

3 December 2018

Our Ref: 18-048

Ms Carolyn McNally

Secretary
NSW Department of Planning and Environment
320 Pitt Street
SYDNEY NSW 2000

Dear Ms McNally,

RE: REQUEST FOR SECRETARY'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS - 9 CHURCH STREET NEWCASTLE

In accordance with Clause 3 of Schedule 2 of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation), Nihon University Group requests the issue of the Secretary's Environmental Assessment Requirements (SEARs) to advise an Environmental Impact Statement (EIS) and support an application to the Department of Planning and Environment (DPE) to permit the adaptive reuse of the former Newcastle Courthouse to an education establishment with associated student accommodation at 9 Church Street, Newcastle (the subject site).

Approval for the current proposal at the subject site was originally envisaged under Part 4 'Local' Development of the *Environmental Planning and Assessment Act 1979* (EP&A Act) with an application to the City of Newcastle. This process so far has involved engagement with a number of Government agencies and affected stakeholders regarding the proposal's design and likely environmental impacts.

Due to unforeseen increases in the cost of the development works, the proposed development now has a Capital Investment Value (CIV) that exceeds \$30 million and falls within the 'education establishments' category pursuant to Clause 15(3) of Schedule 1 of the *State Environmental Planning Policy (State and Regional Development) 2011* (SRD SEPP). Accordingly, the proposed development is classified as State Significant Development (SSD) and an EIS is required to be prepared under Section 4.12(8) of the EP&A Act.

The purpose of this letter is to provide a preliminary environmental assessment, as well as other supporting documentation to enable SEARs to be issued in support of an EIS.

1. THE APPLICANT

Nihon University Group (the Applicant) is a privately-operated tertiary institution within Japan which offers a multi-disciplinary array of educational courses and research projects. Nihon University caters for undergraduate, postgraduate and international students, while facilitating and supporting an extensive Alumni and professional network.

2. SITE DESCRIPTION

The development is proposed to be located within the former Newcastle Courthouse complex at 9 Church Street, Newcastle (the subject site). Located in the Newcastle Local Government Area, the subject site is legally described as Lot 1 in Deposited Plan 1199904. An aerial photograph is provided below in **Figure 1**.

With an overall area of approximately 5,194m², the subject site is bound by Church Street to the north, Newcastle Police Station to the east and James Fletcher Hospital to the south and west.

The subject site is near public transportation, infrastructure services, social facilities, recreational areas such as Newcastle Beach and Pacific Park, and is 1km distance from the recently completed education services provided at the University of Newcastle's New Space Campus.

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

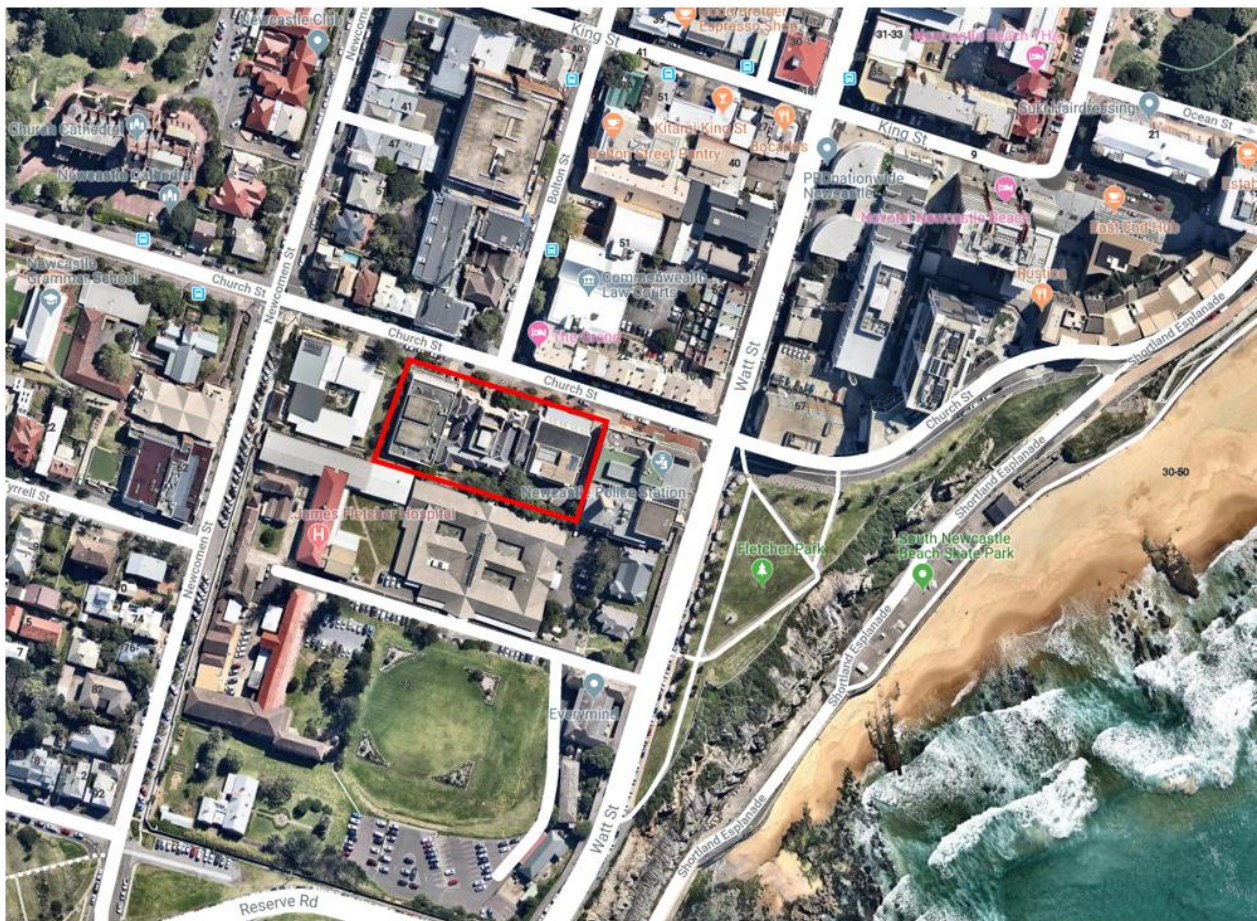


Figure 1: Subject site location (Source: Near Map)

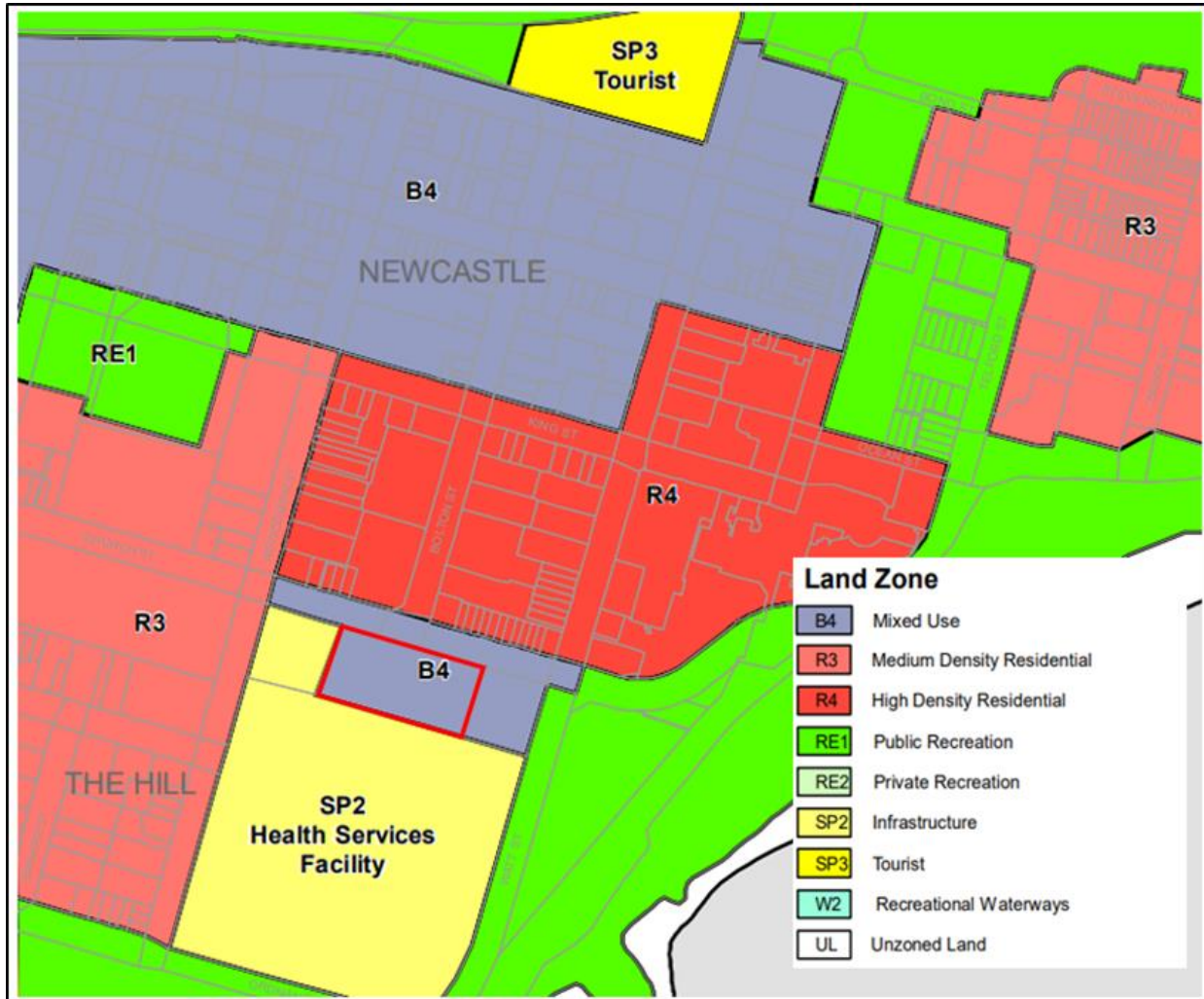


Figure 2: Subject site zoning (Source: Newcastle LEP 2012)

3. SURROUNDING LAND USES

The surrounding area is a mixture of uses inclusive of commercial, residential and recreational within a heritage conservation area known as the *Newcastle City Centre Heritage Conservation Area*. The locality is characteristic of a highly developed urban area and contains minimal significant vegetation apart from the James Fletcher Park to the east.

The surrounding land uses are identified in **Table 1**.

Table 1: Surrounding land uses

Direction	Surrounding Use
North	<ul style="list-style-type: none"> ▫ Church Street runs along northern boundary of site ▫ Occupied high density residential land (R4 High Density Residential) consistent of townhouses, residential flat buildings ▫ Occupied commercial land consistent of pubs, offices and cafes
East	<ul style="list-style-type: none"> ▫ Occupied commercial land (B4 Mixed Use) consisting of Newcastle Police Station ▫ Recreational land (RE1 Public Recreation) consisting of James Fletcher Park and Newcastle Beach
South	<ul style="list-style-type: none"> ▫ Health services land (SP2 Health Services Facility) consisting of James Fletcher Hospital and associated campuses
West	<ul style="list-style-type: none"> ▫ Health services land (SP2 Health Services Facility) consisting of James Fletcher campus ▫ Occupied medium residential land (R3 Medium Density Residential) consisting of townhouses, residential flat buildings and Newcastle Grammar School

4. BACKGROUND

Nihon University was established on 4 October 1889 as Nihon Law School by Count Yamada, first Minister of Justice of Modern Japan, and is celebrating its 130th Anniversary in 2019.

Nihon University is the largest private university group in Japan with 19 graduate schools, 12 colleges and 4 schools, distance learning division, junior college, research institutes and affiliated school. Overall, Nihon University accounts for 80,000 students.

Nihon University has been developing dynamic collaborations with numerous overseas universities and promoting students to various international exchange programs and is actively welcoming international students.

As a commemorative activity to celebrate the 130th Anniversary, and as part of the Japanese Government's *New Growth Strategy: Internationalisation of Japanese Universities*, Nihon University has 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 because of the quiet and safe city environment that is suitable for a comfortable study environment for students with support from the University of Newcastle. The former Courthouse provided a perfect opportunity for Nihon University, 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.

Nihon University's vision for the new campus is to serve as a hub for international mutual exchange programs between Australian and Japanese students promoting and understanding Japanese culture. This is supported by a Memorandum of Understanding with the University of Newcastle for future exchange programs in February 2018, and though details are yet to be finalised, numerous programs shall be organised in the future. Most importantly, the campus will provide students the opportunity to develop law skills within a courthouse environment.

5. PREVIOUS CORRESPONDENCE

Engagement with a variety of stakeholders has been ongoing since August 2018 regarding the proposal. This engagement involved consideration of matters including design, environmental impact and approval pathways, and encompassed the following stakeholders:

- Ausgrid;
- City of Newcastle (including Council's Urban Design Consultative Group);
- Hunter Water;
- NSW Department of Premier and Cabinet;
- NSW Department of Planning and Environment;
- Office of Environment and Heritage;
- Hunter New England Health (neighbouring property);
- NSW Police Force (neighbouring property);
- Subsidence Advisory NSW; and
- Specialist environmental, design, heritage and engineering consultants.

This prior engagement was undertaken as part of the background research and design development phase of the project. Initially, the project was valued at \$29 million and as such was being considered under the provisions of Part 4 'local' development of the EP&A Act. As a result of ongoing design changes, the CIV for the project increased to approximately \$35M and the proposal is now State Significant Development (SSD) in accordance with Clause 15(3) of Schedule 1 under the SRD SEPP and EP&A Act.

It is intended to continue ongoing dialogue with the Government agencies listed above throughout the preparation of this EIS.

6. THE PROPOSED DEVELOPMENT

The SSD application will seek approval for the development of the Newcastle Nihon University campus and associated 109 bed student accommodation. The proposal will involve the adaptive reuse of the State listed heritage building known as the *Courthouse* and will comprise the following elements:

- Demolition of the *Administration Building* (east wing) and *Supreme Court Building* (west wing);
- Minor internal demolition of elements of the former *Courthouse* to improve functionality and meet BCA & DDA requirements;
- Construction of two new 4-storey buildings consisting of a 109 bed 'Residential Building' (east wing) and 'Education Building' (west wing);
- The 'Residential Building' is to contain a food and drink premise (cafeteria);
- Change of use and minor internal alterations to the former *Courthouse* to a 'Public Building' to be utilised by both students and the general public for educational purposes;
- Service vehicle access from Church Street along an existing eastern boundary driveway;
- Ground level car parking accommodating 20 spaces, 1 motorbike space and 22 bicycle spaces; and
- Associated ground and rooftop landscaping.

The proposed overall Gross Floor Area (GFA) will equate to 6,605m² resulting in a Floor Space Ratio (FSR) of 1.3:1. The proposed maximum height of the new buildings will be 16.6m and will require a variation to the height of buildings development standard under *Newcastle Local Environmental Plan 2012* (NLEP).

The University is intended to operate year-round, offering 24-hour services to students 7 days a week. The intended staff requirements will comprise 10 short-term accompany teaching staff and 12 long-term administrative staff.

A Design Package prepared by *Azusa Sekkei Architects* is attached at **Appendix 1** of this SEARs Request and provides further detail of the proposed development, design intentions and characteristics.

7. PLANNING CONTEXT

7.1. Strategic Planning

The following strategic context is relevant to the proposal:

Legislation	Comment
Hunter Regional Plan 2036	<p>The Hunter Regional Plan 2036 (HR Plan), released by the NSW Government in 2016, is the regional strategy applying to the subject site. The HR Plan aims to guide the NSW Government's land use planning priorities and decisions over the next 20 years. The HR Plan sets clear directions anticipating predicted demographic, economic, social and environmental impacts.</p> <p>The proposal is generally consistent with the goals and priorities of the HR Plan as it will facilitate the following priorities and directions:</p>

	<ul style="list-style-type: none"> ▫ Develop the Centre of National Excellence for Health and Education by expanding a secondary University presence in the city centre supported by the University of Newcastle; ▫ 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.
<p>Greater Newcastle Metropolitan Plan 2036</p>	<p>Released by the NSW Government in 2017, the Greater Newcastle Metropolitan Plan 2036 (Metro Plan) 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.</p> <p>The proposal is consistent with the following strategies which align with the Metro Plan's goals and outcomes:</p> <ul style="list-style-type: none"> ▫ Strategy 1: Reinforce the revitalisation of Newcastle City Centre and expand transformation along the waterside; ▫ Strategy 5: Expand education and innovation clusters; ▫ Strategy 16: Priorities 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.
<p>Newcastle Local Planning Strategy</p>	<p>The Newcastle Local Planning Strategy (NLPS), adopted by Council in 2015, is a comprehensive land use strategy that guides future growth and development within the Newcastle Local Government Area.</p> <p>The proposed development is situated in the Newcastle East Neighborhood Area and is not considered part of the Newcastle City Centre neighborhood. The proposal is consistent with the character statement for the Newcastle East character area and will facilitate the below objectives:</p> <ul style="list-style-type: none"> ▫ 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.



7.2. Statutory Planning

The following legislation is relevant to the proposal:

Legislation	Comment
<i>Environmental Planning and Assessment Act 1979 (EP&A Act) and Environmental Planning and Assessment Regulation 2000 (EP&A Reg)</i>	<p>Division 4.7 of the EP&A Act identifies that a SEPP may declare any development to be SSD. Where a development is declared SSD the Minister is the consent authority.</p> <p>Additionally, Schedule 2 of the EP&A Regs provides the structure and process for preparation of an EIS.</p>
<i>Coal Mine Subsidence Compensation Act 2017 (CMSC Act)</i>	<p>The proposal is within the Newcastle Mine Subsidence District, and proposes to undertake excavation and construction works. Therefore, Section 22 of the CMSC Act applies.</p> <p>To address the potential impacts of mine subsidence, the EIS will be informed by a Geotechnical Report and consultation will be undertaken with NSW Subsidence Advisory.</p>
<i>Heritage Act 1977</i>	<p>The development will alter a State listed heritage item, and therefore Section 58 applies.</p> <p>A Heritage Impact Statement and Archaeological Impact Statement will inform the EIS and address all potential impacts.</p>
<i>State Environmental Planning Policy No 55 - Remediation of Land (SEPP 55)</i>	<p>The existing development has been used for civil and law administration purposes. Preliminary investigations and correspondence with the NSW Police Force has identified the existence of an old disused and sealed fuel tank within the adjacent Police Station site. It has been assessed that the proposal will have no impact on the old fuel tank, and the old tank is not likely to pose a contamination risk for the future development on the subject site.</p> <p>Additionally, the current use of the site as an educational establishment is not a recognised contaminating activity, and the proposal will continue this use. It is proposed that any preliminary contamination investigation to verify past or present potentially</p>

	<p>contaminating activities on the subject site will occur during the demolition phase of the development to obtain sufficient subsurface soils, and if required, provide a basis for a more detailed investigation in accordance with SEPP 55.</p>
<p><i>State Environmental Planning Policy No 64 - Advertising and Signage (SEPP 64)</i></p>	<p>The objective of SEPP 64 is to ensure signage is compatible with the desired amenity and character of the area.</p> <p>The proposal will contain various necessary business identification, advisory and directional signage elements on and/or within a heritage item or heritage conservation area and therefore SEPP 64 applies.</p> <p>Any signage proposed will be consistent with the provisions of SEPP 64.</p>
<p><i>State Environmental Planning Policy (Affordable Rental Housing) 2009 (Affordable Housing SEPP);</i></p>	<p>The Affordable Housing SEPP aims to facilitate new affordable housing through incentives and variations to development standards.</p> <p>The proposed development proposes to construct student accommodation which is a form of 'boarding house'. Accordingly, the Affordable Housing SEPP applies.</p> <p>The proposal will incorporate the development / design standards for boarding houses to comply with the provisions of the Affordable Housing SEPP.</p>
<p><i>State Environmental Planning Policy (Coastal Management) 2018 (Coastal SEPP);</i></p>	<p>The objective of the Coastal SEPP is to promote an integrated and coordinated approach to land use planning in the coastal zone. The subject site is located within the 'coastal zone' and therefore the SEPP applies.</p> <p>The proposed development is not directly located on sensitive coastal environments, nor on land identified as containing ecological or biophysical values, nor will it impede on access to coastal areas.</p> <p>This EIS will be informed by a Stormwater Management Plan and Soil and Sediment Erosion Management Plan to address likely impacts (if any) the proposal may generate.</p>

<p><i>State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Education SEPP);</i></p>	<p>The objective of the Education SEPP is to provide a simplified and streamlined approval process for education establishments with consistent development design considerations.</p> <p>Pursuant to Clause 45, development for the purpose of a <i>university</i> and associated <i>residential accommodation for students</i> may be carried out by any person with consent on land in a prescribed zone.</p> <p>The site is located within a prescribed zone (B4 mixed use). Accordingly, the development is permissible pursuant to the provision of the Education SEPP.</p> <p>Additionally, Pursuant to Clause 57, development that will accommodate 50 students requires concurrence from the Roads and Maritime Services (RMS) due to it being a traffic generating development.</p> <p>This EIS will be informed by a Traffic Impact Assessment that will consider and address any potential adverse impacts.</p>
<p><i>State Environmental Planning Policy (Infrastructure) 2007 (ISEPP);</i></p>	<p>The objective of the ISEPP is to facilitate the effective delivery of infrastructure across NSW.</p> <p>Pursuant to Clause 104 the development is a traffic generating development and requires concurrence from the RMS.</p> <p>This EIS will be informed by a Traffic Impact Assessment that will address any potential adverse impacts.</p>
<p><i>State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)</i></p>	<p>The proposed development now has a Capital Investment Value (CIV) that exceeds \$30 million and falls within the 'education establishments' category pursuant to Clause 15(3) of Schedule 1 of the <i>State Environmental Planning Policy (State and Regional Development) 2011</i> (SRD SEPP). Accordingly, the proposed development is classified as State Significant Development (SSD) and an EIS is required.</p>
<p><i>Newcastle Local Environmental Plan 2012 (NLEP)</i></p>	<p>The site is zoned B4 Mixed Use. The development is consistent with the objectives of the B4 Mixed Use zone.</p> <p>The proposed development is consistent with the definition of 'education establishment' and 'boarding house'.</p>

	<p>The development is permissible with consent in accordance with the B4 Mixed Use zone.</p> <p>The maximum height standard for the site is 10m and contains no FSR development standard.</p> <p>The proposed development's maximum height will reach 16.6m and therefore will require a variation request to the height of building development standard under Clause 4.6.</p> <p>The site contains State listed heritage items known as <i>Courthouse</i> (heritage item 375), and forms part of the <i>Newcastle Government House and Domain (1473)</i>. The site is also within the Newcastle City Centre Heritage Conservation Area.</p> <p>The site contains 'Class 5' Acid Sulfate Soils.</p> <p>The site is <u>not</u> within the Newcastle City Centre area therefore Part 7 of the NLEP does not apply.</p> <p>The development is in keeping with the objectives of the Newcastle East are, which will be detailed in the EIS.</p>
--	--

8. OVERVIEW OF LIKELY ENVIRONMENTAL IMPACTS

The environmental impacts associated with the adaptive reuse of the former Newcastle Courthouse as an education establishment and student accommodation have been considered. The following plans and studies are proposed to be prepared as part of the EIS:

- Architectural Plans (and associated site analysis plans);
- Arborist Report;
- Archaeological Impact Assessment;
- BCA Compliance Assessment;
- Capital Investment Value (QS) Report;
- Disability Access Report;
- Geotechnical Report;
- Heritage Impact Assessment;
- Landscape Plan;
- Preliminary Contamination Report;
- Soil and Erosion Plan;
- Stormwater Management Plan; and
- Traffic Impact Assessment.

The key environmental assessment issues that will need to be considered as part of the future EIS are as follows:

Environmental Constraint	Comment
Urban design and built form	<p>The EIS will address the height exceedance, density, bulk and scale of the proposed development within the context of the locality and will demonstrate how the proposal integrates with the local environment and the desired future character of the area.</p> <p>The EIS will also address how the form, layout and siting of the building achieves optimal design and amenity outcomes particularly in relation to the Affordable Housing SEPP.</p> <p>Lastly, it will consider the site's ability to provide public domain and activation within the streetscape.</p>
Overshadowing solar access and visual privacy	<p>The proposed education facility sits within a constrained site, surrounded by a range of large established developments. These existing developments may impact on the proposal's ability to achieve optimal solar access, whilst simultaneously minimising potential adverse impacts of the proposed development in terms of overshadowing and visual privacy for the existing established adjoining development.</p> <p>In addressing these potential adverse impacts, the EIS will provide a site analysis plan which will examine overshadowing, solar access and likely impacts on surrounding views and vistas. A preliminary analysis is provided in the Design Package attached to Appendix 1.</p>
Accessibility	<p>The proposal is designed to cater for a variety of students, guests and teachers who may not be able to readily access certain floors, classrooms or lecture rooms within the former Courthouse building.</p> <p>A preliminary design has been prepared which incorporates elevators on the wing buildings and walkway ramps to provide suitable access to all</p>

	major areas within the development. The EIS will include an access report addressing accessibility.
Traffic, transport and access	<p>The proposed development will encompass a ground floor level car park for 20 cars, service vehicle access off Church Street down an existing driveway along the eastern boundary of the site, and short-term street parking on Church Street.</p> <p>The proposed development is likely to generate less traffic demand than the previous government administration and law court uses. This is due primarily to a typically low reliance by international students on private transportation. Nevertheless, the proposal will need to seek a variation to Newcastle City Council DCP's in respect of on-site car parking provision. The EIS will be informed by a traffic impact assessment. The assessment will address the following impacts while providing suitable mitigation measures:</p> <ul style="list-style-type: none"> ▫ Road safety; ▫ Justification for any non-compliance in the provision of on-site car parking; ▫ Loading and servicing arrangements; ▫ Traffic impacts of the proposed development on the surrounding road network and intersections; and ▫ Accessibility to public transport and active transportation.
Geotechnical/Contamination	<p>The site is identified as being within a mine subsidence district and the neighbouring property at No. 1 Watt Street (Newcastle Police Station) has been identified as containing an old disused and sealed fuel pump.</p> <p>The EIS will be informed by a geotechnical report to address the impacts of mine subsidence and foundational integrity of the proposed development. Any preliminary contamination study will occur during the demolition phase of the development to obtain sufficient subsurface soils.</p>
Soil erosion	The proposal will entail demolition and excavation works, the adaptive re-use of an existing building as a new education facility, and the construction of

	<p>student accommodation and classroom buildings. These works have the potential to impact upon soil leading to potential erosion and sediment issues. The EIS will be informed by a soil erosion and sediment plan that will consider the abovementioned impacts and will provide appropriate mitigation measures.</p>
Stormwater and Water Management	<p>The proposed development will contain new impervious surfaces which will lead to variations in future stormwater runoff. This EIS will prepare a stormwater water management plan to mitigate against the potential stormwater runoff impacts during construction and operation. This will ensure that an increase in stormwater discharge will not require an upgrade to the existing drainage network.</p>
Heritage	<p>The proposed development will impact upon a variety of State and locally significant heritage items within a heritage conservation area (HCA).</p> <p>A heritage impact statement will be prepared to inform the EIS and address all potential impacts upon the cultural heritage significance of the building and surrounding HCA and to justify the demolition of the former Supreme Court building, the Administration building and the proposed minor internal works to the former Courthouse building.</p>
Aboriginal Heritage	<p>A search on the Office of Environment and Heritage's Aboriginal Heritage Information System (AHIMMS) revealed no evidence of the site containing Aboriginal sites or places. Preliminary investigation of the site has revealed that it was predominately used for agricultural purposes prior to the construction of the former Courthouse building and accordingly, construction impacts are not expected to impact upon Aboriginal heritage.</p>
Archaeological Heritage	<p>The site is identified as potentially containing locally significant archaeological items as noted in the Newcastle Archeological Management Plan. As the</p>

	<p>proposed development will entail demolition and excavation works there is potential to impact upon any archeological relics or items present. The EIS will be informed by an archeological impact assessment that will address any potential adverse impacts and outline appropriate mitigation measures.</p>
Biodiversity	<p>The site is almost totally developed with built structures and devoid of areas of soft landscaping and vegetation. This EIS will be supported by an Arborist Report examining the extent of the works and outlining measure to mitigate against any potential impacts.</p> <p>As the site does not contain or adjoin sites that contain any areas of significant vegetation, a Biodiversity Development Assessment Report and/or waiver will not be required.</p>
Landscaping	<p>The site is constrained in terms of its physical ability to accommodate additional enhancement landscaping areas due to the existing and proposed building footprint. This EIS will be informed by a landscape plan that addresses the existing landscape constraints and provide alternatives to optimise landscape areas within the site and to enhance the landscape character of the area generally.</p>
Construction Impacts	<p>The construction phase of the proposal will potentially impact upon surrounding properties such as the Newcastle Police Station, James Fletcher Hospital, offices, and residences.</p> <p>However, the development site is situated within a city centre environment and any potential impact will follow the provisions of the Office of Environment and Heritage's <i>Interim Construction Noise Guideline</i> at the construction phase.</p>
Socio-Economic Impacts	<p>The proposed development is anticipated to contribute to the revitalisation of the Newcastle City Centre and expand / compliment the Newcastle City Centre's education cluster. The development</p>

is likely to generate employment throughout the planning, construction and operation phases of the project.

The proposal will create a Japanese-Australian network for providing education programs of cultural awareness to the general public and yearly student cohort, which will have both direct and indirect long-term socio-economic benefits.

9. CONCLUDING COMMENTS

The proposed development will establish the site as an important tertiary educational establishment that will build a regionally significant connection between Japanese and Australian institutions. The proposal will also continue the revitalisation of the Newcastle City Centre, protect and enhance the heritage significance of the former Newcastle Courthouse and provide diversity in housing supply for international students.

Additionally, the proposal will be a key contributor to achieving the aims and goals of State Government policy such as the HR Plan and Metro Plan, along with local government policies.

I trust that the above information will provide for an appropriate basis to inform the issuing of the SEARs in respect of the proposed development. Please contact the undersigned if further clarification or additional information is required.

Yours Sincerely,



Murray Blackburn-Smith
Regional Director



APPENDIX 1 - DESIGN PACKAGE