking deficiency of 31 spaces against the current DCP city centre rate of 1 space per 60m². The proposed development will provide 20 car parking spaces.

Strict application of the DCP city centre parking rate is not considered appropriate for the proposed development given that Nihon students will not have Australian or International Drivers Licenses, and based on a review of comparable establishments. Comparable university facilities in Newcastle CBD (New Space) and also the proposed Honeysuckle Campus provide a parking ratio of around 1 space per 500m²,

or no parking at all. This is justified on the basis of application of TDM and GTP principles, whereby use of alternate (sustainable) transport modes such as public transport, walking and cycling are actively encouraged. TDM and GTP principles are now actively supported by both Local and State Government.

In addition, University campuses across Australian cities currently operate with parking ratios between nil (i.e. no parking) and 1 space for more than 750m² GFA.

Applying the equivalent Newcastle University City Campus principles (New Space) to the proposed development would result in a parking supply requirement of 16 spaces. The site proposal is for 20 car spaces.

Having regard to the historic site parking use and deficiency, parking provision at comparable university facilities, and providing some allowance for (official) visitor parking, the proposed on-site car parking provision of 20 spaces for 8 staff members is considered satisfactory for the needs of the site.

Mitigation Measures

The TPIA makes the following recommendations:

- *A Green Travel Plan for the operations of the subject site be developed and available for implementation at the commencement of site operations. Subject to the development of a Green Travel Plan it is recommended that the proposed Nihon University Australia Newcastle Campus Project be approved on traffic and parking grounds.*
- *A Construction Traffic and Pedestrian Management plan be prepared for implementation in consultation with the construction contractor (when appointed) and prior to the issuing of a Construction Certificate for the project.*

The TPIA's recommendations have been included in the table of commitments in Section 10 of this EIS.

9.4.2. Demolition and Construction Waste Management

Due to the heritage listing of the former Courthouse building, the alterations and additions have been designed to minimise the demolition and removal of existing fabric. Accordingly, waste generation during the demolition and construction phases will predominately be limited to the demolition of the existing eastern and western buildings.

Details of waste management procedures for the demolition and construction phases of the proposed development will be formalised in a Construction Waste Management Plan at the Construction Certificate stage (refer to the table of commitments at Section 10 of this EIS). At this stage, it is anticipated that the following key procedures will be implemented:

- Only minor bulk earthworks are proposed. Any spoil won from cutting will be re-used on site as topsoil or disposed of at a suitable site if required.
- Vegetation removed will be mulched onsite and reused or recycled.
- In general, demolition and unused building materials will be recycled.

Appropriate soil waste classification and disposal requirements will be discussed in the Remediation Action Plan that (at the time of writing) is currently being prepared.

9.4.3. Operational Waste Management

A *Waste Management Report - Building Operation* (WMR) has been prepared for the proposal by Design Worldwide Partnership and included at Appendix 12. This document outlines the proposed waste management regime during the operational phase of the proposal development, as well as estimated waste generation.

Key aspects of the proposal's waste management procedures, as outlined in the WMR, are as follows:

- Operational waste from the proposed development will be stored in 2 centralised garbage rooms located on Ground Floor of the Residential Building, adjacent to the service driveway.
- Individual bins will be located throughout each of the buildings for separated recycling and garbage waste. These individual bins will be collected on a daily basis by a cleaner/building manager and transported to the centralised garbage room.
- Waste collection will occur up to 3 times per week and will be undertaken by an independent waste contractor, engaged and managed directly by the building owner. At the time of collection, the building manager will transport the bins to the street via the service driveway.

The positioning of the proposed centralised garbage rooms, individual bins and service driveway are indicated in the Architectural Plans included at Appendix 2. The location of the centralised garbage rooms at ground level adjacent to the service driveway enables adequate and practical access to and relocation of the bins to the street as required.

In summary, the proposed waste storage and collection methods allow for safe and manageable storage and collection of waste from the site during occupation.

9.4.4. Accessibility

A *Disability Access Report* (DAR) has been prepared for the proposal by Lindsay Perry Access (see Appendix 22). The DAR was prepared based on the *Architectural Plans* and is intended to ensure that the proposal complies with the Building Code of Australia, Disability (Access to Premises) Standard 2010, the accessibility standards identified in the AS 1428 suite of standards, AS 2890.6 for car parking, AS 1735.12 for lifts, as well as the spirit and intent of the Disability Discrimination Act 1992.

The DAR notes that access for people with disabilities has been considered in the proposed design through the provision accessible features including accessible sanitary facilities, lifts to all levels, accessible accommodation, and accessible carparking. Due to heritage restrictions within the former Courthouse building, the DAR adopts a best practice, performance-based approach in assessing the provision of accessible features.

Overall, the DAR indicates that the proposal generally complies with the various accessibility standards. Where information is not available for full assessment at the DA stage, it is anticipated that the accessibility features of the proposal can be further refined at the detailed design stage.

In summary, provided the DDA's recommendations are implemented, accessibility matters are considered to be adequately addressed by the proposed development.

9.5. Site Suitability

9.5.1. Geotechnical

A *Report on Geotechnical Investigation* (RGI) of the site has been prepared by Cardno (see Appendix 21). The purpose of the investigation was to provide comments and recommendations on a range of geotechnical parameters. Fieldwork for the RGI included observation of site features, logging and sampling of 3 boreholes, rock core samples and Standard Penetration Tests to assess foundation conditions. Due to the limited presence of groundwater encountered and access restrictions to the majority of the site, installation of groundwater monitoring well/s was not deemed necessary.

Regional mapping shows the site is generally underlain by alluvial soils which overlie strata of the Lambton Subgroup formation of the Newcastle Coal Measures. The RGI utilised the results of the investigation to develop a general model of the subsurface profile, identifying a range of sand, silty and clay soils underlain by sandstone / siltstone.

Groundwater inflow was encountered in one borehole at a depth of 8m below ground level and seepage in another borehole at 12.5m below ground level. Observations were limited due to the soil drilling techniques used, and the subsequent introduction of water during rock coring. Groundwater wells were not installed, and as such standing groundwater levels were not measured during the investigation. In any case, groundwater levels are likely to fluctuate with variations in climatic and site conditions, and could vary within the proposed building footprints where investigation access was limited.

Key aspects of the proposed earthworks are outlined in Section 4.4.2 of this EIS. The RGI provides a range of design parameters in relation to proposed works, including in relation to excavation and structural support, footings and earthquake design. These recommendations will be taken into account during the detailed design of the proposal.

The RGI also notes that demolition of the concrete structure in the south-west of the site and construction of the new Education Building within 3m of the existing retaining wall at the southern boundary could affect the structural integrity of the retaining wall.

Considering the nature of the proposed development, current site access limitations and results of the geotechnical investigation, the RGI also notes that the following additional investigations would be required following demolition works:

- Install groundwater monitoring wells across the site to monitor groundwater levels and fluctuations.
- Identify geotechnical conditions (such as rock levels) in proximity to the wall to inform anchoring options, along with structural assessment and design. Obtaining permission from neighbouring properties could lead to construction sequencing / timing implications, and should be considered well in advance.

The recommended additional investigations outlined above have been adopted in the table of commitments in Section 10. In summary, provided these recommendations are implemented, there are not likely to be any significant geotechnical constraints to the feasibility of the proposed development.

Note that mine subsidence, acid sulfate soils and contamination matters are addressed separately at Sections 9.5.2, 9.5.3 and 9.5.4 of this EIS.

9.5.2. Mine Subsidence

A preliminary consultation meeting was held between Cardno and Subsidence Advisory NSW (SA NSW) on 20 September 2018, prior to preparation of the geotechnical investigation of the site. The purpose of the meeting was to discuss the proposed development and the implications of mine workings beneath the site.

Key matters identified by SA NSW during the meeting are summarised in the *Report on Geotechnical Investigation* (RGI) prepared by Cardno (see Appendix 21) as follows:

- *The site is mapped as being underlain by Bord and Pillar workings within the Borehole Seam, at approximately 80 m depth.*
- *Preliminary calculations indicated that pillars within the workings do not have a suitable factor of safety to support the proposed development and do not meet the required SA NSW Development Guidelines.*
- *There is the potential for shallow, unmapped convict workings beneath the site in the depth range of 10-30 m.*

Following the meeting, Cardno conducted a preliminary desktop study of existing mine workings beneath the site, including comment on existing pillar stability, subsidence parameters and potential for future grouting to render the site suitable for the proposed development. Based on the preliminary assessment, Cardno concluded that the existing workings are likely to be long term stable and do not require grouting.

Based on the initial consultation with SA NSW, the RGI recommends that the following further geotechnical works are likely to be required during detailed design of the proposed buildings, following demolition of the existing structures within the site:

- *Detailed geotechnical site investigation to confirm the presence, location and condition of the workings (this may include drilling to intersect the workings and use of a down-hole camera or similar to inspect the condition of the in-situ coal pillars etc.).*
- *Additional detailed assessment of the predicted long-term stability of any mine workings identified during the detailed site investigation to incorporate information from the geotechnical investigation*
- *Consultation with SA NSW to develop suitable design parameters. This may include:*
 - *Confirmation that the expected / predicted FoS of the mine workings is acceptable to SA NSW without the need for any mine remediation works (e.g. grouting).*
 - *Noting that based on preliminary calculations and consultation with SA NSW the likelihood of not requiring grouting of the workings is extremely low, the consultant will develop a mine remediation grouting plan for the site, limited to the footprint of the proposed two new structures.*
- *Design, documentation and final certification of the structural works to ensure the building meets the requirements of SA NSW.*
- *Submission of all structural and relevant architectural and other project documentation to SA NSW for approval.*

The recommended additional geotechnical works outlined above have been adopted in the table of commitments in Section 10. Provided these recommendations are implemented, there are not likely to be any significant subsidence constraints to the feasibility of the proposed development.

9.5.3. Acid Sulfate Soils

The subject site is mapped as containing Class 5 Acid Sulfate Soils (ASS). However, a review of the Department of Land and Water Conservation, *Acid Sulphate Soils Risk Maps* [4] indicates that there are no known occurrences of ASS in the immediate area of the proposed development.

Accordingly, the preparation of management plans or preliminary assessments of ASS is not required.

9.5.4. Contamination

A *Phase 1 Environmental Site Assessment - Technical Note* (Phase 1 ESA) was undertaken by Cardno and is attached as Appendix 24.

The Phase 1 ESA referenced the findings of earlier investigations and noted that there was a low to medium potential that activities on or adjacent to the site had affected site soil and or groundwater. This was evidenced by elevated concentrations of TRH, benzo(a)pyrene with the potential source being a disused underground fuel storage tank on the adjoining Police Station site, and lead from lead-based paints used on the existing buildings. Additionally, the entirety of the Newcastle Government House and Domain is listed as being potentially contaminated.

Due to the presence and location of the existing buildings within the site, only limited testing has been possible at this stage. A more detailed and comprehensive subsurface environmental investigation is not possible prior to demolition of the existing Administration Building and Supreme Court Building (proposed as part of this application). As noted in the Phase 1 ESA:

Approximately 90% of the site is currently covered by either buildings or hardstand limiting access to soils. Any conclusions drawn from the results of sampling such a small portion of the site would not be representative of the site as a whole and therefore conclusions as to the Site's suitability would be unable to drawn. In particular, as the exact location and status of the former engine workshop and fuel/oil storage facilities reportedly located at 1 Church Street (Police Station) is unknown; investigations along the eastern boundary are currently hindered by the existing infrastructure.

Accordingly, the Phase 1 ESA recommends undertaking additional investigations post-demolition to characterise contamination levels within the existing fill. Additionally, contamination associated with the underground tank will be investigated by conducting a search of available information, coupled with subsurface environmental investigation.

Notwithstanding the above, based on advice obtained from DPE, the site will require remediation works to be undertaken as part of the current SSDA to enable it to be used for its proposed purpose. A Remediation Action Plan (RAP) is being prepared by Cardno based on the testing undertaken to date, and will be submitted to the consent authority for consideration prior to determination. The site remediation objectives that will be implemented in the RAP are outlined in the *Remediation Action Plan - Technical Note* prepared Cardno (see Appendix 28). The submission of a RAP prior to determination has been included in the table of commitments in Section 10.

9.5.5. Services, Utilities and Infrastructure

The subject site is currently serviced by existing utilities, including water, sewer, electricity, gas and telecommunication networks. Having regard to water, sewer and broadband supply, the following is noted:

- The proposal will connect to existing sewer and water supply. A statement of Available Pressure was provided by Hunter Water on 21 September 2018, indicating that there should be sufficient pressure in the system to accommodate the likely water demands of the development. Further assessment will occur during the documentation phase of the project.
- The Architectural Plans were submitted to Hunter Water on 19 February 2019. At the time of writing, the applicant is currently awaiting Hunter Water's assessment and letter of requirements to inform the hydraulic design for Water and Sewer requirements.
- Initial investigations indicate that Fibre to the Node broadband network is available to the site. At the appropriate time, connection application will be made with an internet provider.

To meet additional power demands generated by the proposed development, a 600 KVA Pad mount kiosk will be required. The pad mount kiosk will be located at the north-western corner of the site, with main switchboard located in the adjacent carpark of the Education Building. An application for power will be made directly with Ausgrid at the appropriate time during the construction documentation phase. It is understood that a Level 3 designer will work with Ausgrid to develop a design to provide adequate power to the site.

As discussed in Section 9.3.4 of this EIS, it is proposed to replace existing drainage infrastructure across the site to cater for the 1920m² of additional/refurbished roof area.

As outlined in 9.4.1 of this EIS, the existing road network provides convenient and logical access to the site to facilitate future construction, servicing, staff, student and visitor activities.

9.6. Social and Economic Effects

9.6.1. Crime and Safety

CPTED is a recognised model which provides that, if development is appropriately designed, it can reduce the likelihood of crimes being committed. It is anticipated that introducing CPTED measures within the design of the development will assist in minimising the incidence of crime and will contribute to perceptions of increased public safety.

The proposal involves the establishment of an educational establishment on a currently unused site, offering a high level of amenity, casual surveillance and ultimately student and community safety within the site and surrounding area. The proposal will assist in further activating this area, particularly through the combination of educational and ancillary residential and retail land uses in a highly accessible location. It will also provide appropriate lighting and security measures to protect the safety of students and the local community. It is envisaged the adjoining Newcastle Police Station will also act as a deterrent for potential anti-social behaviour in and around the site.

The safety and security of all students, staff and visitors (including the perception of safety and security that the campus will provide) is of paramount importance to the amenity of the establishment.

The 4 principles which guide CPTED are considered below. Based on the below measures, it is envisaged that the development can be appropriately managed to minimise the potential risk of crime and to maximise public safety.

Surveillance: This principle provides that crime targets can be reduced by effective surveillance, both natural and technical.

- The new buildings are designed to provide externally focused outlooks over public spaces via multiple windows and roof top communal areas. This provides opportunities for passive observation of public areas, as well as over the site's service driveway and pedestrian entrances.
- Activated ground floor uses, including a café and outdoor terrace fronting Church Street, will further increase natural surveillance of the surrounding area. Retention of the original palisade front fencing between the street and outdoor dining area will allow the space to be delineated whilst maintaining visual surveillance to and from the site.
- Promotes increased activity within the locality around the clock through the combination of an educational establishment and ancillary accommodation and cafe uses that provide complementary activities during day time and evening hours.
- The campus will be equipped with CCTV security system to ensure the everyday safety of the building and its occupants.
- Effective lighting will be provided as a part of the detailed design process to ensure that an appropriate balance for lighting public realm and internal spaces within the building without creating excessive glare or opportunities for concealment.
- Removal of rear car park and consolidation of on-site car parking.
- Provides uninterrupted sight lines and limited visual barriers and hiding spots, particular around the building forecourt, to reduce potential for undetected criminal and / or unsocial activity.

Access Control: This principle provides that barriers to attract/restrict the movement of people minimises opportunities for crime and increases the effort required to commit crime.

- Entrance to the building will be controlled by a control access system, for building occupants only.
- Landscaping and fencing along the Church Street frontage offers physical, yet attractive barriers that will channel people directly into the main building entrance and minimise opportunities for crime.
- The main pedestrian access is clearly defined and easily identifiable.
- The site does not contain thoroughfares to adjoining properties.
- Ensuring all service, back of house and car park entries are appropriately monitored and gated where necessary to prevent unauthorised access.
- Limited ground floor public entrances to channel people directly into the building and minimise opportunities for crime.

Territorial Reinforcement: This principle provides that well-used places reduce opportunities for crime and increase risk to criminals.

- Boundaries are well defined with landscaping and outdoor dining, accessways and driveways. The architectural design of the building defines areas for private and communal uses and offers a high level of passive surveillance opportunities.
- Clear distinction is provided between public, semi public and private areas of the development.
- Use of signage and other physical cues to help people find their way around the campus easily.

Space Management: This principle provides that space which is appropriately utilised and well cared for reduces the risk of crime and antisocial behavior.

- CCTV footage will be recorded or monitored, as appropriate.
- Development of space management strategies to include ongoing site maintenance, landscaping, graffiti removal etc.

9.6.2. Social, Economic and Employment

The proposed development is likely to result in a number of positive social and economic impacts, including the following:

- The proposal strongly aligns with state government strategic objectives for the area, in particular by strengthening Greater Newcastle's position as a major university city with campuses for a diverse range of international universities. Together with the University of Newcastle, the new Nihon University will continue to make the education and training sector a key source of growth in Greater Newcastle's economy.
- The new campus has the potential to strengthen Australia's relationships with Japan and attract new businesses and institutions to Greater Newcastle.
- The proposal will facilitate innovation and cultural exchange, including through proposed programs with the University of Newcastle, public lectures and other cultural and academic events. In addition, the Faculty of Law of Nihon University would donate more than 5,000 books related to Japanese criminology and law related books so that researchers from the University of Newcastle can enjoy comparative studies of judicial system.
- The site is located in close proximity to various public transport nodes and a wide range of services, to meet the needs of future staff and students.
- The site's location, and the range of surrounding recreational and cultural facilities, provides an attractive, interesting and safe environment for exchange students to live and study.
- The proposal involves the use of a currently unused site, providing increased activity to the area.
- The provision of accommodation within the campus for all students and visiting staff will ensure there will be no increased demand for housing supply.
- The creation of jobs during the construction and operational phases (both on and off-site, such as teaching, management, landscaping, cleaning and hospitality).
- Flow-on economic impacts to the local economy, both through the purchase of construction goods and services, and through purchases by students, staff and visitors throughout the operational phase. In particular, the proposal establishes a student and working population which will support nearby commercial centres and shops along King Street and Hunter Street.

No major negative social impacts of the proposal are anticipated.

Overall, the proposed development is likely to have a positive social and economic impact on the local and regional community, visitors, students and potential users.

9.6.3. Public interest

Pursuant to case law of *Ex Gratia P/L v Dungog Council (NSWLEC 148)*, the question that needs to be answered is "Whether the public advantages of the proposed development outweigh the public disadvantages of the proposed development".

There are no unreasonable impacts that will result from the proposed development, therefore, the benefits of providing an educational establishment with associated student accommodation in a highly accessible and well serviced area outweigh any disadvantage and as such the proposed development will have an overall public benefit.

9.7. Environmental Risk Assessment

Based on the environmental assessment in Sections 7, 8 and 9 of this EIS, the following Environmental Risk Analysis assesses the significance of the identified impacts and the ability to manage those impacts to establish a residual risk rating.

As demonstrated in Figure 47, the significance of identified environmental impacts is assigned a value between 1 (Low) and 5 (Extreme) based on:

- The receiving environment;
- The level of understanding of the type and extent of impacts; and
- The likely community response to the environmental consequence of the project.

The manageability of environmental impact is assigned a value between 1 (simple) and 5 (complex) based on:

- The complexity of mitigation measures;
- The known level of performance of the safeguards proposed; and
- The opportunity for adaptive management.

The sum of the values assigned provides an indicative ranking of potential residual impacts after the mitigation measures are implemented.

Significance of Impact	Manageability of Impact					
	5 Complex	4 Substantial	3 Straightforward	2 Standard	1 Simple	
1 - Low	6 (Medium)	5 (Low-Medium)	4 (Low-Medium)	3 (Low)	2 (Low)	Residual Impact
2 - Minor	7 (High-Medium)	6 (Medium)	5 (Low-Medium)	4 (Low-Medium)	3 (Low)	
3 - Moderate	8 (High-Medium)	7 (High-Medium)	6 (Medium)	5 (Low-Medium)	4 (Low-Medium)	
4 - High	9 (High)	8 (High-Medium)	7 (High-Medium)	6 (Medium)	5 (Low-Medium)	
5 - Extreme	10 (High)	9 (High)	8 (High-Medium)	7 (High-Medium)	6 (Medium)	

Significance of Impacts:

5 Extreme	E1 - Undisturbed receiving environment E2 - Type or extent of impacts unknown E3 - Substantial level of community concern
4 High	H1 - Sensitive receiving environment H2 - Type or extent of impacts not well understood H3 - High level of community concern
3 Moderate	Mo1 - Resilient receiving environment Mo2 - Type or extent of impacts understood Mo3 - Community interest
2 Minor	Mi1 - Disturbed receiving environment Mi2 - Type or extent of impacts well understood Mi3 - Some level of local community interest
1 Low	L1 - Degraded receiving environment L2 - Type or extent of impacts fully understood L3 - Negligible level of local community interest

Manageability of Impacts:

5 Complex	C1 - Extensive/complicated range of mitigation measures required C2 - Safeguards or technology are unproven C3 - Adaptive management not appropriate
4 Substantial	Sub1 - Significant mix of mitigation measures required Sub 2 - Limited evidence of effectiveness of safeguards Sub 3 - Adaptive management feasible
3 Straightforward	Str1 - Straightforward range of mitigation measures required Str2 - Good understanding of effectiveness of safeguards Str3 - Adaptive management readily applicable
2 Standard	Sta1 - Simple range of mitigation measures required Sta2 - Substantial evidence for effectiveness of safeguards Sta3 - Adaptive management unlikely to be required
1 Minimal	Min1 - Minimal/no mitigation measures required Min2 - Safeguards are standard practice Min3 - Adaptive management not required

Figure 47: Environmental Risk Assessment Values

Table 18 provides a complete environmental risk analysis.

Table 18: Environmental Risk Analysis

Issue	Phase C- construction O - operation	Identified Environmental Impact	Risk Assessment		
			Significance of Impact	Manageability of Impact	Residual Impact
Built form & external impacts - Visual Impact, View Loss & Overshadowing	O	Replacement of existing buildings on either side of the former Courthouse building	3 Moderate	2 Standard	4 Low-Medium
European Heritage	C	Potential vibration impacts to heritage buildings	3 Moderate	2 Standard	5 Low-Medium
Aboriginal Heritage	C	Potential disturbance of objects or deposits during excavation works	3 Moderate	2 Standard	5 Low-Medium
Historic Archaeology	C	Potential disturbance of relics during excavation works	3 Moderate	2 Standard	5 Low-Medium
Noise	C	Potential noise and vibration impact on nearby sensitive receivers during construction	2 Minor	2 Standard	4 Low-Medium
	O	Noise generated by mechanical plant, vehicles, cafeteria and roof terraces and potential impact on residential receivers	2 Minor	2 Standard	4 Low-Medium
Ecologically Sustainable Development (ESD)	All	The proposed ESD measures will have a positive impact on the environment. Hence, there is no	N/A	N/A	N/A

		environmental risk identified.			
Biodiversity & Tree Management	C	Tree removal is proposed Trees on adjoining sites and street trees will be retained	2 Minor	2 Standard	4 Low-Medium
Stormwater Management	O	The proposal will result in an additional roof area	2 Minor	3 Straightforward	5 Low-Medium
Soil Management	C	Potential sediment pollution during excavation and construction activities	2 Minor	1 Simple	3 Low
Air and Water quality	C	Potential for reduced air and water quality during construction	2 Minor	3 Straightforward	5 Low-Medium
Traffic, Parking and Servicing	C	Construction traffic impacts on road network	2 Minor	2 Standard	4 Low-Medium
	O	Impact of car parking and traffic generation and operation of road network	1 Low	2 Standard	3 Low-Medium
Geotechnical	C	Geotechnical constraints affecting feasibility of proposed development	2 Minor	2 Standard	4 Low-Medium
Contamination	C	Potential contamination affecting suitability of site for proposed development	3 Moderate	3 Straightforward	6 Medium
Utilities	Both	Existing utilities/services will require	2 Minor	2 Standard	4

		augmentation/ upgrade			Low- Medium
Crime and Safety	O	Surveillance of activities to be mitigated through incorporation of CCTV	1 Low	2 Standard	3 Low- Medium

10. MITIGATION MEASURES / TABLE OF COMMITMENTS

The following measures have been compiled based on the assessments undertaken in the preparation of this EIS and subsequent review, and consideration of the issues raised in consultation with government agencies.

They provide a commitment by Nihon University Group and indicate the responsibilities required to implement measures to prevent potential environmental impacts that have been identified through the assessment. This will ensure that the project is environmentally, socially and economically sustainable.

Schedule 2 of the EP&A Regulation requires a full description of the measures proposed to mitigate any adverse effects of the development on the environment.

Issues	Recommendation	Action / Commitment
General	Development is carried out in accordance with submitted documentation	Undertake proposed activity and works in accordance with the Environmental Impact Statement dated 26 March 2019 prepared by City Plan Strategy and Development (including all relevant accompanying Appendices) and drawings.
Operational noise	- Hours of operation are appropriate to meet requirements of proposed development, and ensure no adverse impacts to surrounding land uses - Ensure operational noise levels remain below the relevant goals	Implement all relevant recommendations outlined in the <i>Noise and Vibration Assessment</i> prepared for the proposal by EMM Consulting, including (but not limited to): - The site will operate on a 24-hour basis, however, use of the communal roof-top terrace will be limited to between 7:00am to 9:00pm - The cafeteria will be open between 6:30am to 10:00pm - Provide 1.5m high glazed balustrades around both roof-top terrace areas; - Locate mechanical plant areas for the development internally or on a rooftop level; and - Rooftop mechanical plant areas are to be enclosed or surrounded with appropriate acoustic barriers. In addition, the roof-top terrace and cafeteria will not be generally open to members of the public.

		Timing: Operational requirements from the first time of occupation; Design requirement during detailed design phase, compliance with design recommendations to be demonstrated with the Construction Certificate documentation prior to the release of the Construction Certificate
Traffic & Transportation	- Support environmentally sustainable travel to encourage physical activity and reduction in car dependency - Ensure construction and operation of the development will have no adverse impacts on the local road network	Implement all recommendations outlined in the <i>Traffic and Parking Impact Assessment</i> prepared by Better Transport Futures, including (but not limited to): - Prepare a Green Travel Plan (GTP) for the site, with full liaison with Nihon University and other local stakeholder group input - Prepare and Implement a Construction Traffic & Pedestrian Management Plan, in consultation with the builder/construction contractor (once appointed) Timing: GTP prior to the release of Occupation Certificate; CTPMP prior to release of Construction Certificate
Aboriginal Heritage	- Avoid harm to Aboriginal objects or sites - Respect Aboriginal cultural significance	Implement all recommendations outlined in the <i>Due Diligence Aboriginal Archaeological Assessment</i> prepared by AMAC, including (but not limited to): - Prepare an Aboriginal Cultural Heritage Assessment (ACHA), including full Aboriginal community consultation in accordance with the Consultation Guidelines (currently underway at the time of writing) - Undertake a program of systematic, sub surface archaeological test excavation Timing: An ACHA will be issued to DPE upon completion of the consultation process. Currently planned to be completed around July 2019.

Contamination, Ground Water/ Geotechnical & Mine Subsidence	▪ Ensure that there are no geotechnical constraints to the feasibility of the proposed development ▪ Ensure the site is suitable for the proposed development	Implement all recommendations outlined in the <i>Remediation Action Plan - Technical Note</i> prepared by Cardno, including (but not limited to): ▪ Prepare a Remediation Action Plan in accordance with the proposed objectives and methodology outlined. Timing: To be completed and submitted to the DPE within approximately 4-6 weeks of lodgment. Implement all recommendations outlined in the <i>Report on Geotechnical Investigation</i> prepared by Cardno, including (but not limited to): ▪ Undertake further detailed contamination, ground water and mine subsidence testing and investigations following demolition of the existing Administration and Supreme Court Buildings Timing: Following building demolition, which can only occur once development consent is granted. Prior to release of the Occupation Certificate.
Archaeology	▪ Appropriately manage the archaeological resource at the site	Implement all recommendations outlined in the <i>Baseline Archaeological Assessment</i> prepared by AMAC, including (but not limited to): ▪ Prepare an Archaeological Research Design and Excavation Methodology (ARDEM) as part of an overall s60 permit application to the Heritage Council of NSW (if required) ▪ The s60 application will need to be endorsed by the Heritage Division prior to any excavation work on site Timing: Lodgement of the application cannot occur until the ARDEM has been undertaken. This process cannot occur until the design and documentation of the building's foundations, footings and

		piling has been completed. The permit application is to be lodged prior to release of the Construction Certificate.
European Heritage	Minimise disturbance and/or enhance the interpretation of the heritage significance of the item and area	Implement all recommendations outlined in the <i>Statement of Heritage Impact</i> prepared by John Carr Heritage Design, including (but not limited to): - Complete and submit an Interpretation Plan in accordance with the OEH Heritage Division publication <i>Interpreting Heritage Places and Items Guidelines</i> (2005) and the Conservation Management Plan (CMP) - Undertake archival recordings of all three existing buildings in accordance with OEH requirements and the CMP Timing: Interpretation plan is to be completed and submitted to the Consent Authority within 4-6 weeks of lodgement; Archival recordings to be completed and submitted to the Heritage Council of NSW (or delegate) prior to the release of the Occupation Certificate.
Tree Management	Ensure adequate protection of the street trees and trees within adjoining sites	Implement tree protection measures in accordance with the <i>Arboricultural Impact Assessment Report</i> prepared by Joseph Pidutti Timing: During construction
Stormwater/ water quality	Effectively manage stormwater quality during the construction and operational phases	- Undertake works in accordance with the submitted <i>Erosion and Sediment Control Plan</i> prepared by Cardno - Implement stormwater management measures detailed in the submitted <i>Stormwater Management Plan</i> prepared by Cardno Timing: During construction and operation
Waste Management	Effectively manage construction and on-going operational waste to	Prepare and implement a Demolition and Construction Waste Management Plan (DCWMP) in

	ensure no adverse environmental impacts Where waste generation cannot be avoided, implement options for reuse and recycling	consultation with the builder/construction contractor (once appointed) Implement waste management procedures detailed in the <i>Waste Management Report - Building Operation</i> (WMRBO) prepared by dwp Timing: DCWMP to be undertaken prior to the commencement of construction and demolition works on site; WMRBO to be implemented during operation
Construction	Ensure there are no unreasonable noise, vibration or other construction impacts to neighbours or existing buildings within the site	Prepare and implement a Construction Management Plan (CMP), include (but not limited to) the following commitments: - All recommendations outlined in the <i>Noise and Vibration Assessment</i> prepared for the proposal by EMM Consulting - Ensure control of vibration is reduced to avoid local area damage and damage to the former courthouse building Timing: CMP to be undertaken prior to the commencement of construction and demolition works on site
BCA Accessibility &	Ensure compliance with the BCA and relevant accessibility standards	- Implement all recommendations outlined in the <i>BCA Compliance Statement</i> prepared by DixGardiner Pty Ltd - Implement all recommendations outlined in the <i>Disability Access Report</i> prepared by Lindsay Perry Access Timing: Detailed design phase, compliance with recommendations to be demonstrated with the Construction Certificate documentation prior to the release of the Construction Certificate

11. CONCLUSION

This Environmental Impact Statement (EIS) is submitted to the NSW Department of Planning and Environment (DPE) on behalf of Nihon University Group (Nihon) for the adaptive reuse of the state heritage-listed former Newcastle Courthouse as an educational establishment with associated student accommodation at No. 9 Church Street, Newcastle (the 'subject site').

Nihon's vision for the new campus is to serve as a hub for international language exchange programs, primarily for Japanese students of Nihon University to learn English in an international environment. The campus will also provide opportunities for students of the University of Newcastle to learn Japanese culture and language. The proposal will provide teaching spaces, dormitory-style student accommodation and associated facilities to accommodate a rotating cohort of Nihon students as part of an international cultural exchange and education program. The campus may also host mock-up trials with students of the University of Newcastle, public lectures and other cultural and academic events.

In accordance with the requirements of Schedule 2 of the EP&A Regulation, this EIS considers the relevant statutory instruments and strategic documents, economic, social and environmental impacts.

Further, this EIS provides an assessment of the environmental risks of the proposed development in accordance with the SEARs issued by the DPE on 21 December 2018. It sets out the undertakings made by Nihon to manage and minimise potential impacts arising from the proposal. Importantly, only minor environmental controls are required to ensure the proposed development will create no adverse impacts to the natural environmental or nearby receivers. Accordingly, the subject site is considered entirely suitable for the proposed development.

Subject to the mitigation measures outlined in Section 10 of this EIS, CPSD recommends approval of this application for the following reasons:

- The proposal is a direct positive contribution towards the realisation of the NSW Government's commitment to establish Nihon University at the site
- The proposal will result in the conservation and adaptive reuse of a currently unused State heritage-listed item.
- The proposal will provide a boost to the city's educational capacity and facilitate innovation and cultural exchange.
- The site is capable of accommodating the proposed development by virtue of its capacity, size and location.
- The design of the proposal has emerged from a detailed analysis of the site and surrounding area, having regard for heritage values, the streetscape, environmental effects, urban form, and preservation of the amenity of the surrounding area.
- The potential environmental impacts of the proposal as outlined in this EIS are able to be satisfactorily mitigated subject to implementing the recommendations of the technical supporting documentation accompanying this EIS.
- The proposal incorporates the principles of ESD through the environmental amenity considerations of the design, as well as through the implementation of the recommended mitigation measures detailed within the specific environmental assessments.
- The proposal will result in significant economic benefits for the local community as outlined in this EIS and in the absence of any adverse environmental (and other) impacts, the proposal is in the public's interest.

The EIS fulfils the requirements of the EP&A Act and EP&A Regulation and addresses all relevant matters for consideration prescribed by the SEARs, demonstrating that the potential impacts of the proposal can be satisfactorily managed or mitigated. In light of the above, and the evident benefits of the proposal, CPSD strongly recommends that the proposal be approved.

APPENDIX 1

Secretary's
Requirements

Environmental

Assessment

APPENDIX 2

Architectural Plans

APPENDIX 3

Landscape Plans

APPENDIX 4

Detailed Survey

APPENDIX 5

Arboricultural Impact Assessment Report

APPENDIX 6

Capital Investment Value Estimate

APPENDIX 7

Section 94A Report

APPENDIX 8

Statement of Heritage Impact

APPENDIX 9

Consultation Summary Report

APPENDIX 10

Notification Letter

APPENDIX 11

BCA Compliance Report

APPENDIX 12

Waste Management Report - Building Operation

APPENDIX 13

BDAR Waiver Request

APPENDIX 14

BDAR Waiver Approval (DPE)

APPENDIX 15

BDAR Waiver Approval (OEH)

APPENDIX 16

Concept Stormwater Design

APPENDIX 17

Due Diligence Aboriginal Archaeological Assessment

APPENDIX 18

Traffic and Parking Assessment Report

APPENDIX 19

Clause 4.6 Variation Request

APPENDIX 20

Baseline Archaeological Assessment

APPENDIX 21

Report on Geotechnical Investigation

APPENDIX 22

Disability Access Report

APPENDIX 23

Noise and Vibration Assessment

APPENDIX 24

Phase 1 Environmental Site Assessment - Technical Note

APPENDIX 25

Letter of Confirmation of Engagement

APPENDIX 26

Letter to neighbour - February

APPENDIX 27

Letter to neighbour - April

APPENDIX 28

Remediation Action Plan - Technical Note