

Notice of decision

Section 2.22 and clause 20 of Schedule 1 of the *Environmental Planning and Assessment Act 1979*

Application type	State significant development
Application number and project name	SSD 9787 Nihon University Newcastle Campus
Applicant	Nihon Daigaku Australia Newcastle Pty Ltd
Consent Authority	Minister for Planning and Public Spaces

Decision

The Executive Director under delegation from the Minister for Planning and Public Spaces has, under section 4.38 of the *Environmental Planning and Assessment Act 1979* (the Act) granted consent to the development application subject to the recommended conditions.

A copy of the development consent and conditions is available here:

<https://www.planningportal.nsw.gov.au/major-projects/project/10356>

A copy of the Department of Planning, Industry and Environment's Assessment Report is available here:

<https://www.planningportal.nsw.gov.au/major-projects/project/10356>

Date of decision

11/12/19.

Reasons for decision

The following matters were taken into consideration in making this decision:

- the relevant matters listed in section 4.15 of the Act and the additional matters listed in the statutory context section of the Department's Assessment Report;
- the prescribed matters under the *Environmental Planning and Assessment Regulation 2000*;
- the objects of the Act;
- all information submitted to the Department during the assessment of the development;
- the findings and recommendations in the Department's Assessment Report; and
- the views of the community about the project (see Attachment 1).

The findings and recommendations set out in the Department's Assessment Report were accepted and adopted as the reasons for making this decision.

The key reasons for granting consent to the development application are as follows:

- the project would provide a range of benefits for the region and the State as a whole, including approximately \$41 million of capital investment value, the creation of 100 construction jobs over the life of the project and 24 new operational jobs for teachers, administration staff and associated staff.
- the project is permissible with development consent and is consistent with NSW Government policies including:
 - the *Hunter Regional Plan 2036*, as Nihon University will deliver a new tertiary facility, supporting the development of a national Centre of Excellence for Health and Education in Greater Newcastle;
 - the *Greater Newcastle Metropolitan Plan 2036* in delivering an international university, ensuring a collaboration with the University of Newcastle in making the education and training sector a key source of growth in Greater Newcastle's economy, and create a new use for the former Newcastle Courthouse; and
 - the Transport for NSW's *Future Transport Strategy 2056* as it would provide a new educational facility in a highly accessible location and provide access to additional new employment opportunities close to public transport. The development would also assist in establishing Newcastle as a 'satellite city', encouraging economic and housing growth.
- the impacts on State heritage, the built environment and the natural environment can be appropriately minimised, managed or offset to an acceptable level, in accordance with applicable NSW Government policies and standards. Conditions of consent are recommended to address key impacts associated with heritage, urban design, landscaping, noise and amenity impacts, and to encourage a shift in transport modes through the preparation and implementation of a Green Travel Plan.
- the heritage issues raised by the community member in their submission have been considered and adequately addressed by the Applicant in its Environmental Impact Statement and Response to Submissions report.
- weighing all relevant considerations, the project is in the public interest.

Attachment 1 – Consideration of Community Views

The Department exhibited the Environmental Impact Statement for the project from 23 May 2019 until 19 June 2019 (28 days) and received seven submissions from public authorities, including the City of Newcastle (Council) outlining issues and recommended conditions of consent.

One submission was received from the public that provided comments on the Applicant's Statement of Heritage Impact not referencing or considering Aboriginal Cultural Heritage.

The key issues raised by the community (including in submissions) and considered in the Department's Assessment Report and by the decision maker include heritage and Aboriginal Cultural Heritage. Other issues are addressed in detail in the Department's Assessment Report.

<i>Issue</i>	<i>Consideration</i>
<p><i>Assessment of heritage</i></p> <ul style="list-style-type: none"> The Applicant has not given adequate consideration of Aboriginal Cultural Heritage and Heritage and Aboriginal Heritage strategies in its submitted Statement of Heritage Impact. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The EIS was supported by several heritage impact assessments, including a Statement of Heritage Impact (SHI), Baseline Archaeological Assessment (BAA) report and Aboriginal Due Diligence Report. The Applicant subsequently submitted a Heritage Interpretation Plan (HIP) and formally lodged an ACHA report with its RtS. The Applicant's assessment of potential impacts on Aboriginal cultural heritage in its ACHA report outlined the site as having low archaeological significance but may hold higher cultural significance with intrinsic value to the Aboriginal community. Sub surface test excavations were recommended to determine the presence of any objects or deposits on-site and the preparation of a Cultural Heritage Management Plan where items of significance were uncovered. <p><i>Conditions</i></p> <ul style="list-style-type: none"> Conditions are included to ensure the recommendations contained in the Applicant's ACHA report are implemented and an unexpected finds protocol is prepared.
<p><i>Contamination</i></p> <ul style="list-style-type: none"> A more detailed contamination assessment and consideration of existing data must be undertaken in accordance with the relevant guidelines to confirm the suitability of the site. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The EIS was supported by a Phase 1 Environmental Site Assessment (ESA) – Technical Note and Remediation Action Plan – Technical Note, prepared by Cardno. The ESA Technical Note provided a summary of two previous assessments undertaken on the site, including a Phase 1 ESA, prepared by Coffey in 2012 and a Detailed Site Investigation (DSI) report, prepared by Prensa in 2016. The RtS included a conceptual RAP which outlined measures to address data gaps and to remediate the site. The Applicant's RtS Addendum included interim advice prepared by a NSW EPA accredited Site Auditor that concluded the site can be made suitable by implementing the Applicant's conceptual RAP, subject to it being updated following the completion of future detailed investigations. The Department acknowledges the limitations to undertaking detailing site investigations due to the presence of existing structures and is satisfied that through the implementation of the recommendations provided in the Applicant's conceptual RAP and the Site Auditor's interim advice, the site can be made suitable for the proposed educational establishment. <p><i>Conditions</i></p> <ul style="list-style-type: none"> Conditions are included requiring the Applicant: <ul style="list-style-type: none"> undertake further detailed site investigations following demolition works, and where necessary where necessary, update the conceptual RAP prepare a validation report following the completion of any remediation works prepare a site audit report and site audit statement certifying the site is suitable for the proposal where remediation is undertaken, prepare a Long Term Environmental Management Plan.
<p><i>Service vehicle access</i></p> <ul style="list-style-type: none"> The eastern driveway should be widened, and a turning facility provided to allow for opposing vehicle movements. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The service vehicle access arrangements were revised by the Applicant in consultation with Council and submitted with its RtS Addendum. The revised access arrangements propose the construction of a dedicated services zone in the front setback of the proposed Residential Building that can satisfactorily accommodate up to a 10.5m long garbage truck.

<ul style="list-style-type: none"> All vehicles are required to enter and exit the site in a forward direction. 	<p><i>Conditions</i></p> <ul style="list-style-type: none"> Conditions of consent have been imposed restricting the operations of the services zone and that the Applicant prepare an Operational Management Plan (OMP) to manage its use and operation.
<p><i>Parking</i></p> <ul style="list-style-type: none"> There is a concern that the car parking proposed is insufficient to cater for all staff, maintenance vehicles and other associated uses. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The RtS included additional justification for the car parking shortfall proposed in the context of the proposal's unique operational characteristics. The Department is satisfied that the 100 resident international students will not generate a parking demand and that the 20 spaces provided on site will satisfy the projected demand generated by the proposal. <p><i>Conditions</i></p> <ul style="list-style-type: none"> A condition of consent is included to ensure the minimum 20 spaces are designed and constructed in accordance with the relevant Australian Standard.
<p><i>Waste management</i></p> <ul style="list-style-type: none"> The waste management plan (WMP) must be updated to consider the seven days a week operations. The design and size of the bin storage rooms are to be revised to provide suitable space for waste bins, bulky storage and green waste. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The RtS included further details on the projected waste calculations in its WMP, taking into consideration the 7 days a week operational characteristic of the proposal. The design and size of the waste/bin storage rooms were revised in the RtS to ensure sufficient room was provided to accommodate the number of bins required to meet the calculated waste streams. <p><i>Conditions</i></p> <ul style="list-style-type: none"> Conditions of consent are included requiring the Applicant prepare an Operational Waste Management Plan and provide details confirming the engagement of a commercial waste collection provider.
<p><i>Stormwater</i></p> <ul style="list-style-type: none"> Development over the existing drainage easement must allow for sufficient clearance to enable reasonable and viable future maintenance. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The RtS included a revised Stormwater Management Plan (SMP) which provided an assessment of the condition of the existing brick-lined drainage culvert traversing the site. The assessed poor condition of the existing drainage culvert has necessitated the reconstruction of the drainage line and a new pipe aligned adjacent has been proposed by the Applicant. The new 900mm concrete pipe has been designed with an increased end of life and will capture upstream stormwater flows and stormwater from the site prior to its discharge into the existing pipe network in Church Street. <p><i>Conditions</i></p> <ul style="list-style-type: none"> Conditions of consent are included requiring the Applicant finalise the design of the stormwater management system with Council and a new drainage easement burdening the site be imposed over the new pipe.
<p><i>Noise</i></p> <ul style="list-style-type: none"> The acoustic assessment should be updated to consider potential external noise impacts and to confirm whether any noise attenuation is required. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Applicant's Noise and Vibration Assessment was updated in its RtS and included consideration of potential noise impacts from external noise sources. The Department is satisfied the existing façade design for the proposed Residential Building will provide the necessary noise attenuation to ensure the required internal amenity levels for future resident occupants is met. <p><i>Conditions</i></p> <ul style="list-style-type: none"> Conditions of consent are included to ensure the design of mechanical plant and equipment meets project specific noise levels and that noise attenuation measures are implemented where noise monitoring identifies any exceedances.
<p><i>Urban design</i></p> <ul style="list-style-type: none"> The façade design of the new buildings should be developed further to present the impression of an important educational building in an urban setting. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The RtS included further explanatory notes to justify the proposed façade design rationale of the new building additions adjacent to the Courthouse Building. The Department notes that Council advised that the Applicant's response satisfied its previous comments. <p><i>Conditions</i></p> <ul style="list-style-type: none"> A condition has been included requiring the Applicant revise the streetscape landscape design in consultation with the Heritage Council of NSW to ensure a sympathetic design response is achieved.