

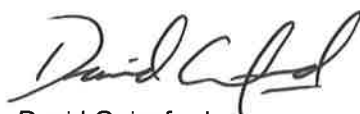
Development Consent

Section 4.38 of the Environmental Planning and Assessment Act 1979

As delegate of the Minister for Planning and Public Spaces under delegation executed on 11 October 2017, I approve the Development Application referred to in Schedule 1, subject to the conditions specified in Schedule 2.

These conditions are required to:

- prevent, minimise, or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the development.



David Gainsford

Executive Director

Infrastructure Assessments

Sydney 11th December

2019

SCHEDULE 1

Application Number:	SSD 9787
Applicant:	Nihon Daigaku Australia Newcastle Pty Ltd
Consent Authority:	Minister for Planning and Public Spaces
Site:	Lot 1 DP 1199904, 9 Church Street, Newcastle
Development:	<p>Establishment of the Nihon University Newcastle Campus, comprising:</p> <ul style="list-style-type: none">• site preparation works including the removal of 29 trees, hardstand areas and existing drainage infrastructure.• demolition of the Administration Building and Supreme Court Building.• site remediation works and bulk excavation below existing ground level.• construction of two new part-three/part-four storey buildings (i.e. Residential Building and Education Building), minor internal alterations and additions to the existing former Courthouse Building and atrium connections between new and existing built forms.• construction of building identification sign.• establishment of an ancillary café and associated café terrace seating on the ground level of the proposed Residential Building.

- construction of a new Church Street crossover and establishment of a new service vehicle zone in the Residential Building front setback.
- construction of a new ground level car park beneath the Education Building.
- ancillary public domain works, site landscaping and rooftop communal open space.

DEFINITIONS

Aboriginal object	Has the same meaning as the definition of the term in section 5 of the <i>National Parks and Wildlife Act 1974</i>
Aboriginal place	Has the same meaning as the definition of the term in section 5 of the <i>National Parks and Wildlife Act 1974</i>
Accredited Certifier	Means the holder of accreditation as an accredited certifier under the <i>Building Professionals Act 2005</i> acting in relation to matters to which the accreditation applies.
Advisory Notes	Advisory information relating to the consent but do not form a part of this consent
Applicant	Nihon Daigaku Australia Newcastle Pty Ltd or any other person carrying out any development to which this consent applies
Approved disturbance area	The area identified as such on the development layout
Archaeological Salvage	Archaeological salvage works undertaken prior to the commencement of construction works in accordance with: <ul style="list-style-type: none"> • an endorsed Archaeological Research Design and Excavation Methodology; • Aboriginal Cultural Heritage Assessment, prepared by AMAC Archaeological, dated July 2019
BCA	Building Code of Australia
BC Act	<i>Biodiversity Conservation Act 2016</i>
CEMP	Construction Environmental Management Plan
Certified Contaminated Land Consultant	A person certified in accordance with the requirements of the Contaminated Land Consultant Certification Policy Version 2 (EPA November 2017) or any subsequent policies as in force from time to time
Certifier	Means a council or accredited certifier
Conditions of this consent	The conditions contained in Schedule 2 of this document
Construction	<p>All physical work to enable operation including but not limited to the demolition and removal of buildings, the carrying out of works for the purposes of the development, including bulk earthworks, and erection of buildings and other infrastructure permitted by this consent, but excluding the following:</p> <ul style="list-style-type: none"> • building and road dilapidation surveys; • investigative drilling or investigative excavation; • Archaeological Salvage; • establishing temporary site offices (in locations identified by the conditions of this consent); • installation of environmental impact mitigation measures, fencing, enabling works; and • minor adjustments to services or utilities. <p>However, where heritage items, or threatened species or threatened ecological communities (within the meaning of the <i>Biodiversity Conservation Act 2016</i> or <i>Environment Protection and Biodiversity Conservation Act 1999</i>) are affected or potentially affected by any physical work, that work is construction, unless otherwise determined by the Planning Secretary in consultation with EES Group or DPIE Fisheries (in the case of impact upon fish, aquatic invertebrates or marine vegetation)</p>
Council	City of Newcastle
Day	The period from 7am to 6pm on Monday to Saturday, and 8am to 6pm on Sundays and Public Holidays
Demolition	The deconstruction and removal of buildings, sheds and other structures on

	the site
Department	NSW Department of Planning, Industry and Environment
Development	The development described in the EIS and Response to Submissions, including the works and activities comprising site preparation works, demolition, site remediation, construction and operation of the Nihon University Newcastle Campus, as modified by the conditions of this consent.
Earthworks	Bulk earthworks, site levelling, import and compaction of fill material, excavation for installation of drainage and services
EES Group	Environment, Energy and Science Group of the Department of Planning, Industry and Environment (Former Office of Environment and Heritage)
EIS	The Environmental Impact Statement titled Proposed Nihon University, prepared by City Plan dated May 2019, submitted with the application for consent for the development, including any additional information provided by the Applicant in support of the application
Environment	Includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings
EPA	NSW Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
Evening	The period from 6pm to 10pm.
Feasible	Means what is possible and practical in the circumstances
Heritage	Encompasses both Aboriginal and historic heritage including sites that predate European settlement, and a shared history since European settlement
Heritage Division	Heritage, Community Engagement of the Department of Premier and Cabinet
Heritage Item	An item as defined under the <i>Heritage Act 1977</i> , and assessed as being of local, State and/ or National heritage significance, and/or an Aboriginal Object or Aboriginal Place as defined under the <i>National Parks and Wildlife Act 1974</i> , the World Heritage List, or the National Heritage List or Commonwealth Heritage List under the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth), or anything identified as a heritage item under the conditions of this consent
Incident	An occurrence or set of circumstances that causes, or threatens to cause, material harm and which may or may not be, or cause, a non-compliance <i>Note: "material harm" is defined in this consent</i>
Land	Has the same meaning as the definition of the term in section 1.4 of the EP&A Act
LTEMP	Long Term Environmental Management Plan
Management and mitigation measures	The management and mitigation measures set out in Chapter 10 of the EIS, as updated by the RtS
Material harm	Is harm that: <ul style="list-style-type: none"> a) involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial; or b) results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000, (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment)
Minister	NSW Minister for Planning and Public Spaces (or delegate)
Mitigation	Activities associated with reducing the impacts of the development prior to or during those impacts occurring

Monitoring	Any monitoring required under this consent must be undertaken in accordance with section 9.39 of the EP&A Act
Night	The period from 10pm to 7am on Monday to Saturday, and 10pm to 8am on Sundays and Public Holidays
Non-compliance	An occurrence, set of circumstances or development that is a breach of this consent
OEMP	Operational Environmental Management Plan
Operation	The carrying out of the approved purpose of the development upon completion of construction.
PA	Means a planning agreement within the meaning of the term in section 7.4 of the EP&A Act.
Planning Secretary	Planning Secretary under the EP&A Act, or nominee
POEO Act	<i>Protection of the Environment Operations Act 1997</i>
Reasonable	Means applying judgement in arriving at a decision, taking into account: mitigation, benefits, costs of mitigation versus benefits provided, community views, and the nature and extent of potential improvements.
Registered Aboriginal Parties	Means the Aboriginal persons identified in accordance with the document entitled " <i>Aboriginal cultural heritage consultation requirements for proponents 2010</i> " (DECCW)
Rehabilitation	The restoration of land disturbed by the development to a good condition, to ensure it is safe, stable and non-polluting.
Response to submissions	The Applicant's response to issues raised in submissions received in relation to the application for consent for the development under the EP&A Act.
SA NSW	Subsidence Advisory NSW (formerly the Mine Subsidence Board)
Sensitive receivers	A location where people are likely to work, occupy or reside, including a dwelling, school, hospital, office or public recreational area.
Site	The land defined in Schedule 1
Site Auditor	As defined in section 4 of the <i>Contaminated Land Management Act 1997</i>
Site Audit Report	As defined in section 4 of the <i>Contaminated Land Management Act 1997</i>
Site Audit Statement	As defined in section 4 of the <i>Contaminated Land Management Act 1997</i>
TfNSW	Transport for New South Wales
TfNSW (RMS)	Transport for New South Wales (Roads and Maritime Services)
Waste	Has the same meaning as the definition of the term in the Dictionary to the POEO Act
Year	A period of 12 consecutive months

SCHEDULE 2

PART A ADMINISTRATIVE CONDITIONS

Obligation to Minimise Harm to the Environment

- A1. In addition to meeting the specific performance measures and criteria in this consent, all reasonable and feasible measures must be implemented to prevent, and, if prevention is not reasonable and feasible, minimise any material harm to the environment that may result from the construction and operation of the development.

Terms of Consent

- A2. The development may only be carried out:
- (a) in compliance with the conditions of this consent;
 - (b) in accordance with all written directions of the Planning Secretary;
 - (c) generally in accordance with the EIS and Response to Submissions;
 - (d) in accordance with the approved plans in the table below:

Architectural (or Design) Drawings prepared by Asusa Sekkei Architects			
Dwg No.	Rev	Name of Plan	Date
A – 008	0	Conservation Plan	14.12.2018
A	N/A	Demolition Plan	14.12.2018
A – 010	0	Conservation Plan	14.12.2018
A – 101	02	Car Circulation Diagram & Services	30.10.2019
A – 102	0	Site Analysis Plan	14.12.2018
A – 103	N/A	Northeast Perspective	14.12.2018
A – 104	N/A	Northwest Perspective	14.12.2018
A – 105	N/A	Southeast/Southwest Perspective	14.12.2018
A – 106	N/A	Aerial Perspective	14.12.2018
A – 107	02	Site Plan	30.10.2019
A – 108	02	1st Floor Plan	30.10.2019
A – 109	0	2nd Floor Plan	14.12.2018
A – 110	0	3rd Floor Plan	14.12.2018
A – 111	0	4th Floor Plan	14.12.2018
A – 112	0	Roof Floor Plan	14.12.2018
A – 114	01	North and South Elevations	30.10.2019
A – 115	01	East and West Elevations	November 2018
A – 116	0	Courthouse Elevations & Section	14.12.2018
A – 117	0	Sections – 1	14.12.2018
A – 118	0	Sections – 2	14.12.2018
A – 119	0	Amenity Planning	14.12.2018
Landscape Drawings prepared by Moir Landscape Architects			
Dwg No.	Rev	Name of Plan	Date
LP01	E	Cover Sheet	19.11.2019
LP02	D	Site Analysis	27.11.2018

LP03	D	Site Photography	27.11.2018
LP04	D	Design Statement	27.11.2018
LP05	E	Landscape Plan – 1st Floor	19.11.2019
LP06	E	Landscape Plan – 4th Floor + Street Elevation	19.11.2019
LP07	E	Planting & Theming Palette	19.11.2019

- A3. Consistent with the requirements in this consent, the Planning Secretary may make written directions to the Applicant in relation to:
- (a) the content of any strategy, study, system, plan, program, review, audit, notification, report or correspondence submitted under or otherwise made in relation to this consent, including those that are required to be, and have been, approved by the Planning Secretary;
 - (b) any reports, reviews or audits commissioned by the Planning Secretary regarding compliance with this approval; and
 - (c) the implementation of any actions or measures contained in any such document referred to in (a) above.
- A4. The conditions of this consent and directions of the Planning Secretary prevail to the extent of any inconsistency, ambiguity or conflict between them and a document listed in condition A2(c). In the event of an inconsistency, ambiguity or conflict between any of the documents listed in condition A2(c), the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

Limits of Consent

- A5. This consent lapses five years after the date of consent unless work is physically commenced.

Prescribed Conditions

- A6. The Applicant must comply with all relevant prescribed conditions of development consent under Part 6, Division 8A of the EP&A Regulation.

Planning Secretary as Moderator

- A7. In the event of a dispute between the Applicant and a public authority, in relation to an applicable requirement in this approval or relevant matter relating to the Development, either party may refer the matter to the Planning Secretary for resolution. The Planning Secretary's resolution of the matter must be binding on the parties.

Evidence of Consultation

- A8. Where conditions of this consent require consultation with an identified party, the Applicant must:
- (a) consult with the relevant party prior to submitting the subject document for information or approval; and
 - (b) provide details of the consultation undertaken including:
 - (i) the outcome of that consultation, matters resolved and unresolved; and
 - (ii) details of any disagreement remaining between the party consulted and the Applicant and how the Applicant has addressed the matters not resolved.

Staging

- A9. The project may be constructed and operated in stages. Where staged construction or operation is proposed, a Staging Report (for either or both construction and operation as the case may be) must be prepared and submitted for the information of the Planning Secretary. The Staging Report must be submitted to the Planning Secretary no later than one month before the commencement of construction of the first of the proposed stages of construction (or if only staged operation is proposed, one month before the commencement of operation of the first of the proposed stages of operation).
- A10. A Staging Report prepared in accordance with condition A9 must:

- (a) if staged construction is proposed, set out how the construction of the whole of the project will be staged, including details of work and other activities to be carried out in each stage and the general timing of when construction of each stage will commence and finish;
 - (b) if staged operation is proposed, set out how the operation of the whole of the project will be staged, including details of work and other activities to be carried out in each stage and the general timing of when operation of each stage will commence and finish (if relevant);
 - (c) specify how compliance with conditions will be achieved across and between each of the stages of the project; and
 - (d) set out mechanisms for managing any cumulative impacts arising from the proposed staging.
- A11. Where staging is proposed, the project must be staged in accordance with the Staging Report, as submitted to the Planning Secretary.
- A12. Where staging is proposed, the terms of this approval that apply or are relevant to the works or activities to be carried out in a specific stage must be complied with at the relevant time for that stage.

Staging, Combining and Updating Strategies, Plans or Programs

- A13. With the approval of the Planning Secretary, the Applicant may:
- (a) prepare and submit any strategy, plan (including management plan, architectural or design plan) or program required by this consent on a staged basis (if a clear description is provided as to the specific stage and scope of the development to which the strategy, plan (including management plan, architectural or design plan) or program applies, the relationship of the stage to any future stages and the trigger for updating the strategy, plan (including management plan, architectural or design plan) or program);
 - (b) combine any strategy, plan (including management plan, architectural or design plan), or program required by this consent (if a clear relationship is demonstrated between the strategies, plans (including management plan, architectural or design plan) or programs that are proposed to be combined); and
 - (c) update any strategy, plan (including management plan, architectural or design plan), or program required by this consent (to ensure the strategies, plans (including management plan, architectural or design plan), or programs required under this consent are updated on a regular basis and incorporate additional measures or amendments to improve the environmental performance of the development).
- A14. If the Planning Secretary agrees, a strategy, plan (including management plan, architectural or design plan), or program may be staged or updated without consultation being undertaken with all parties required to be consulted in the relevant condition in this consent.
- A15. If approved by the Planning Secretary, updated strategies, plans (including management plan, architectural or design plan), or programs supersede the previous versions of them and must be implemented in accordance with the condition that requires the strategy, plan, program or drawing.

Structural Adequacy

- A16. All new buildings and structures, and any alterations or additions to existing buildings and structures, that are part of the development, must be constructed in accordance with the relevant requirements of the BCA and any additional requirements of the Subsidence Advisory NSW where the building or structure is located on land within a declared Mine Subsidence District.

Notes:

- Part 8 of the EP&A Regulation sets out the requirements for the certification of the development.
- Under section 21 of the Coal Mine Subsidence Compensation Act 2017, the Applicant is required to obtain the Chief Executive of Subsidence Advisory NSW's approval before carrying out certain development in a Mine Subsidence District.

External Walls and Cladding

- A17. The external walls of all buildings including additions to existing buildings must comply with the relevant requirements of the BCA.

Site Contamination

- A18. Following the completion of demolition works and prior to the commencement of all other construction, additional site investigations of previously untested or inaccessible areas of the site must be undertaken in accordance with:
- (a) interim advice dated 12 November 2019 and prepared by NSW EPA Accredited Site Auditor Ian Gregson, Principal Environmental Consultant, GHD;
 - (b) the recommendations provided in the Phase 1 Environmental Site Assessment – Technical Note dated 29 April 2019 and prepared by Cardno;
 - (c) NSW EPA Sampling Design Guidelines;
 - (d) Guidelines for the NSW Site Auditor Scheme (3rd edition) 2017
<https://www.epa.nsw.gov.au/publications/contaminatedland/17p0269-guidelines-for-the-nsw-site-auditor-scheme-third-edition>;
 - (e) Guidelines for Consultants Reporting on Contaminated Sites, 2011
www.epa.nsw.gov.au/resources/clm/20110650consultantsguidelines.pdf;
 - (f) The National Environment Protection (assessment of contamination) Measures 2013 as amended; and
 - (g) testing must include assessment of both the soil and groundwater profile.
- A19. The additional site investigations report must be reviewed by a NSW EPA Accredited Site Auditor and the Conceptual Remediation Action Plan dated 28 May 2019, prepared by Cardno must be updated to reflect the findings of the additional site investigations required by condition A18. The updated remediation action plan must be approved by a NSW EPA Accredited Site Auditor and submitted to the Planning Secretary prior to the commencement of remediation works.
- A20. Remediation works approved as part of this development consent must be carried out in accordance with the remediation action plan approved by a NSW EPA Accredited Site Auditor pursuant to condition A19.

Applicability of Guidelines

- A21. References in the conditions of this consent to any guideline, protocol, Australian Standard or policy are to such guidelines, protocols, Standards or policies in the form they are in as at the date of this consent.
- A22. Consistent with the conditions of this consent and without altering any limits or criteria in this consent, the Planning Secretary may, when issuing directions under this consent in respect of ongoing monitoring and management obligations, require compliance with an updated or revised version of such a guideline, protocol, Standard or policy, or a replacement of them.

Monitoring and Environmental Audits

- A23. Any condition of this consent that requires the carrying out of monitoring or an environmental audit, whether directly or by way of a plan, strategy or program, is taken to be a condition requiring monitoring or an environmental audit under Division 9.4 of Part 9 of the EP&A Act. This includes conditions in respect of incident notification, reporting and response, non-compliance notification, Site audit report and independent auditing.

Note: For the purposes of this condition, as set out in the EP&A Act, “monitoring” is monitoring of the development to provide data on compliance with the consent or on the environmental impact of the development, and an “environmental audit” is a periodic or particular documented evaluation of the development to provide information on compliance with the consent or the environmental management or impact of the development.

Access to Information

- A24. At least 48 hours before the commencement of construction until the completion of all works under this consent, or such other time as agreed by the Planning Secretary, the Applicant must:

- (a) make the following information and documents (as they are obtained or approved) publicly available on its website:
 - (i) the documents referred to in condition A2 of this consent;
 - (ii) all current statutory approvals for the development;
 - (iii) all approved strategies, plans and programs required under the conditions of this consent;
 - (iv) regular reporting on the environmental performance of the development in accordance with the reporting arrangements in any plans or programs approved under the conditions of this consent;
 - (v) a comprehensive summary of the monitoring results of the development, reported in accordance with the specifications in any conditions of this consent, or any approved plans and programs;
 - (vi) a summary of the current stage and progress of the development;
 - (vii) contact details to enquire about the development or to make a complaint;
 - (viii) a complaints register, updated monthly;
 - (ix) audit reports prepared as part of any independent audit of the development and the Applicant's response to the recommendations in any audit report;
 - (x) any other matter required by the Planning Secretary; and
- (b) keep such information up to date, to the satisfaction of the Planning Secretary.

Compliance

A25. The Applicant must ensure that all of its employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this consent relevant to activities they carry out in respect of the development.

Incident Notification, Reporting and Response

A26. The Planning Secretary must be notified in writing to compliance@planning.nsw.gov.au immediately after the Applicant becomes aware of an incident. The notification must identify the development (including the development application number and the name of the development if it has one), and set out the location and nature of the incident.

A27. Subsequent notification must be given and reports submitted in accordance with the requirements set out in **Appendix 2**.

Non-Compliance Notification

A28. The Planning Secretary must be notified in writing to compliance@planning.nsw.gov.au within seven days after the Applicant becomes aware of any non-compliance. The Certifier must also notify the Planning Secretary in writing to compliance@planning.nsw.gov.au within seven days after they identify any non-compliance.

A29. The notification must identify the development and the application number for it, set out the condition of consent that the development is non-compliant with, the way in which it does not comply and the reasons for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.

A30. A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.

Revision of Strategies, Plans and Programs

A31. Within three months of:

- (a) the submission of a compliance report under condition C22;
- (b) the submission of an incident report under condition A27;
- (c) the submission of an Independent Audit under condition D32;
- (d) the approval of any modification of the conditions of this consent; or
- (e) the issue of a direction of the Planning Secretary under condition A2 which requires a review,

the strategies, plans and programs required under this consent must be reviewed, and the Planning Secretary and the Certifier must be notified in writing that a review is being carried out.

If necessary to either improve the environmental performance of the development, cater for a modification or comply with a direction, the strategies, plans, programs or drawings required under this consent must be revised, to the satisfaction of the Planning Secretary and/or Certifier (where relevant). Where revisions are required, the revised document must be submitted to the Planning Secretary and/or Certifier for approval and/or information (where relevant) within six weeks of the review.

Note: *This is to ensure strategies, plans and programs are updated on a regular basis and to incorporate any recommended measures to improve the environmental performance of the development.*

PART B PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

Certified Drawings

- B1. Prior to the issue of the relevant Construction Certificate, the Applicant must submit to the satisfaction of the Certifier structural drawings prepared and signed by a suitably qualified practising Structural Engineer that demonstrates compliance with this development consent.

Development Contributions

- B2. Prior to the issue of any Construction Certificate (not including demolition or site remediation works), a Section 7.12 levy totalling **\$288,992**, is to be paid to Council in accordance with Section 7.12 of the EP&A Act and City of Newcastle Section 7.12 Newcastle Local Infrastructure Contributions Plan 2019. Prior to payment Council can provide the value of the indexed levy.

External Walls and Cladding

- B3. Prior to the issue of any Construction Certificate, the Applicant must provide the Certifier with documented evidence that the products and systems proposed for use or used in the construction of external walls, including finishes and claddings such as synthetic or aluminium composite panels, comply with the requirements of the BCA. The Applicant must provide a copy of the documentation given to the Certifier to the Planning Secretary within seven days after the Certifier accepts it.

Protection of Public Infrastructure

- B4. Prior to the issue of the relevant Construction Certificate, the Applicant must:
- (a) consult with the relevant owner and provider of services that are likely to be affected by the development to make suitable arrangements for access to, diversion, protection and support of the affected infrastructure;
 - (b) prepare a dilapidation report identifying the condition of all public infrastructure in the vicinity of the site (including roads, gutters and footpaths); and
 - (c) submit a copy of the dilapidation report to the Planning Secretary, Certifier and Council.

Pre-Construction Dilapidation Report

- B5. Prior to the issue of the relevant Construction Certificate, the Applicant must submit a pre-commencement dilapidation report to Council, NSW Heritage Division and the Certifier. The report must provide an accurate record of the existing condition of adjoining private properties, heritage items and Council assets that are likely to be impacted by the proposed works.

Ecologically Sustainable Development

- B6. Prior to the issue of any Construction Certificate, unless otherwise agreed by the Planning Secretary, the Applicant must demonstrate that ESD is being achieved by either:
- (a) registering for a minimum 4 star Green Star rating with the Green Building Council Australia and submit evidence of registration to the Certifier; or
 - (b) seeking approval from the Planning Secretary for an alternative certification process.

Operational Waste Storage and Processing

- B7. Prior to the issue of the relevant Construction Certificate, the Applicant must obtain agreement from Council for the design of the operational waste storage area (where waste removal will be undertaken by Council). Where waste removal will be undertaken by a third party, the design of the operational waste storage area must be in accordance with Council's standards. Evidence of the design and Council endorsement (where relevant) must be provided to the Certifier.

Rainwater Harvesting

- B8. Prior to the issue of the relevant Construction Certificate, the Applicant must ensure that a rainwater reuse/harvesting system for the development is developed for the site. A rainwater re-use plan must be prepared and certified by an experienced hydraulic engineer.

Operational Car Parking and Service Vehicle Layout

- B9. Prior to the issue of the relevant Construction Certificate, compliance with the following requirements must be submitted to the satisfaction of the Certifier:
- (a) all vehicles must enter and leave the Site in a forward direction;
 - (b) a minimum of 20 on-site car parking spaces for use during operation of the development and designed in accordance with the latest versions of AS 2890.1 and AS 2890.6;
 - (c) the swept path of the longest construction vehicle entering and exiting the Site in association with the new work, as well as manoeuvrability through the Site, must be in accordance with the latest version of AS 2890.2;
 - (d) the safety of vehicles and pedestrians accessing adjoining properties, where shared vehicle and pedestrian access occurs, is to be addressed; and
 - (e) traffic management devices in the form of 'Stop' and 'Give Way to Pedestrian' signs and line marking must be installed at the entry of proposed driveways within the site and constructed in accordance with AS 2890.1:2004: *Parking facilities 0 Off-street car parking*.

Bicycle Parking and End-of-Trip Facilities

- B10. Prior to the issue of the relevant Construction Certificate, compliance with the following requirements for secure bicycle parking and end-of-trip facilities must be submitted to the satisfaction of the Certifier:
- (a) the provision of a minimum 22 bicycle parking spaces;
 - (b) the layout, design and security of bicycle facilities must comply with the minimum requirements of the latest version of AS 2890.3:2015 *Parking facilities - Bicycle parking*, and be located in easy to access, well-lit areas that incorporate passive surveillance;
 - (c) the provision of end-of-trip facilities for staff;
 - (d) appropriate pedestrian and cyclist advisory signs are to be provided; and
 - (e) all works/regulatory signposting associated with the proposed developments shall be at no cost to the relevant roads authority.

PART C PRIOR TO COMMENCEMENT OF CONSTRUCTION

Notification of Commencement

- C1. The Applicant must notify the Planning Secretary in writing of the dates of commencement of physical work and operation at least 48 hours before those dates.
- C2. If the construction or operation of the development is to be staged, the Planning Secretary must be notified in writing at least 48 hours before the commencement of each stage, of the date of commencement and the development to be carried out in that stage.

Construction Certificate

- C3. Work must not commence until a Construction Certificate in respect of the work has been issued.

Outdoor Lighting

- C4. Prior to commencement of lighting installation, evidence must be submitted to the satisfaction of the Certifier that all outdoor lighting within the site has been designed to comply with AS 1158.3.1:2005 Lighting for roads and public spaces – Pedestrian area (Category P) lighting – Performance and design requirements and AS 4282-2019 Control of the obtrusive effects of outdoor lighting.

Demolition

- C5. Prior to the commencement of construction, demolition work plans required by AS 2601-2001 *The demolition of structures* (Standards Australia, 2001) must be accompanied by a written statement from a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the statement of compliance must be submitted to the Certifier and Planning Secretary.
- C6. Prior to the commencement of internal demolition works within the State heritage listed former Newcastle Courthouse, evidence must be submitted to the satisfaction of the Certifier confirming works planned are required to make the existing building compliant with the fire and Life Safety Upgrade Strategy, prepared by Design Confidence, dated 12 June 2019, and that impacts to areas of high significant fabric have been limited.

Environmental Management Plan Requirements

- C7. Management plans required under this consent must be prepared in accordance with relevant guidelines, and include:
 - (a) detailed baseline data;
 - (b) details of:
 - (i) the relevant statutory requirements (including any relevant approval, licence or lease conditions);
 - (ii) any relevant limits or performance measures and criteria; and
 - (iii) the specific performance indicators that are proposed to be used to judge the performance of, or guide the implementation of, the development or any management measures;
 - (c) a description of the measures to be implemented to comply with the relevant statutory requirements, limits, or performance measures and criteria;
 - (d) a program to monitor and report on the:
 - (i) impacts and environmental performance of the development;
 - (ii) effectiveness of the management measures set out pursuant to paragraph (c) above;
 - (e) a contingency plan to manage any unpredicted impacts and their consequences and to ensure that ongoing impacts reduce to levels below relevant impact assessment criteria as quickly as possible;
 - (f) a program to investigate and implement ways to improve the environmental performance of the development over time;
 - (g) a protocol for managing and reporting any:

- (i) incident and any non-compliance (specifically including any exceedance of the impact assessment criteria and performance criteria);
- (ii) complaint;
- (iii) failure to comply with statutory requirements; and
- (h) a protocol for periodic review / update of the plan and any updates in response to incidents or matters of non-compliance.

Note: The Planning Secretary may waive some of these requirements if they are unnecessary or unwarranted for particular management plans

Construction Environmental Management Plan

- C8. Prior to the commencement of construction, the Applicant must submit a Construction Environmental Management Plan (CEMP) to the Certifier and provide a copy to the Planning Secretary. The CEMP must include, but not be limited to, the following:
- (a) Details of:
 - (i) hours of work;
 - (ii) 24-hour contact details of site manager;
 - (iii) management of dust and odour to protect the amenity of the neighbourhood;
 - (iv) stormwater control and discharge;
 - (v) measures to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the site;
 - (vi) groundwater management plan including measures to prevent groundwater contamination;
 - (vii) external lighting in compliance with AS 4282-2019 Control of the obtrusive effects of outdoor lighting;
 - (viii) community consultation and complaints handling;
 - (b) Construction Traffic and Pedestrian Management Sub-Plan (see condition C10);
 - (c) Construction Noise and Vibration Management Sub-Plan (see condition C11);
 - (d) Construction Waste Management Sub-Plan (see condition C11(g));
 - (e) an unexpected finds protocol for contamination and associated communications procedure;
 - (f) an unexpected finds protocol for non-Aboriginal heritage and associated communications procedure;
 - (g) waste classification (for materials to be removed) and validation (for materials to remain) be undertaken to confirm the contamination status in these areas of the site; and
- C9. The Applicant must not commence construction of the development until the CEMP is submitted to the Certifier and a copy submitted to the Planning Secretary.
- C10. The Construction Traffic and Pedestrian Management Sub-Plan (CTPMSP) must address, but not be limited to, the following:
- (a) be prepared by a suitably qualified and experienced person(s);
 - (b) be prepared in consultation with Council;
 - (c) detail the measures that are to be implemented to ensure road safety and network efficiency during construction in consideration of potential impacts on general traffic, cyclists and pedestrians and bus services;
 - (d) detail heavy vehicle routes, access and parking arrangements;
 - (e) include a Driver Code of Conduct to:
 - (i) minimise the impacts of earthworks and construction on the local and regional road network;
 - (ii) minimise conflicts with other road users;
 - (iii) minimise road traffic noise; and
 - (iv) ensure truck drivers use specified routes;

- (f) include a program to monitor the effectiveness of these measures; and
 - (g) if necessary, detail procedures for notifying residents and the community (including local schools), of any potential disruptions to routes.
- C11. The Construction Noise and Vibration Management Sub-Plan must address, but not be limited to, the following:
- (a) be prepared by a suitably qualified and experienced noise expert;
 - (b) describe procedures for achieving the noise management levels in EPA's *Interim Construction Noise Guideline* (DECC, 2009);
 - (c) describe the measures to be implemented to manage high noise generating works such as piling, in close proximity to sensitive receivers;
 - (d) include strategies that have been developed with the community for managing high noise generating works;
 - (e) describe the community consultation undertaken to develop the strategies in condition C11(d);
 - (f) include a complaints management system that would be implemented for the duration of the construction; and
 - (g) include a program to monitor and report on the impacts and environmental performance of the development and the effectiveness of the management measures in accordance with condition C7(d). The program should be developed in accordance with the report titled Noise and Vibration Assessment – Operational and Construction report dated May 2019 and prepared by EMM Consulting, and included, but not limited to:
 - (i) alert triggers where project trigger noise levels are exceeded; and
 - (ii) procedures for respite periods when sensitive receivers become 'highly noise affected' (i.e. noise levels exceed 75 dB(A)).
- C12. The Construction Waste Management Sub-Plan (CWMS) must address, but not be limited to, the following:
- (a) detail the quantities of each waste type generated during construction and the proposed reuse, recycling and disposal locations; and
 - (b) removal of hazardous materials, particularly the method of containment and control of emission of fibres to the air, and disposal at an approved waste disposal facility in accordance with the requirements of the relevant legislation, codes, standards and guidelines, prior to the commencement of any building works.

Aboriginal Cultural Heritage Management Plan

- C13. Prior to the commencement of construction (excluding demolition works), an Aboriginal Cultural Heritage Management Plan (ACHMP) must be prepared and address, but not be limited to, the following:
- (a) be prepared by a suitably qualified and experienced expert in consultation with the Registered Aboriginal Parties;
 - (b) be endorsed by the Planning Secretary prior to construction (excluding demolition works) of any part of the development;
 - (c) describe the measures to protect any Aboriginal cultural deposits or relics uncovered during sub surface archaeological testing in accordance with the relevant legislation.

Construction Worker Transportation Strategy

- C14. Prior to the commencement of construction, the Applicant must submit a Construction Worker Transportation Strategy to the satisfaction of the Certifier. The Strategy must detail the provision of sufficient parking facilities or other travel arrangements for construction workers in order to minimise demand for parking in nearby public and residential streets or public parking facilities.

Stormwater Management System

- C15. Prior to the commencement of construction, the Applicant must design an operational stormwater management system for the development and submit it to the satisfaction of the Certifier. The system must:
- (a) be designed by a suitably qualified and experienced person(s);
 - (b) be design in consultation with and to the satisfaction of Council;
 - (c) be generally in accordance with the conceptual design in the EIS as amended by the RtS;
 - (d) be in accordance with applicable Australian Standards;
 - (e) ensure that the system capacity has been designed in accordance with *Australian Rainfall and Runoff* (Engineers Australia, 2019) and *Managing Urban Stormwater: Council Handbook* (EPA, 1997) guidelines;
 - (f) divert existing clean surface water around operational areas of the site;
 - (g) direct all sediment laden water in overland flow away from the leachate management system;
 - (h) prevent cross-contamination of clean and sediment or leachate laden water;
 - (i) include details of all on-site retention/detention and water quality treatment systems are to be individually signposted in accordance with Council's Stormwater and Water Efficiency for Development Technical Manual.

Operational Noise – Design of Mechanical Plant and Equipment

- C16. Prior to installation of mechanical plant and equipment, the Applicant must incorporate the noise mitigation recommendations in the Noise and Vibration Assessment – Operational and Construction report dated May 2019 and prepared by EMM Consulting, into the detailed design drawings. The Certifier must verify that all noise mitigation measures have been incorporated into the design to ensure the development will not exceed the recommended operational noise levels identified in the Noise and Vibration Assessment – Operational and Construction report dated May 2019 and prepared by EMM Consulting.

Archaeological Salvage – Historic Archaeology

- C17. Following the completion of demolition works and prior to the commencement of construction works, all affected historical archaeological deposits are to be subject to professional archaeological excavation and recording. An Archaeological Research Design and Excavation methodology must be prepared to guide the archaeological program. This must be prepared in accordance with Heritage Council of NSW Guidelines and in consultation with Heritage NSW, Department of Premier and Cabinet.
- C18. The Archaeological program must be directed by a suitably qualified and experienced Archaeologist (Excavation Director). The nominated Excavation Director must be able to demonstrate their ability to undertake this work through a response to the Heritage Council's Excavation Director Criteria (July 2011) for salvage excavation for a site of local heritage significance.

Landscaping

- C19. Prior to the commencement of construction, the Applicant must prepare a revised Landscape Plan that provides a streetscape treatment that does not impede on the understanding of the former Newcastle Courthouse and its relationship to its environment and setting, and submit a copy to the Planning Secretary. The plan must
- (a) be prepared by a qualified heritage landscape consultant and submitted to the NSW Heritage Council, or its delegate, for endorsement;
 - (b) provide an analysis of the existing site frontage hardstand, fences and gates, colours and finishes and landscape elements within the precinct;
 - (c) demonstrate the retention of the existing heritage cast iron fence along the site frontage, including the iron palisade fence, sandstone plinth and sandstone piers, unless removal of sections is demonstrated to be essential for the functional requirements of the proposal (e.g. clearance required to establish the approved additional driveway crossover);

- (d) provide for the planting of eight trees that are sympathetic to the heritage values of the item and ensure no planting grow higher than 1.5 m in directly in front of the former Newcastle Courthouse;
- (e) detail the location, species, maturity and height at maturity of plants to be planted on-site;
- (f) include species (trees, shrubs and groundcovers) indigenous to the local area;
- (g) include the planting of trees with a pot container of 100 litres or greater;
- (h) include the provision of street tree planting. Species and spacing of trees are to be sympathetic to the heritage values of the item and are to be determined in consultation with Council.

Public Domain Works

- C20. Prior to the commencement of any footpath or public domain works, the Applicant must engage a suitably qualified practicing engineer to design the following public domain works within the Church Street frontage of the site at no cost to Council and in accordance with the Newcastle City Centre Public Domain Manual guideline, design specifications and relevant Australian Standards:
- (a) new full width footpath and streetscape works and driveway;
 - (b) reconstruct kerb and gutter, including associated road shoulder pavement and any associated drainage works;
 - (c) new street trees and tree planting vaults in accordance with Council's requirement and adjust service pit levels to match new footpath levels;
 - (d) kerb blisters and raised pedestrian crossings at the intersection of Bolton Street and Church Street;
 - (e) upgrade street lighting across the frontage of the site to provide P3 Pedestrian Lighting Category in accordance with Australian Standard 1158.1;
 - (f) upgrade of pedestrian crossing lighting to comply with Australian Standard 1158.4;
 - (g) any necessary adjustments to regulatory signage.
- C21. Prior to the commencement of any footpath or public domain works, the Applicant must consult with Council and demonstrate to the Certifier that the public domain design and treatment, as required by condition C20, meets the Council's requirements, including addressing pedestrian management. The Applicant must submit documentation of approval for each stage from Council to the Certifier.

Compliance Reporting

- C22. No later than two weeks before the date notified for the commencement of construction, a Compliance Monitoring and Reporting Program prepared in accordance with the Compliance Reporting Post Approval Requirements (Department 2018) must be submitted to the Planning Secretary and the Certifier.
- C23. Compliance Reports of the project must be carried out in accordance with the Compliance Reporting Post Approval Requirements (Department 2018).
- C24. The Applicant must make each Compliance Report publicly available 60 days after submitting it to the Planning Secretary and notify the Planning Secretary and the Certifier in writing at least seven days before this is done.
- C25. Notwithstanding the requirements of the Compliance Reporting Post Approval Requirements (Department 2018), the Planning Secretary may approve a request for ongoing annual operational compliance reports to be ceased, where it has been demonstrated to the Planning Secretary's satisfaction that an operational compliance report has demonstrated operational compliance.

PART D DURING CONSTRUCTION

Site Notice

- D1. A site notice(s):
- (a) must be prominently displayed at the boundaries of the site during construction for the purposes of informing the public of project details including, but not limited to the details of the Builder, Certifier and Structural Engineer is to satisfy the following requirements;
 - (b) minimum dimensions of the notice must measure 841 mm x 594 mm (A1) with any text on the notice to be a minimum of 30-point type size;
 - (c) the notice is to be durable and weatherproof and is to be displayed throughout the works period;
 - (d) the approved hours of work, the name of the site/ project manager, the responsible managing company (if any), its address and 24-hour contact phone number for any inquiries, including construction/ noise complaint must be displayed on the site notice; and
 - (e) the notice(s) is to be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted.

Operation of Plant and Equipment

- D2. All construction plant and equipment used on site must be maintained in a proper and efficient condition and operated in a proper and efficient manner.

Demolition

- D3. Demolition work must comply with the demolition work plans required by *Australian Standard AS 2601-2001 The demolition of structures* (Standards Australia, 2001) and endorsed by a suitably qualified person as required by Condition C5.

Construction Hours

- D4. Construction, including the delivery of materials to and from the site, may only be carried out between the following hours:
- (a) between 7 am and 6 pm, Mondays to Fridays inclusive; and
 - (b) between 8 am and 1 pm, Saturdays.
- No work may be carried out on Sundays or public holidays.
- D5. Construction activities may be undertaken outside of the hours in condition D4 if required:
- (a) by the Police or a public authority for the delivery of vehicles, plant or materials; or
 - (b) in an emergency to avoid the loss of life, damage to property or to prevent environmental harm; or
 - (c) where the works are inaudible at the nearest sensitive receivers; or
 - (d) where a variation is approved in advance in writing by the Planning Secretary or his nominee if appropriate justification is provided for the works.
- D6. Notification of such construction activities as referenced in condition D5 must be given to affected residents before undertaking the activities or as soon as is practical afterwards.
- D7. Rock breaking, rock hammering, sheet piling, pile driving and similar activities may only be carried out between the following hours:
- (a) 9am to 12pm, Monday to Friday;
 - (b) 2pm to 5pm Monday to Friday; and
 - (c) 9am to 12pm, Saturday.

Implementation of Management Plans

- D8. The Applicant must carry out the construction of the development in accordance with the most recent version of the approved CEMP (including Sub-Plans) and ACHMP.

Construction Traffic

- D9. All construction vehicles (excluding site personnel vehicles) are to be contained wholly within the site, except if located in an approved on-street work zone, and vehicles must enter the site before stopping.

Hoarding Requirements

- D10. The following hoarding requirements must be complied with:
- (a) no third-party advertising is permitted to be displayed on the subject hoarding/ fencing; and
 - (b) the construction site manager must be responsible for the removal of all graffiti from any construction hoardings or the like within the construction area within 48 hours of its application.

No Obstruction of Public Way

- D11. The public way (outside of any approved construction works zone) must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances.

Construction Noise Limits

- D12. The development must be constructed to achieve the construction noise management levels detailed in the *Interim Construction Noise Guideline* (DECC, 2009). All feasible and reasonable noise mitigation measures must be implemented and any activities that could exceed the construction noise management levels must be identified and managed in accordance with the management and mitigation measures identified in the approved Construction Noise and Vibration Management Plan.
- D13. The Applicant must ensure construction vehicles (including concrete agitator trucks) do not arrive at the site or surrounding residential precincts outside of the construction hours of work outlined under condition D4.
- D14. The Applicant must implement, where practicable and without compromising the safety of construction staff or members of the public, the use of 'quackers' to ensure noise impacts on surrounding noise sensitive receivers are minimised.

Vibration Criteria

- D15. Vibration caused by construction at any residence or structure outside the site must be limited to:
- (a) for structural damage, the latest version of *DIN 4150-3 (1992-02) Structural vibration - Effects of vibration on structures* (German Institute for Standardisation, 1999); and
 - (b) for human exposure, the acceptable vibration values set out in the *Environmental Noise Management Assessing Vibration: a technical guideline* (DEC, 2006) (as may be updated or replaced from time to time).
- D16. Vibratory compactors must not be used closer than 30 metres from residential buildings unless vibration monitoring confirms compliance with the vibration criteria specified in condition D15.
- D17. The limits in conditions D15 and D16 apply unless otherwise outlined in a Construction Noise and Vibration Management Plan, approved as part of the CEMP required by condition C11 of this consent.

Tree Protection

- D18. For the duration of the construction works:
- (a) street trees, with the exception of the one nominated street tree approved for removal to accommodate the new driveway crossover, must not be trimmed or removed unless it forms a part of this development consent or prior written approval from Council is obtained or is required in an emergency to avoid the loss of life or damage to property;
 - (b) all street trees to be retained must be protected at all times during construction. Any tree on the footpath, which is damaged or removed during construction due to an emergency, must be replaced, to the satisfaction of Council;

- (c) all trees on the site that are not approved for removal must be suitably protected during construction as per recommendations of the Aboricultural Impact Assessment Report dated 17 November 2019 and prepared by Joseph Pidutti Consulting Arborist; and
- (d) if access to the area within any protective barrier is required during the works, it must be carried out under the supervision of a qualified arborist. Alternative tree protection measures must be installed, as required. The removal of tree protection measures, following completion of the works, must be carried out under the supervision of a qualified arborist and must avoid both direct mechanical injury to the structure of the tree and soil compaction within the canopy or the limit of the former protective fencing, whichever is the greater.

Air Quality

D19. The Applicant must take all reasonable steps to minimise dust generated during all works authorised by this consent.

D20. During construction, the Applicant must ensure that:

- (a) exposed surfaces and stockpiles are suppressed by regular watering;
- (b) all trucks entering or leaving the site with loads have their loads covered;
- (c) trucks associated with the development do not track dirt onto the public road network;
- (d) public roads used by these trucks are kept clean; and
- (e) land stabilisation works are carried out progressively on site to minimise exposed surfaces.

Erosion and Sediment Control

D21. All erosion and sediment control measures must be effectively implemented and maintained at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works have been stabilised and rehabilitated so that it no longer acts as a source of sediment. Erosion and sediment control techniques, as a minimum, are to be in accordance with the publication Managing Urban Stormwater: Soils & Construction (4th edition, Landcom, 2004) commonly referred to as the 'Blue Book'.

Imported Soil

D22. The Applicant must:

- (a) ensure that only VENM, ENM, or other material approved in writing by EPA is brought onto the site;
- (b) keep accurate records of the volume and type of fill to be used; and
- (c) make these records available to the Certifier upon request.

Disposal of Seepage and Stormwater

D23. Adequate provisions must be made to collect and discharge stormwater drainage during construction of the building to the satisfaction of the principal Certifier. The prior written approval of Council must be obtained to connect or discharge site stormwater to Council's stormwater drainage system or street gutter.

Unexpected Finds Protocol – Aboriginal Heritage

D24. In the event that surface disturbance identifies a new Aboriginal object, all works must halt in the immediate area to prevent any further impacts to the object(s). A suitably qualified archaeologist and the registered Aboriginal representatives must be contacted to determine the significance of the objects. The site is to be registered in the Aboriginal Heritage Information Management System (AHIMS) which is managed by EES Group and the management outcome for the site included in the information provided to AHIMS. The Applicant must consult with the Aboriginal community representatives, the archaeologists and EES Group to develop and implement management strategies for all objects/sites. Works shall only recommence with the written approval of EES Group.

Unexpected Finds Protocol – Historic Heritage

- D25. If any unexpected archaeological relics are uncovered during the work, then all works must cease immediately in that area and the NSW Heritage Division contacted. Depending on the possible significance of the relics, an archaeological assessment and management strategy may be required before further works can continue in that area. Works may only recommence with the written approval of the NSW Heritage Division.

Waste Storage and Processing

- D26. All waste generated during construction must be secured and maintained within designated waste storage areas at all times and must not leave the site onto neighbouring public or private properties.
- D27. All waste generated during construction must be assess, classified and managed in accordance with the Waste Classification Guidelines Part 1: Classifying Waste (EPA, 2014).
- D28. The Applicant must ensure that concrete waste and rinse water are not disposed of on the site and are prevented from entering any natural or artificial watercourse.

Independent Environmental Audit

- D29. Proposed independent auditors must be agreed to in writing by the Planning Secretary prior to the preparation of an Independent Audit Program or commencement of an Independent Audit.
- D30. Prior to the commencement of construction, an Independent Audit Program prepared in accordance with the Independent Audit Post Approval Requirements (Department 2018) must be submitted to the Planning Secretary and the Certifier.

- D31. Table 1 of the Independent Audit Post Approval Requirements (Department 2018) is amended so that the frequency of audits required in the construction phase is:

- (a) an initial construction Independent Audit must be undertaken within eight weeks of the notified commencement date of construction;
- (b) a subsequent Independent Audit of construction must be undertaken no later than six months from the date of the initial construction Independent Audit; and

In all other respects Table 1 remains the same. The Planning Secretary may require the initial and subsequent Independent Audits to be undertaken at different times to those specified above, upon giving at least 4 weeks notice to the applicant of the date upon which the audit must be commenced.

- D32. Independent Audits of the development must be submitted to the Planning Secretary and must be carried out in accordance with:
- (a) the Independent Audit Program submitted to the Planning Secretary and the Certifier under condition D30 of this consent; and
 - (b) the requirements for an Independent Audit Methodology and Independent Audit Report in the Independent Audit Post Approval Requirements (Department 2018).
- D33. In accordance with the specific requirements in the Independent Audit Post Approval Requirements (Department 2018), the Applicant must:
- (a) review and respond to each Independent Audit Report prepared under condition D30 of this consent;
 - (b) submit the response to the Planning Secretary and the Certifier; and
 - (c) make each Independent Audit Report and response to it publicly available 60 days after submission to the Planning Secretary and notify the Planning Secretary and the Certifier in writing at least seven days before this is done.
- D34. Notwithstanding the requirements of the Independent Audit Post Approval Requirements (Department 2018), the Planning Secretary may approve a request for ongoing annual operational audits to be ceased, where it has been demonstrated to the Planning Secretary's satisfaction that an audit has demonstrated operational compliance.

PART E PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE OR COMMENCEMENT OF OPERATION

Notification of Occupation

- E1. At least one month before commencement of operation, the date of commencement of the operation of the development must be notified to the Planning Secretary in writing. If the operation of the development is to be staged, the Planning Secretary must be notified in writing at least one month before the commencement of each stage, of the date of commencement and the development to be carried out in that stage.

External Walls and Cladding

- E2. Prior to issue of an Occupation Certificate, the Applicant must provide the Certifier with documented evidence that the products and systems used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the requirements of the BCA.
- E3. The Applicant must provide a copy of the documentation given to the Certifier to the Planning Secretary within seven days after the Certifier accepts it.

Post-construction Dilapidation Report

- E4. Prior to issue of an Occupation Certificate, the Applicant must engage a suitably qualified person to prepare a post-construction dilapidation report at the completion of construction. This report is:
- a) to ascertain whether the construction created any structural damage to adjoining buildings or infrastructure;
 - b) to be submitted to the Certifier. In ascertaining whether adverse structural damage has occurred to adjoining buildings or infrastructure, the Certifier must:
 - i) compare the post-construction dilapidation report with the pre-construction dilapidation report required by these conditions; and
 - ii) have written confirmation from the relevant authority that there is no adverse structural damage to their infrastructure and roads.
 - c) to be forwarded to Council.

Public Domain Works

- E5. Prior to issue of an Occupation Certificate, the public domain works and footpath works required by condition C20 must be completed to Council's satisfaction.

Protection of Public Infrastructure

- E6. Unless the Applicant and the applicable authority agree otherwise, the Applicant must:
- (a) repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by carrying out the development; and
 - (b) relocate, or pay the full costs associated with relocating any infrastructure that needs to be relocated as a result of the development.

Note: This condition does not apply to any damage to roads caused as a result of general road usage or otherwise addressed by contributions required by condition B2 of this consent.

Easements

- E7. Prior to issue of an Occupation Certificate, an easement under section 88A and/or restriction or public positive covenant under section 88E of the *Conveyancing Act 1919* naming the Council as the prescribed authority, which can only be revoked, varied or modified with the consent of the Council, and which provides for the drainage of water must be registered on title of Lot 1 DP 1199904. The easement must be a minimum three metres in width and must be centered over the new stormwater pipeline.

Utilities and Services

- E8. Prior to issue of an Occupation Certificate, a compliance certificate under the section 50 of the *Hunter Water Act 1991* must be obtained from Hunter Water and submitted to the Certifier.

Works as Executed Plans

- E9. Prior to issue of an Occupation Certificate, works-as-executed drawings signed by a registered surveyor demonstrating that the stormwater drainage and finished ground levels have been constructed as approved, must be submitted to the Certifier.

Green Travel Plan

- E10. Prior to issue of an Occupation Certificate, a Green Travel Plan (GTP), must be submitted to the satisfaction of the Planning Secretary to promote the use of active and sustainable transport modes. The plan must:
- (a) be prepared by a suitably qualified traffic consultant in consultation with Council;
 - (b) include objectives and modes share targets (i.e. Site and land use specific, measurable and achievable and timeframes for implementation) to define the direction and purpose of the GTP;
 - (c) include specific tools and actions to help achieve the objectives and mode share targets;
 - (d) include measures to promote and support the implementation of the plan, including financial and human resource requirements, roles and responsibilities for relevant employees involved in the implementation of the GTP; and
 - (e) include details regarding the methodology and monitoring/review program to measure the effectiveness of the objectives and mode share targets of the GTP, including the frequency of monitoring and the requirement for travel surveys to identify travel behaviours of users of the development.

Heritage Interpretation Plan

- E11. Prior to issue of an Occupation Certificate, the Applicant must submit a Heritage Interpretation Plan to acknowledge the heritage of the site to the Planning Secretary. The plan must:
- (a) be prepared by a suitably qualified and experienced expert in consultation with the NSW Heritage Division and Council;
 - (b) outline the Stage 1 heritage interpretation strategy
 - (c) include provision for naming elements within the development that acknowledges the site's heritage;
 - (d) incorporates interpretive information in to the site of the former legal and court functions of the former Newcastle Courthouse.

Operational Management Plan

- E12. Prior to issue of an Occupation Certificate, the Applicant must prepare an Operational Management Plan for the site. The plan must:
- (a) include measures to ensure all wayfinding signage, security measures, and landscaping is managed to maintain their effectiveness; and
 - (b) include measures to manage the operation and use of rooftop terraces and ground level café terrace; and
 - (c) prohibit use of the rooftop terraces for events or formal teaching; and
 - (d) restrict the use of the rooftop terraces to no later than 9pm daily; and
 - (e) ensure the use of the rooftop terraces does not result in exceedances of the project noise trigger levels in the report titled Noise and Vibration Assessment – Operational and Construction report dated May 2019 and prepared by EMM Consulting.
- E13. The Operational Management Plan must be submitted to the satisfaction of the Certifier and implemented for the life of the approved development.

Operational Transport and Access Management Plan (OTAMP)

- E14. Prior to issue of an Occupation Certificate, an OTAMP is to be prepared by a suitably qualified person, in consultation with Council and submitted to the Planning Secretary. The OTAMP must address the following:

- (a) detailed pedestrian analysis including the identification of safe route options – to identify the need for management measures to ensure students and staff are able to access and leave the Site in a safe and efficient manner at all times;
- (b) the location of all car parking spaces on the campuses and their allocation (i.e. staff, visitor, accessible, emergency, etc.);
- (c) delivery and services vehicle management arrangements;
- (d) use of the services zone limited to:
 - (i) 7am to 8am and 7pm to 8pm Monday to Friday;
 - (ii) 7am to 8am Saturday;
 - (iii) no use on Sundays or Public Holidays;
- (e) management of approved access arrangements;
- (f) potential traffic impacts on surrounding road networks and mitigation measures to minimise impacts, including measures to mitigate queuing impacts associated with vehicles accessing the car parking spaces or services zone;
- (g) a monitoring and review program.

Mechanical Ventilation

E15. Prior to issue of an Occupation Certificate, the Applicant must provide evidence to the satisfaction of the Certifier that the installation and performance of the mechanical ventilation systems complies with:

- (a) *AS 1668.2-2012 The use of air-conditioning in buildings – Mechanical ventilation in buildings* and other relevant codes; and
- (b) any dispensation granted by Fire and Rescue NSW.

Operational Noise – Design of Mechanical Plant and Equipment

E16. Prior to issue of an Occupation Certificate, the Applicant must submit evidence to the Certifier that the noise mitigation recommendations in the Noise and Vibration Assessment – Operational and Construction report dated May 2019 and prepared by EMM Consulting have been incorporated into the design to ensure the development will not exceed the recommended operational noise levels identified in the Environmental Noise Assessment.

Road Damage

E17. Prior to the commencement of operation, the cost of repairing any damage caused to Council or other Public Authority's assets in the vicinity of the Subject Site as a result of construction works associated with the approved development must be met in full by the Applicant.

Fire Safety Certification

E18. Prior to issue of an Occupation Certificate, a Fire Safety Certificate must be obtained for all the Essential Fire or Other Safety Measures forming part of this consent. A copy of the Fire Safety Certificate must be submitted to the relevant authority and Council. The Fire Safety Certificate must be prominently displayed in the building.

Structural Inspection Certificate

E19. Prior to occupation of the relevant parts of any new or refurbished buildings, a Structural Inspection Certificate or a Compliance Certificate must be submitted to the satisfaction of the Certifier. A copy of the Certificate with an electronic set of final drawings (contact approval authority for specific electronic format) must be submitted to the approval authority and the Council after:

- (a) the site has been periodically inspected and the Certifier is satisfied that the structural works is deemed to comply with the final design drawings; and
- (b) the drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s.

Compliance with Food Code

- E20. Prior to issue of an Occupation Certificate, the Applicant is to obtain a certificate from a suitably qualified tradesperson, certifying that the kitchen, food storage and food preparation areas have been fitted in accordance with the AS 4674 *Design, construction and fit-out of food premises* and provide evidence of receipt of the certificate to the satisfaction of the Certifier.

Stormwater Quality Management Plan

- E21. Prior to issue of an Occupation Certificate, an Operation and Maintenance Plan (OMP) is to be submitted to the satisfaction of the Certifier along with evidence of compliance with the OMP. The OMP must ensure the proposed stormwater quality measures remain effective and contain the following:
- (a) maintenance schedule of all stormwater quality treatment devices that addresses Council's Technical Manual: Stormwater and Water Efficiency for Development (updated April 2019);
 - (b) record and reporting details;
 - (c) relevant contact information; and
 - (d) Work Health and Safety requirements.

Rainwater Harvesting

- E22. Prior to issue of an Occupation Certificate, signed works-as-executed Rainwater Re-use Plan must be provided to the Planning Secretary and Certifier.

Warm Water Systems and Cooling Systems

- E23. The installation of warm water systems and water cooling systems (as defined under the *Public Health Act 2010*) must comply with the *Public Health Act 2010*, Public Health Regulation 2012 and Part 1 (or Part 3 if a Performance-based water cooling system) of *AS/NZS 3666.2:2011 Air handling and water systems of buildings – Microbial control – Operation and maintenance* and the NSW Health Code of Practice for the Control of Legionnaires' Disease.

Outdoor Lighting

- E24. Prior to issue of an Occupation Certificate, the Applicant must submit evidence from a suitably qualified practitioner to the Certifier that demonstrates that installed lighting associated with the development achieves the objective of minimising light spillage to any adjoining or adjacent sensitive receivers and:
- (a) complies with the latest version of AS 4282-2019 - *Control of the obtrusive effects of outdoor lighting* (Standards Australia, 1997); and
 - (b) has been mounted, screened and directed in such a manner that it does not create a nuisance to surrounding properties or the public road network.

Archaeological Salvage – Historic Archaeology

- E25. The Applicant must prepare an archaeological report of the salvage excavation undertaken in accordance with condition C17. An interim report of the salvage excavation must be provided for the information of the Heritage Council of NSW and Council within one month of completion of the salvage work and a final report provided within 12 months of completion of the salvage work or within another timeframe agreed with the Planning Secretary. Copies of the report must also be provided to the NSW Heritage Division and Council.

Signage

- E26. Prior to issue of an Occupation Certificate, way-finding signage and signage identifying the location of staff car parking must be installed.
- E27. Prior to issue of an Occupation Certificate, bicycle way-finding signage must be installed within the site to direct cyclists from footpaths to designated bicycle parking areas.
- E28. Prior to issue of an Occupation Certificate, 'Do not drink' signage on non-potable water used for toilet flushing and to new hose taps and irrigation systems for landscaped areas must be installed within the site.

Operational Waste Management Plan

- E29. Prior to issue of an Occupation Certificate, the Applicant must prepare a Waste Management Plan for the development and submit it to the Certifier. The Waste Management Plan must:
- (a) detail the type and quantity of waste to be generated during operation of the development;
 - (b) the location and operational management procedures of the services zone located within the front setback of the Residential Building, including management/traffic controller arrangements;
 - (c) describe the handling, storage and disposal of all waste streams generated on site, consistent with the *Protection of the Environment Operations Act 1997*, *Protection of the Environment Operations (Waste) Regulation 2014* and the *Waste Classification Guideline* (Department of Environment, Climate Change and Water, 2009);
 - (d) detail the materials to be reused or recycled, either on or off site; and
 - (e) include the Management and Mitigation Measures included in EIS, as amended by the RtS.

Site Contamination

- E30. The Applicant must prepare a Validation Report, where required by the remediation action plan approved by a NSW EPA Accredited Site Auditor pursuant to condition A19, for the development. The Validation Report must:
- (a) be prepared by a Certified Contaminated Land Consultant;
 - (b) be submitted to the Site Auditor, the Planning Secretary and the Certifier for information within one month after the completion of remediation works; and
 - (c) be prepared in accordance with the remediation action plan approved by a NSW EPA Accredited Site Auditor pursuant to condition A19.

Site Audit Statement

- E31. Prior to issue of an Occupation Certificate, the Applicant must submit a Site Audit Report and Section A Site Audit Statement for the relevant part of the site prepared by a NSW EPA accredited Site Auditor. The Site Audit Report and Section A Site Audit Statement must verify the relevant part of the site is suitable for the educational establishment land use and be provided for the information of the Planning Secretary and the Certifier.

Long Term Environmental Management Plan

- E32. The Applicant must prepare a Long Term Environmental Management Plan (LTEMP), where identified as required by the remediation action plan approved by a NSW EPA Accredited Site Auditor pursuant to condition A19, and submit a copy to the Planning Secretary. The plan must:
- (a) be prepared by a certified Contaminated Land Consultant;
 - (b) be submitted to the Planning Secretary within one month of the completion of remediation works, unless otherwise agreed by the Planning Secretary; and
 - (c) include, but not be limited to:
 - (i) a description of the nature and location of any contamination remaining on site;
 - (ii) provisions to manage and monitor any remaining contamination, including details of any restrictions placed on the land to prevent development over the containment cell;
 - (iii) a description of the procedures for managing any leachate generated from the containment cell, including any requirements for testing, pumping, treatment and/or disposal;
 - (iv) a description of the procedures for monitoring the integrity of the containment cell;
 - (v) a surface and groundwater monitoring program;
 - (vi) mechanisms to report results to relevant agencies;
 - (vii) triggers that would indicate if further remediation is required; and
 - (viii) details of any contingency measures that the Applicant is to carry out to address any ongoing contamination.

- E33. The approved LTEMP must be provided to Council within once month for notation of the section 10.7 certificate for the site.
- E34. Upon completion of remediation works, the Applicant must manage the site in accordance with the LTEMP.

Landscaping

- E35. Prior to issue of an Occupation Certificate, the Applicant must prepare an Operational Landscape Management Plan to manage the revegetation and landscaping on-site, to the satisfaction of the Certifier. The plan must:
- (a) describe the ongoing monitoring and maintenance measures to manage revegetation and landscaping; and
 - (b) be consistent with the Applicant's Management and Mitigation Measures at Chapter 10 in the EIS and as updated by the RtS;
- E36. The Applicant must not commence operation until the Operational Landscape Management Plan is submitted to the Certifier.

PART F POST OCCUPATION

Operation of Plant and Equipment

- F1. All plant and equipment used on site must be maintained in a proper and efficient condition operated in a proper and efficient manner.

Warm Water Systems and Cooling Systems

- F2. The operation and maintenance of warm water systems and water cooling systems (as defined under the Public Health Act 2010) must comply with the Public Health Act 2010, Public Health Regulation 2012 and Part 2 (or Part 3 if a Performance-based water cooling system) of AS/NZS 3666.2:2011 Air handling and water systems of buildings – Microbial control – Operation and maintenance and the NSW Health Code of Practice for the Control of Legionnaires' Disease.

Community Communication Strategy

- F3. The Community Communication Strategy, as approved by the Planning Secretary, must be implemented for a minimum of 12 months following the completion of construction.

Heritage Interpretation Plan

- F4. Within three months of the commencement of use, the Applicant must submit an updated Heritage Interpretation Plan to acknowledge the heritage of the site to the Planning Secretary. The plan must:
- (a) be prepared by a suitably qualified and experienced expert in consultation with the NSW Heritage Division and Council;
 - (b) incorporate the Stage 2 heritage interpretation strategy
 - (c) include provision for naming elements within the development that acknowledges the site's heritage;
 - (d) include a strategy detailing how movable heritage items and any archaeological findings will be interpreted
 - (e) incorporates interpretive information in to the site of the former legal and court functions of the former Newcastle Courthouse.
- F5. The Applicant must implement the most recent version of the Heritage Interpretation Plan approved under conditions E11 and F4.

Operational Transport and Access Management Plan (OTAMP)

- F6. The OTAMP(s) approved under condition E14 as revised from time to time) must be implemented by the Applicant for the life of the development.

Long Term Environmental Management Plan

- F7. Upon completion of remediation works, the Applicant must manage the site in accordance with the LTEMP approved under condition E32, or an updated version where approved by a NSW EPA Accredited Site Auditor. Any revisions must be submitted to Council within one month of the update.

Operational Noise Limits

- F8. The Applicant must ensure that noise generated by operation of the development does not exceed the noise limits in Noise and Vibration Assessment – Operational and Construction report dated May 2019 and prepared by EMM Consulting.
- F9. The Applicant must undertake short term noise monitoring in accordance with the Noise Policy for Industry within two months following the commencement use. The monitoring program must be carried out by an appropriately qualified person and a monitoring report must be submitted to the Planning Secretary within two months of commencement use of the development to verify that operational noise levels do not exceed the recommended noise levels for mechanical plant identified in the report titled Noise and Vibration Assessment – Operational and Construction report dated May 2019 and prepared by EMM Consulting. Should the noise monitoring program identify any exceedance of the recommended noise levels or internal amenity noise levels for building occupants, the Applicant is required to implement appropriate noise attenuation

measures so that operational noise levels do not exceed the recommended noise levels or provide attenuation measures at the affected noise sensitive receivers.

Unobstructed Driveways and Parking Areas

- F10. All driveways, footways and parking areas must be unobstructed at all times. Driveways, footways and car spaces must not be used for the manufacture, storage or display of goods, materials, refuse, skips or any other equipment and must be used solely for vehicular and/or pedestrian access and for the parking of vehicles associated with the use of the premises.

Green Travel Plan

- F11. The Green Travel Plan required by condition E10 of this consent must be updated annually and implemented unless otherwise agreed by the Planning Secretary.

Ecologically Sustainable Development

- F12. Unless otherwise agreed by the Planning Secretary, within six months of commencement of operation, Green Star certification must be obtained demonstrating the development achieves a minimum 4 star Green Star Design & As Built rating. If required to be obtained, evidence of the certification must be provided to the Certifier and the Planning Secretary. If an alternative certification process has been agreed to by the Planning Secretary under Condition B6, evidence of compliance of implementation must be provided to the Planning Secretary and Certifier.

Outdoor Lighting

- F13. Notwithstanding condition E24, should outdoor lighting result in any residual impacts on the amenity of surrounding sensitive receivers, the Applicant must provide mitigation measures in consultation with affected landowners to reduce the impacts to an acceptable level.

Landscaping

- F14. The Applicant must maintain the landscaping and vegetation on the site in accordance with the approved Landscape Management Plan required by condition E35 for the duration of occupation of the development.

Dangerous Goods

- F15. Dangerous goods, as defined by the Australian Dangerous Goods Code, must be stored and handled strictly in accordance with:
- (a) all relevant Australian Standards;
 - (b) for liquids, a minimum bund volume requirement of 110% of the volume of the largest single stored volume within the bund; and
 - (c) the Environment Protection Manual for *Authorised Officers: Bunding and Spill Management – technical bulletin* (EPA, 1997).
- F16. In the event of an inconsistency between the requirements F15(a) to F15(c), the most stringent requirement must prevail to the extent of the inconsistency.

Discharge Limits

- F17. The development must comply with section 120 of the POEO Act, which prohibits the pollution of waters.

Services Zone

- F18. Garbage bins (recyclable and non-recyclable) must be collected and serviced from within the site.
- F19. The operation of the services zone located within the front setback of the Residential Building is to only operate between 7am to 8am and 7pm to 8pm Monday to Friday, 7am to 8am Saturday and no service vehicle access permitted on Sunday and public holidays.

APPENDIX 1 ADVISORY NOTES

General

AN1. All licences, permits, approvals and consents as required by law must be obtained and maintained as required for the development. No condition of this consent removes any obligation to obtain, renew or comply with such licences, permits, approvals and consents.

Long Service Levy

AN2. For work costing \$25,000 or more, a Long Service Levy must be paid. For further information please contact the Long Service Payments Corporation Helpline on 131 441.

Legal Notices

AN3. Any advice or notice to the consent authority must be served on the Planning Secretary.

Access for People with Disabilities

AN4. The works that are the subject of this application must be designed and constructed to provide access and facilities for people with a disability in accordance with the BCA. Prior to the commencement of construction, the Certifier must ensure that evidence of compliance with this condition from an appropriately qualified person is provided and that the requirements are referenced on any certified plans.

Utilities and Services

AN5. Prior to the construction of any utility works associated with the development, the Applicant must obtain relevant approvals from service providers.

AN6. Prior to the commencement of above ground works written advice must be obtained from the electricity supply authority, an approved telecommunications carrier and an approved gas carrier (where relevant) stating that satisfactory arrangements have been made to ensure provisions of adequate services.

Road Occupancy Licence

AN7. A Road Occupancy Licence must be obtained from the relevant road authority for any works that impact on traffic flows during construction activities.

SafeWork Requirements

AN8. To protect the safety of work personnel and the public, the work site must be adequately secured to prevent access by unauthorised personnel, and work must be conducted at all times in accordance with relevant SafeWork requirements.

Hoarding Requirements

AN9. The Applicant must submit a hoarding application to Council for the installation of any hoardings over Council footways or road reserve.

Handling of Asbestos

AN10. The Applicant must consult with SafeWork NSW concerning the handling of any asbestos waste that may be encountered during construction. The requirements of the Protection of the Environment Operations (Waste) Regulation 2014 with particular reference to Part 7 – 'Transportation and management of asbestos waste' must also be complied with.

Fire Safety Certificate

AN11. The owner must submit to Council an Annual Fire Safety Statement, each 12 months after the final Safety Certificate is issued. The certificate must be on, or to the effect of, Council's Fire Safety Statement.

APPENDIX 2 WRITTEN INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS

Written Incident Notification Requirements

1. A written incident notification addressing the requirements set out below must be emailed to the Planning Secretary at the following address: compliance@planning.nsw.gov.au within seven days after the Applicant becomes aware of an incident. Notification is required to be given under this condition even if the Applicant fails to give the notification required under condition A26 or, having given such notification, subsequently forms the view that an incident has not occurred.
2. Written notification of an incident must:
 - a. identify the development and application number;
 - b. provide details of the incident (date, time, location, a brief description of what occurred and why it is classified as an incident);
 - c. identify how the incident was detected;
 - d. identify when the applicant became aware of the incident;
 - e. identify any actual or potential non-compliance with conditions of consent;
 - f. describe what immediate steps were taken in relation to the incident;
 - g. identify further action(s) that will be taken in relation to the incident; and
 - h. identify a project contact for further communication regarding the incident.
3. Within 30 days of the date on which the incident occurred or as otherwise agreed to by the Planning Secretary, the Applicant must provide the Planning Secretary and any relevant public authorities (as determined by the Planning Secretary) with a detailed report on the incident addressing all requirements below, and such further reports as may be requested.
4. The Incident Report must include:
 - a. a summary of the incident;
 - b. outcomes of an incident investigation, including identification of the cause of the incident;
 - c. details of the corrective and preventative actions that have been, or will be, implemented to address the incident and prevent recurrence; and
 - d. details of any communication with other stakeholders regarding the incident.