



Newcastle East Public School

Statement of Environmental Effects

NSW Department of Education

Report No ISR17022

October 2017

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Prepared for NSW Department of Education

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List of Abbreviations

AHD	Australian Height Datum
AS	Australian Standard
BC Act	<i>Biodiversity Conservation Act 2016</i>
CEMP	Construction Environmental Management Plan
CPTED	Crime Prevention through Environmental Design
DA	Development Application
DCP	Development Control Plan
DoE	NSW Department of Education
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth)</i>
ESEPP	<i>SEPP (Educational Establishments and Child Care Facilities) 2017</i>
ISEPP	<i>State Environmental Planning Policy (Infrastructure) 2007</i>
LEP	Local Environmental Plan
LGA	Local Government Area
RL	Reduced Level
RMS	Roads and Maritime Services
SEE	Statement of Environmental Effects
SEPP	State Environmental Planning Policy
TSC Act	<i>Threatened Species Conservation Act 1995</i>

1. Introduction

This Statement of Environmental Effects (SEE) accompanies a Development Application (DA) lodged on behalf of the NSW Department of Education (DoE).

This SEE describes the subject site and the surrounding area, together with the relevant planning controls and policies relating to the site and the type of development proposed. It provides an assessment of the proposed development against the heads of consideration as set out in Section 79C(1) of the *Environmental Planning and Assessment Act* (EP&A Act) 1979.

The development is described in the following documentation that accompanies the Development Application and this SEE:

Plans

- Survey by Monteath & Powys dated 18 January 2017 Rev 1 – Sheets 1-6
- Architectural Plans prepared by EJE Architecture:
 - Cover page 11506 NE00 Rev K dated 21.09.2017
 - Site Plan 11506 NE01 Rev K dated 21.09.2017
 - Lower Ground Floor Plan 11506 NE02 Rev K dated 21.09.2017
 - Ground floor plan 11506 NE03 Rev K dated 21.09.2017
 - 3D Ground Floor Plan 11506 NE04 Rev G dated 21.09.2017
 - First floor plan 11506 TE05 Rev K dated 21.09.2017
 - 3D First Floor Plan 11506 NE06 Rev G dated 21.09.2017
 - Roof plan 11506 NE07 Rev K dated 21.09.2017
 - Section A 11506 NE08 Rev K dated 21.09.2017
 - Section B 11506 NE09 Rev K dated 21.09.2017
 - North and East Elevations 11506 NE10 Rev K dated 21.09.2017
 - South and West Elevations 11506 NE11 Rev K dated 21.09.2017
 - Shadow Diagram June 21 9am 11506 NE12 Rev F dated 21.09.2017
 - Shadow Diagram June 21 12 noon 11506 NE13 Rev F dated 21.09.2017
 - Shadow Diagram June 21 3pm 11506 NE14 Rev F dated 21.09.2017
 - Perspective 1 11506 NE15 Rev H dated 21.09.2017
 - Perspective 2 11506 NE16 Rev H dated 21.09.2017
 - Perspective 3 11506 NE17 Rev H dated 21.09.2017
 - Perspective 4 11506 NE18 Rev H dated 21.09.2017
 - Perspective 5 11506 NE19 Rev H dated 21.09.2017
 - Materials Selections 11506 NE20 Rev B dated 21.09.17

- Site Analysis 11506 NE21 Rev A dated 22.09.2017
- Landscape Master Plan 01 11506.54 Rev C dated 25.09.17 Terras Landscape Architects
- Landscape Detail Area 02 11506.54 Rev C dated 04.06.17 by Terras Landscape Architects
- Landscape Palette 03 11506.54 Rev C dated 25.09.17 by Terras Landscape Architects
- Civil Engineering Plans by Aurecon:
 - Site Plan C-002 Rev A dated 21.09.17
 - Stormwater Plan C-002 Rev A dated 21.09.17
 - Civil Details Sheet 1 0005 Rev A dated 21.09.17

Reports

- Statement of Heritage Impact Newcastle East Public School by EJE Heritage dated September 2017
- Bushfire Protection Assessment by Ecological Australia dated 27 September 2017
- Tree Target Risk Assessment by Terras Landscape Architects dated 26 May 2017
- Geotechnical and Preliminary Waste Classification Assessment by Douglas Partners dated 14 June 2017
- BCA Assessment by NewCert dated 3 August 2017

2. The Site and Surrounding Environment

2.1. Description of the Subject Site

The subject site is on the corner of Tyrell Street and Brown Street in Newcastle East, and comprises the existing Newcastle East Public School. The subject site is over three lots, being Lots 1, 2 and 3 in DP 794850.



Figure 2-1: Newcastle East Public School Site

Source: Nearmap accessed 1.10.2017

The site is generally regular in shape of roughly 7175m² with the following frontages:

- A northern boundary of approximately 53.31 metres to Tyrell Street;
- An eastern boundary of approximately 106 metres to Brown Street;
- A southern boundary of approximately 88.515 metres to Kitchen Parade; and
- A western boundary of approximately 100.5 metres to residential properties.

The subject site falls generally across the site from east to west and from north to south. The northern section is generally at about RL45 on the western boundary and about RL49 on the eastern boundary. Near the southern boundary the land is at about RL41 on the western boundary and about RL44 on the eastern boundary.

The whole school is within the heritage conservation area of The Hill and is a listed heritage item.

The northern portion of the site contains a school building from 1878 and various other school buildings. In the southeast corner of the site is the relatively new Building the Education Revolution (BER) classrooms and hall (Building C). North of Building C on the eastern side of the site is an existing COLA with basketball court underneath

and some tiered seating. The proposed works are to occur in the location of the existing COLA at approximately RL46.

Current improvements to the school site include:

- Building A in the north east section of the site, being the heritage listed old brick and stone building with a shingle roof of one and two storeys which is used for administration and classrooms;
- Building B on the western boundary of the site, being a single storey brick building with metal roof which is used for storage;
- Building C in the south eastern section of the site, being a new brick building with metal roof which is used for three classrooms and a hall;
- Building D on the western boundary south of Building B, being a recently constructed brick building with metal roof, known as the “Rensford Room”;
- A demountable and a shipping container on the western boundary south of Building D, both to be removed following construction of the new building;
- A demountable on the north western corner of the existing COLA, to be relocated during construction on site and then removed following completion of the works;
- A Covered Outdoor Learning Area (COLA) north of Building C, which is the location for the proposed works. The COLA roof is to be removed, the sports court retained, and the new building built over the top of the sports court;
- A grassed area to the south, including cricket nets, storage, and play equipment and seating; and
- Staff car parking area to the north of the COLA, which is accessed off Brown Street.

Services to the site include water, telecommunications, fibre optic cables, overhead electricity, gas, and sewer.

The site has scattered vegetation, principally in the eastern half of the site, including around the COLA, and some along the southern and western boundaries. About 16 trees are proposed for removal on and close to the construction site.

The subject site is in the Newcastle City Council Local Government Area.

The current number of students at the school is approximately 247 (nominally 230). The proposal will enable a total of about 276 students to attend, being a 20% increase in the numbers of students nominally provided for at the school, or a 12% increase over the actual numbers.

2.2. Surrounding Environment

The school is in the area known as The Hill, on an elevated position from which views north to Hunter River/Newcastle Port are possible. To the immediate north on the northern side of Tyrell Street is the Leading Light Tower, which was erected in 1865-66 for navigational purposes. The tower is partly constructed on the heritage listed site which is owned by the Church of England for Bishopscourt, which is on the northern side of Tyrell Street.

To the east of the school on Brown Street are the heritage listed Newcastle Hill reservoirs. Two residential dwellings also face the south eastern sector of the site near the new hall.

To the south east is urban parkland known as Arcadia Park which includes remnant bushland and managed lawns. The NBN studio is to the immediate south of the school, and to the west of NBN are residential flat buildings opposite the school.

To the north west of the school are older style residential dwellings and on the south west are modern strata unit residential developments.

The school is about 600 metres south west of the Hunter Street Mall in Newcastle CBD, 800 metres west from Shortland Esplanade and Newcastle Beach to the east, and about 500 metres to the east of the Civic Hall.



Figure 2-2: Location of Site

Source: Google Maps accessed 1.10.2017



Figure 2-3: Front of Newcastle East Public School from Tyrrell Street

Source: Author's photograph 16 April 2017

3. The Development

3.1. Objectives

The objectives of the proposal are:

- Maximise existing infrastructure to satisfy the asset requirements while achieving additional teaching space and providing teaching areas that can support future developments in technology and to facilitate new and emerging pedagogies and curriculum development;
- Strengthen the identity of the school within both the school and the greater community;
- Target the educational principles which have been tailored to reflect the standards for which the school community strives;
- Provide formal and cross curriculum delivery spaces that create a sense of belonging, are agile and flexible;
- Create a variety of spaces for multiple learning modes and gathering together;
- Create spaces to incorporate environmentally responsible solutions; and
- Provide 4 new permanent teaching spaces to remove 2 demountable building, and meet the future enrolment predictions to 2031 from 230 (nominal) to 276 students.

3.2. Description of the Proposed Works

The proposed development includes a number alterations and additions to the subject site. It is proposed that there will be a later application to undertake refurbishment of the 1878 building; however that does not form part of this application. The principal proposal is for construction of a new homebase building of 4 homebase classrooms over the top of the existing (to be refurbished) sports court. The COLA roof will be removed from above the sports court and the homebase classrooms will be constructed above the sports court. This will require the removal of surrounding vegetation as the footprint of the new building, including the services and amenities and surrounds, is greater than the existing COLA.

The fitout of the canteen, servery and office/store within the ground floor of the proposed building is likely to occur after the completion of construction of the works, but is included as part of this application.

This building will comprise:

- At lower ground level:
 - Rainwater tank or approximately 30,000 litres;
 - Boys toilets (2 cubicles and urinal) and girls toilets (4 cubicles);
 - Equipment store;
- At ground floor level:
 - A refurbished assembly/basketball and sports court 4.5 metres high;

- New store rooms (including audio store), refuse area, stage areas, stairwells and a lift.
 - A new access to the existing building to the south;
 - Tiered playground seating looking south west and to the east;
 - Accessible toilet and a separate toilet;
 - A new canteen with servery and office/store on the southern side, the fitout of which will likely occur following construction of the rest of the proposal;
 - Plant will be placed immediately above the canteen area;
- At first floor level with a floor area of 506.42m²:
 - 4 homebase areas of 61.14m² each;
 - A maker space area of 85.59m² including circular reading area,
 - A tiered breakout area overlooking a drop down screen;
 - 4 group (withdrawal) areas of 9.1m² each;
 - 2 store areas of 11.89m² each and a cleaner's room;
 - 2 covered outdoor learning areas on the balconies;
 - External circulation and balcony areas with bag areas all accessed by the lift and covered external stairs;
- Removal of 2 existing demountable buildings and a shipping container, although one of these demountable buildings is to be temporarily relocated during construction on-site;
- New staircase between the existing building C and the new homebase building; and
- Associated landscaping works, including a path from the southern gate.

3.3. Construction Activities

The proposed development is likely to include the following general activities by the contractor(s):

- Preparation of a Construction Environmental Management Plan (CEMP). The CEMP would incorporate any conditions of consent and any other licence/approval conditions. The CEMP would incorporate an emergency response plan in case of a pollution incident, a complaints handling procedure and a 24 hour telephone contact number. The CEMP would also incorporate a Waste Management Plan and Erosion and Sediment Control Plan;
- Establishment of site preliminaries such as entry/exit points (including construction of driveway), erosion and sediment controls, stormwater management controls, temporary protection fencing, etc.;
- Loading/unloading, transportation and placement of construction equipment and building materials;

- Construction of the new school facilities;
- Completion of minor external/internal fittings including furniture transportation and installation;
- Undertake landscaping works prioritising the use of native plant species;
- Make good/repair any damage caused to Council assets during the construction process; and
- Clean-up site, remove all materials and equipment from the site and make good. Clean site and any facilities used during the construction process.

3.3.1. Construction Considerations

The contractor for the construction has not been appointed and will be subject to a tender based process. The successful contractor will be required to prepare construction management plans. Should Council wish to receive copies of the construction management plan this can be conditioned.

The successful contractor(s) will implement the work procedures and mitigation control measures outlined in this SEE through a Construction Environmental Management Plan (CEMP).

3.3.2. Construction Equipment

Construction equipment will include the following or similar equipment as required:

- Light commercial and passenger vehicles;
- Excavator;
- Crane, low loader transporters and delivery/material transport vehicles (construction and waste materials);
- Concrete agitator trucks, bob cat, back hoe, trenching machines and auger; and
- Chain saws, jackhammers and pneumatic hand tools.

3.3.3. Construction Timeframe

The construction timeframe is anticipated to be 12-18 months commencing in 2018, although the timing of the fitout of the canteen area is yet to be determined.

3.3.4. Hours of Construction

Hours of construction would be as follows:

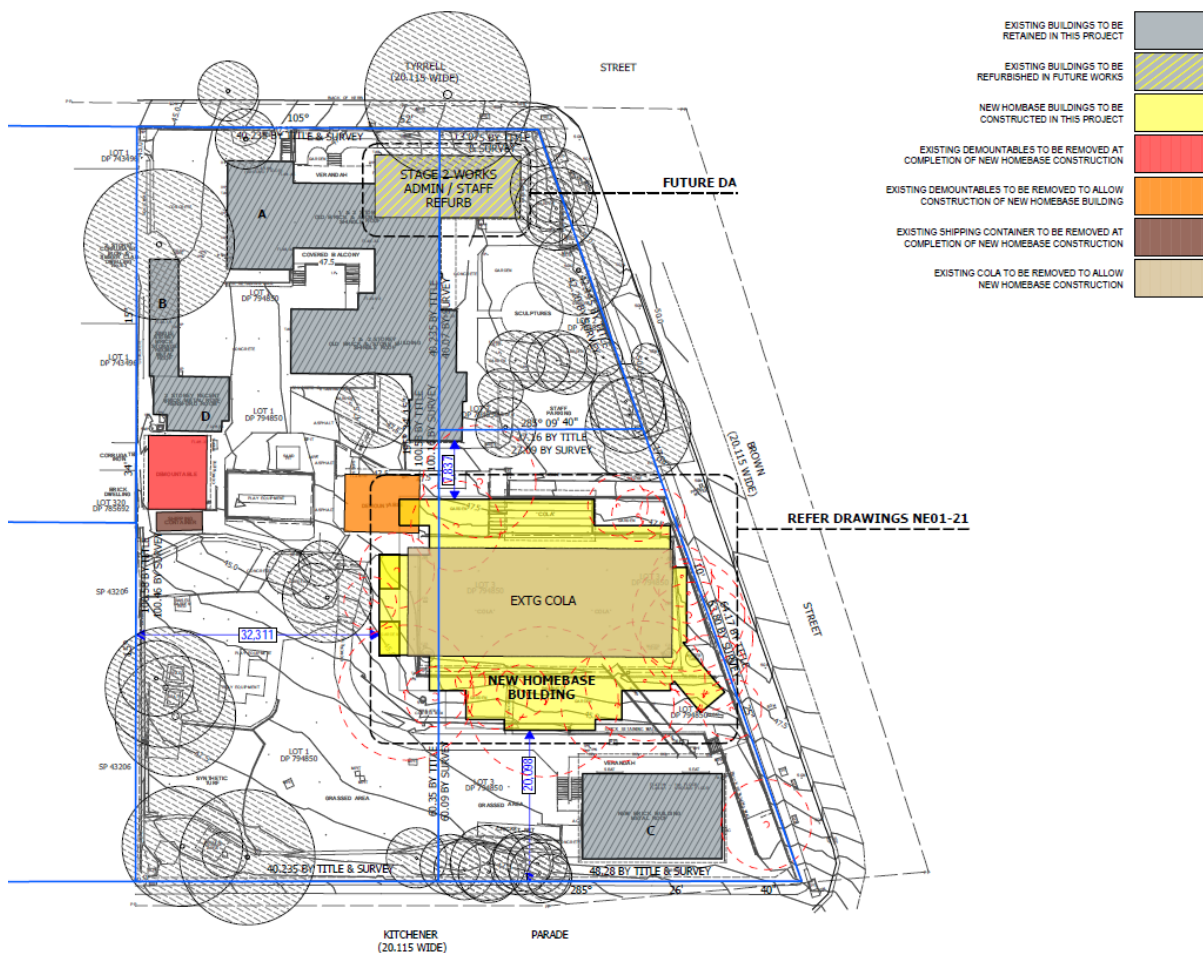
- Monday to Friday: 7.30am to 6.00pm;
- Saturdays: 7.30am to 1.00pm; and
- Sundays and Public Holidays: No work allowed unless special permission granted.

3.4. Ecologically Sustainable Development Principle

The encouragement of ecologically sustainable development (ESD) is one of the objects of the EP&A Act. The proposed development is considered to be consistent with these principles. Environmental safeguards have been proposed to be implemented during construction works to prevent long term and irreversible

environmental degradation in accordance with the precautionary principle and inter-generational equity. The proposed development will have minimal impact on biological diversity and ecological integrity. The final detailed design will comply with the applicable sections of Section J of the BCA for energy efficiency. A rainwater tank is proposed in the lower ground floor area.

Figure 3-1: Proposed Site Layout



4. Statutory Framework and Development Controls

4.1. Consultation and Options Considered

4.1.1. Consultation

A Project Reference Group (which included representatives of the Department of Education, the School and the P & C) was established in October 2016 and met fortnightly. A preferred concept design was developed and agreed upon by the PRG. Community engagement sessions have been held with information booths both at the School and at Newcastle City Library. A community survey has also been conducted.

The architects met with Newcastle City Council on 20 January 2017. The principal comments made were:

- The site may need a noise assessment;
- It is not flood prone;
- The site is on bushfire prone land and a bushfire report identifying the bushfire attack level is required;
- No overshadowing of building is likely;
- Discussions were had about the contemporary look in relation to the heritage buildings on site;
- Proximity of buildings to boundaries may be determined by acoustic of fire ratings; and
- Any asbestos on site must be appropriately dealt with.

4.1.2. Options Considered

Four siting options were considered:

Option 1: A long narrow double storey building along the western boundary (nil setback) on the site of the existing new Rensford Room, with demountable and shipping container extending into the playground area.

Option 2: Retention of the Rensford Room, with the addition of a long narrow double storey building along the western boundary (nil setback) on the site of the existing demountable and shipping container extending into the playground area.

Option 3: To be located over the existing COLA in the proposed location, retaining the existing games court and providing an assembly area.

Option 4: A new double storey building to the immediate west of the Building C on the southern boundary, removing some play area, but retaining the existing COLA structure.

Option 3 was chosen for the following reasons:

- It maximises the return to the school by providing four new homebases, with amenities;
- It maintains the existing sports court area and gives that space the potential of more enclosure so that it can be used more as an assembly area; and

- No additional playground space was lost to create the new building.

4.2. Legislation

The following Acts are relevant to the Proposal.

4.2.1. Environmental Planning and Assessment Act 1979

As the proposed works would require development consent, Newcastle City Council would be the consent authority and the proposal would be assessed as Crown development under Division 4, Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). Section 79C of the EP&A Act requires that the consent authority take into account the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

This SEE has been prepared to meet the requirements of Section 79C of the Act, which require a consent authority “to take into consideration such of the following matters as are of relevance to the development the subject of the development application”:

(a) *the provisions of:*

- any environmental planning instrument, and*
- any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
- any development control plan, and*
- any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and*
- the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*
- any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),*

that apply to the land to which the development application relates,

- the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- the suitability of the site for the development,*
- any submissions made in accordance with this Act or the regulations,*
- the public interest.*

As a result of the assessment it is concluded that development of the site in the manner proposed is considered to be acceptable and is worthy of the support of the Council.

Integrated Development

Section 90(2) of the EP&A Act establishes that the integrated development provisions of Division 5 of Part 4 of the EP&A Act do not apply to a development application made by or on behalf of the Crown, other than development that requires a heritage

approval. The application is therefore not integrated development under section 91 of the EP&A Act.

Were the development application not for Crown Development, the proposal would have been integrated development under section 91 of the EP&A Act as approval from NSW Rural Fire Service is required under s100B of *Rural Fires Act 1997*, and under section 15 of the *Mine Subsidence Compensation Act 1961*.

A bushfire report is attached to the application.

Effect on threatened species, populations or ecological communities or their habitats

Section 5AA of the EP&A Act requires consideration of the *Biodiversity Conservation Act 2016* (relevantly), which is discussed below.

Crown Statutory Provisions

The proposal is considered to be a Crown Development, as it is being undertaken by a government department (public authority). The following statutory provisions are relevant to Crown Development:

- Section 89 of the EP&A Act states that a consent authority (other than the Minister) must not refuse its consent to a Crown development application, except with the approval of the Minister, or impose a condition on its consent to a Crown development application, except with the approval of the applicant or the Minister. This includes contributions pursuant to section 94 and 94A of the EP&A Act.
- Pursuant to Section 109R(2) of the EP&A Act, the Crown is self-certifying and therefore a Construction Certificate will not be obtained and a Principal Certifying Authority will not be appointed for the development. However, a Section 109R Certificate will be obtained.
- Pursuant to Section 109M(2) of the EP&A Act, an Occupation Certificate is not required for the occupation or use of a new building that has been erected by or on behalf of the Crown.
- Section 69 of the *Local Government Act 1993* states that Section 68 does not require the Crown to obtain the approval of a council to do anything that is incidental to the erection or demolition of a building.
- Section 138 of the *Roads Act 1993* does not apply, as Schedule 2, Clause 5 of this Act indicates that Section 138 does not require a public authority to obtain a roads authority's consent to the exercise of the public authority's functions in, on or over an unclassified road other than a Crown road.
- Pursuant to Schedule 4A of the EP&A Act, referral to the Joint Regional Planning Panel is required for Crown Development greater than \$5 million.
- Section 94 of the EP&A Act relates to contributions towards provision or improvement of amenities or services. The Department of Planning Circular D6 provides a guide on the justifiable categories of section 94 contributions towards off-site works for Crown developments. It should be noted that the Circular stipulates that where councils intend to levy contributions on Crown developments, they must be justified in a Section 94 contributions plan.
- Section 94A of the EP&A Act relates to fixed development consent levies. In accordance with Circular D6, the levying of contributions from Crown developments requires a clear nexus between the developments and the works for which they are collected. As Section 94A plans collect indirect contributions, they are not applicable to Crown developments, such as the subject application.

4.2.2. Threatened Species Conservation Act 1995

The *Threatened Species Conservation Act 1995* (TSC Act) protects species of threatened flora and fauna, endangered populations and endangered ecological communities and their habitats in NSW. It also lists Key Threatening Processes that adversely affect threatened species, populations or ecological communities or that may cause species, populations or ecological communities that are not threatened. Although it was repealed on 25 August 2017, the provisions of the Act continue to operate for the three months after 25 August 2017, when the *Biodiversity Conservation Act 2016* commenced.

4.2.3. Biodiversity Conservation Act 2016

The provisions of the *Biodiversity Conservation Act 2016* commenced on August 25 2017, however the new provisions do not commence operation until three months after that date. The Act includes the repeal of the TSC Act and regulations and the *Native Vegetation Act*. Many of the provisions of the TSC Act have been encompassed within the *Biodiversity Conservation Act*. The EP&A Act has been amended to inter alia remove section 5A of the EP&A Act (which required the 7 part test), and various other references to the TSC Act. Clause 5AA has been inserted into the EP&A Act to acknowledge that the *Biodiversity Conservation Act* and Part 7A of the *Fisheries Management Act 1994* have effect in relation to the terrestrial and aquatic environment.

Amongst other matters, offences are established for damage to habitats of threatened species or threatened ecological communities. Defences to those offences include that the act was necessary for the carrying out of a development consent within the meaning of the EP&A Act. Part 4 of the *Biodiversity Conservation Act* sets out provisions for threatened species and threatened ecological communities and introduces a new biodiversity assessment method (BAM), a new biodiversity offset scheme (BOS) and an expanded biodiversity certification program.

The site is excluded from the Local Land Services Act mapping. The lists of threatened, vulnerable and critically endangered flora and fauna appear very similar to those under the TSC Act but do not include any of the trees identified on the school site in the Tree Target Risk Assessment or any trees which will be removed.

4.2.4. Environment Protection and Biodiversity Conservation Act 1999 (Cth)

The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) is a Commonwealth Act which protects matters of national environmental significance and, relevantly, seeks to conserve Australian biodiversity. Relevantly it lists nationally threatened native species and ecological communities, native migratory species and marine species and key threatening processes. Given the highly disturbed nature of the site and the small number of trees to be removed it was not considered necessary to conduct a separate ecological assessment of the impact of the proposal.

4.2.5. Water Management Act 2000

The *Water Management Act 2000* controls works along rivers and foreshores and relevantly requires a controlled activity approval for specified activity in, on or under waterfront land. Waterfront land includes 40 metres from any river or lake. The works will be conducted more than 40 metres from any waterfront land.

4.2.6. Mine Subsidence Compensation Act 1961

The site is within a mine subsidence area and is therefore required to be referred to the Mine Subsidence Board for investigation and approval under section 15 of the *Mine Subsidence Compensation Act 1961*.

4.2.7. Rural Fires Act 1997

The site is identified in Council's mapping as being bushfire prone land (vegetation buffer). It is near Arcadia Park which represents the bushfire risk for the school. A bushfire protection assessment report accompanies the application. The report has been prepared in accordance with the requirements of section 100B of the *Rural Fires Act 1997*, clause 44 of the *Rural Fires Regulation 2013* and Planning for Bushfire Protection 2006. The applicant will need to obtain a bushfire safety authority as the school is a special fire protection purpose under s100B of the *Rural Fires Act 1997*.

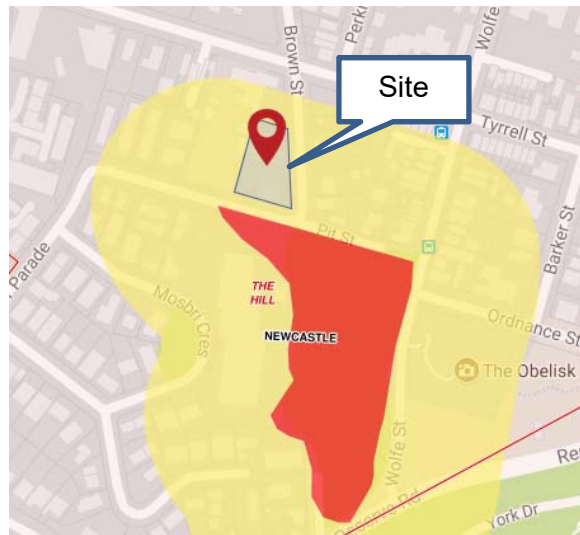


Figure 4-1: Bushfire Prone Land

Source: NSW Planning Portal accessed 02.10.17

The bushfire protection report identifies an asset protection zone of 40 metres as shown in figure 4-2 below which will likely include the stairs near Building C.

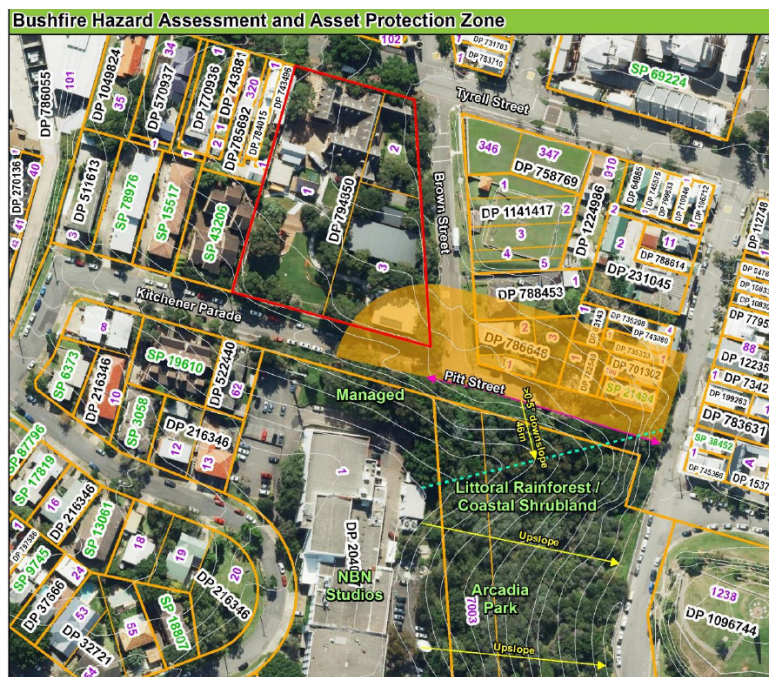


Figure 4-2: Bushfire Hazard assessment and Asset Protection Zone

Source: Bushfire Protection Assessment by Eco Logical dated 27.09.2017

The required bushfire attack level for construction is BAL-12.5. The APZ maintenance plan recommends no tree or tree canopy within 2 metres of the building, although this may be acceptable if suitable gutter guards are used in the construction of the building. All construction materials will be consistent with a BAL-12.5.

4.2.8. Coastal Management Act 2016

The site is located within the coastal use area as mapped under the draft NSW Coastal Management SEPP maps. It is not impacted by coastal wetlands and littoral rainforests, or the coastal environment area maps.

The *Coastal Management Act 2016* has been gazetted but has not as yet commenced. The Act provides objectives of the coast zone (which includes the coastal environment area and the coastal use area) and essentially requires Councils to develop coastal management programs which will incorporate the requirements of the coastal management manual to be published by the Minister for the purposes of the Act. These matters are unlikely to be finalised in time to affect the assessment of this application.

The *Coastal Management Act 2016* is to be read in conjunction with the draft SEPP (Coastal Management) 2016.

4.3. Environmental Planning Instruments

The following environmental planning instruments are relevant to the Proposal.

4.3.1. Newcastle Local Environmental Plan 2012

Zoning

The subject site is zoned R3 Medium Density Residential under the *Newcastle Local Environmental Plan 2012* (LEP). An educational establishment is a permissible use in the zone under the LEP.

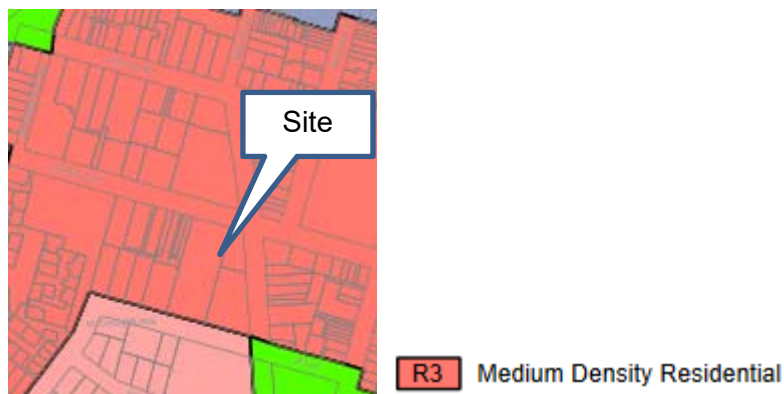


Figure 4-3: Zoning of the Site

Source: www.nsw.legislation.nsw.gov.au accessed 31.09.2017

General Matters under the LEP

The site is not subject to FSR or height of building provisions.

The subject site is not affected by flooding.

The subject site is on acid sulphate soils Class 5. Class 4 acid sulfate soils are about 290 metres from the subject site and Class 3 about 600 metres from the site. The works are to be conducted at about AHD 46 and no significant excavation is proposed. Hence the provisions of clause 7.1 of the LEP requiring an acid sulfate soils management plan will not apply.

The site is within The Hill Heritage Conservation Area. The site itself is listed as a heritage item of local significance I557 by the LEP. The Reservoir opposite is also listed as a local heritage item, as is the leading light tower and the Bishopscourt residence on Tyrrell Street opposite.

The land is affected by bushfire risk, being within the vegetation buffer area from Arcadia Park.

Coastal Zone Clause 5.5

The subject site is within the NSW Coastal Zone therefore clause 5.5 of the LEP applies. It requires the consent authority to consider various matters before any consent is granted, being:

- Public access along the coastal foreshore:
 - The proposal is not adjacent or close to the coastal foreshore.
- The suitability of the proposal in its surrounding environment and impact on the natural scenic quality:
 - The proposal is for the addition of a building in an existing school site which allows for the continuance of open space within the subject site. The proposal is limited to a 2 storey development and is not immediately adjacent to any residences. There is no additional shadowing at midwinter which will affect the streetscape or adjoining buildings. The proposal is suitable for the area and location.
- The impact on the amenity of the coastal foreshore including views and overshadowing:
 - The proposal will not impact any view or overshadowing of the coastal foreshore. The site is about 800 metres from Newcastle Beach.
- Protection of the visual amenity and scenic qualities of the coast can be protected:
 - The proposed development will not affect the visual amenity and visual qualities of the coast.
- How biodiversity and ecosystems can be protected:
 - The identified trees are not identified in the Biodiversity Conservation Act as threatened or endangered. No assessment of threatened species was therefore considered necessary given the building is replacing an existing COLA on the highly disturbed site.
- The cumulative impacts on the coastal catchment:
 - The subject site is connected to the sewer and stormwater plans connecting it to the existing stormwater system accompany the application. A water management system has been included in the proposal which includes a rainwater tank. The remainder of the school stormwater system will remain untouched; and
 - Silt fencing during construction is proposed around the lower edges of the construction zone on the western and southern edges of the construction zone.

The consent authority must be satisfied that:

- The proposed development will not impede or diminish access to the coastal foreshore:
 - The proposed development is on an existing school site which is not adjacent to the coastal foreshore.
- If effluent is to a non-reticulated system it will not have a negative effect on water quality of the sea, coastal lake etc.:
 - The school is sewerred.
- No untreated stormwater will be discharged into the sea, coastal lake etc.:
 - See the stormwater proposal.
- The proposal will not be affected by or impact coastal hazards:
 - The subject site is distant from the coastal hazards and elevated above the coast.

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

SEPP (Educational Establishments and Child Care Facilities) 2017 (the ESEPP) commenced on 1 September 2017 and generally includes the provisions relating to schools which were previously included in the SEPP (Infrastructure) 2007. It indicates a standardised approval process for schools, particularly for exempt and complying developments.

Schedule 4 of the ESEPP includes design quality principles for schools which must be considered before determining a development application (see clause 35(6)(a)).

Part 7 of the ESPEPP identifies that educational establishments which will have an increase in 50 or more students, and involves an enlargement or extension of existing premises or new premises on a site with direct access to any road, must be notified to the RMS within 7 days of the application being made. The RMS has 21 days to provide any response. The proposal allows for a potential increase in the school capacity from the current nominal 230 to approximately 276 students (46 students), hence the referral to the RMS under the ESEPP will not be required.

A Design Guide for Schools in NSW has also been produced by the Government Architect for NSW which includes the design quality principles, design consideration and design process and evaluation. Table 4-1 considers those principles and design guidance provisions.

Table 4-1 Design Quality Principles and Design Guidance under the ESEPP

Design Quality Principles and Design Considerations	How Addressed
<p>1. Context, Built form and Landscape</p> <p><i>Schools should be designed to respond to and enhance the positive qualities of their setting, landscape and heritage including Aboriginal heritage.</i></p> <p><i>The design and spatial organisation of buildings and the spaces between them should be informed by site conditions such as topography, orientation and climate.</i></p> <p><i>Landscape should be integrated into the design of school developments to enhance on-site amenity, contribute to the streetscape and mitigate negative impacts on neighbouring sites.</i></p> <p><i>School buildings and their grounds on land that is identified in or under a local environmental plan as a scenic protection area should be designed to recognise and protect the special visual qualities and natural environment of the area, and located and designed to minimise the development's visual impact on those qualities and that natural environment.</i></p>	
<p>Respect and respond to its physical context, neighbourhood character, streetscape quality and heritage</p>	<p>The design uses the existing slab surface of the sports court to reduce excavation requirements. Ramps and stairwells accommodate the physical context between the landscaped areas adjacent and the existing building to the south. The building is set into the natural contour of the site, partially below street level, and will not exceed 10.85 metres above natural ground level. The existing COLA is at about RL54 and the top height of the proposal is at RL57.14 (plus roof ventilators). The ridge height of the Building C in the south east corner is RL51.94 and the ridge height of the 1878 building to the north appears (from the eastern elevation) to be about RL60 – 2.9 metres above the proposed height of the new building. The eastern elevation shows the building reflecting the contour of the land in association with the other buildings on the site.</p> <p>Small room projections and outdoor learning areas will break up the built form from the streetscape. The heritage statement accompanying the application supports the proposal. The building will appear as a two storey building from all facades except from the south, internal to the school.</p>
<p>Consider interpretation of Aboriginal cultural heritage within the design of buildings and open spaces in consultation with</p>	<p>Not considered on this site</p>

<i>Design Quality Principles and Design Considerations</i>	How Addressed
local Aboriginal community	
Respond to its natural environment including scenic value, local landscape setting and orientation	<p>The existing COLA is not attractive and the proposal incorporates the assembly area within a modern building which includes open spaces for teaching and play. Landscaping is proposed to replace the trees which will be removed to facilitate construction. Ornamental pears are proposed in the eastern setback to provide seasonal interest to the streetscape.</p> <p>The streetscape is not a usual residential street as is dominated by the brick walls and grassed roof area of the heritage listed reservoir. Two dwellings are at the south end of Brown Street opposite the school.</p>
Retain existing built form and vegetation where significant	Adds to existing built form – only demountable buildings being removed. The existing COLA is not a structure which is of itself a significant built form. Some vegetation is to be removed within the footprint of the building, but additional landscaping is proposed.
Include tree planting and other planting that enhances opportunities for play and learning	Landscape plan provided. Removes demountable buildings from the play area. Adds areas for seating for the students around the basketball court and overlooking the grassed area to the south
Ensure landscaping improves the amenity within school grounds and for uses adjacent to the school	See landscaping plan
Be informed by a current Conservation Management Plan (CMP) and consider local heritage items both on the school site and in the local neighbourhood	A heritage impact statement accompanies the application which supports the proposal. The 1878 Building remains the dominant feature of the school on the primary corner entrance on the Tyrrell Street and Brown Street corner. There is no demolition of any of the structures which contribute to the heritage significance of the school, nor will there be any impact on views within the Hill Conservation Area. The proposal is separated from the 1878 building.
Take advantage of its context by optimising access to nearby transport, public facilities and local centres	Increasing potential school size and improving facilities to existing school which has bus routes servicing it.

Design Quality Principles and Design Considerations	How Addressed
<p>2. Sustainable, efficient and durable</p> <p><i>Good design combines positive environmental, social and economic outcomes. Schools and school buildings should be designed to minimise the consumption of energy, water and natural resources, reduce waste and encourage recycling.</i></p> <p><i>Schools should be designed to be durable, resilient and adaptable, enabling them to evolve over time to meet future requirements.</i></p>	
Be responsive to local climate including sun, wind and aspect	Windows face all sides with external operable aluminium sun louvres on the east and west sides. The open area for assembly and sports court provides sun protection and weather protection whilst allowing open ventilation during hot periods. Roof vents assist in climate control. The external stairwell to the building to the south is provided for weather protection.
Select materials and approaches to detailing that are robust and durable	Colourbond roof sheeting; blockwork, off form concrete, cladding and vitra panels are proposed for wall finishes; steel balustrades; and aluminium operable external louvres. All materials will be consistent with a BAL-12.5.
Integrate landscape, planting and Water Sensitive Urban Design (WSUD) principles to enhance amenity and building performance	Landscaping is proposed around the building. A 30,000 litre rainwater tank is proposed within the built form for watering of the landscaping.
Include deep soil zones for ground water recharge and planting	Retains deep soil on most of the existing areas.
Minimise reliance on mechanical systems	No air conditioning is proposed, as the buildings are designed for good cross ventilation
Include initiatives to reduce waste and embodied energy and emissions, through passive design principles and the use of advanced energy production systems where possible	Good natural cross ventilation, including operable sun louvres on the east and west sides. Use of open learning areas is encouraged off the homebase rooms.
Maximise opportunities for safe walking, cycling and public transport access to and from the school	The proposal does not touch on these matters.

Design Quality Principles and Design Considerations	How Addressed
<p>3. Accessible and inclusive</p> <p><i>Schools buildings and their grounds should provide good wayfinding and be welcoming, accessible and inclusive to people with differing needs and capabilities.</i></p> <p><i>(Note. Wayfinding refers to information systems that guide people through a physical environment and enhance their understanding and experience of the space.)</i></p> <p><i>Schools should actively seek opportunities for their facilities to be shared with the community and to cater for activities outside of school hours.</i></p>	
Establish security requirements early to ensure any required secure lines can be designed and integrated with built form	Sight lines are shown on the first floor plan showing visual penetration within the homebase building. The building will be visible from the street. A security roller grille is proposed at the top of the south eastern staircase within the bulkhead and anti-climb balustrading are proposed on top of balustrading.
Balance security with accessibility and inclusiveness by minimising the use of fencing particularly along street frontages	The existing entranceways will remain but with the addition of a concrete path from the southern gate. The paving will be enhanced. No additional fencing is proposed along street frontages.
Engage students, educators and the community in development of the vision and design brief for the school	A Project Reference Group (which included representatives of the Department of Education, the School and the school P&C) was formed in October 2016 with meeting held monthly. A proposed concept design was agreed upon by the PRG.
Provide diverse, attractive and accessible spaces to learn, play and socialise.	Maker space and homebase allow for flexibility for individual and group activity, with withdrawal areas. Retention of open play area. Outdoor learning spaces are accessible from the homebase rooms on the first floor. The dual use sports area and assembly area under cover with tiered seating around provides for a multiuse area to learn, play and socialise, especially when placed close to the proposed canteen. The homebase rooms can be interconnected via sliding doors. Group withdrawal areas and the maker spaces create alternative learning spaces.
Provide school frontages and entrances that are visible, engaging and welcoming	The principal school frontage of Tyrrell Street will remain. The pedestrian and vehicular access of Brown Street will be slightly enhanced and a new entrance from Kitchener Parade is proposed.

<i>Design Quality Principles and Design Considerations</i>	How Addressed
Encourage access for members of the community to shared facilities after hours	Noted although this is a matter for school negotiations beyond the scope of this application. These are generally not facilities open to the public. However the open basketball court / assembly area has the potential for community use
Ensure clear and logical wayfinding across the school site and between buildings for all users including afterhours community users	Stairways and linkages between the buildings will improve access to the building to the south and through the eastern half of the school.
Ensure accessibility for all users of the site	The existing ramp from the southern building to the assembly area at ground level of the new building will be retained and an accessible toilet on that level (near the proposed canteen area will be constructed. Lift access to the first floor classrooms will provide accessibility including to the outdoor learning areas off the first floor balconies. A wheelchair accessible bubbler is provided at the court level.
High rise schools should consider the impact of circulation times on timetables and pedagogical models, particularly when accessing core learning spaces. This may have design implications for spatial planning, lift and circulation requirements.	NA
4. Health and safety <i>Good school development optimises health, safety and security within its boundaries and the surrounding public domain, and balances this with the need to create a welcoming and accessible environment.</i>	
Locate buildings and design facades that optimise fresh air intake and access to daylight	Homebase obtains light from all sides, but includes operable louvre shutters on the hot east and western sides
Prioritise pedestrians and avoid conflicts between vehicles and people	The existing separated vehicular and pedestrian entry off Brown Street will be retained
Provide covered areas for protection from sun and rain	Stairwells between the new building and the building to the south are covered. The assembly/ sports court area is covered from the elements with covered tiered seating.

Design Quality Principles and Design Considerations	How Addressed
	The external circulation areas at first floor level are covered. The outdoor learning areas are covered for rain and sun protection.
Support safe walking and cycling to and from school through connections to local bike and footpaths and the provision of bike parking and end of journey facilities	Existing connections will remain, but an additional concrete path from the southern gate near building C will be formalised.
Support passive surveillance, including through the location of toilets and areas for communal use outside of school hours	The access to the toilets at ground floor level are visible from the assembly area. The toilets at lower ground level are visible from the building to the south
Incorporate Crime Prevention Through Environmental Design (CPTED) principles	See section 4.4.2 below
Clearly define access arrangements for after school hours	Existing after-hours access arrangements will be retained
Consider locations and number of toilet facilities to allow safe use by different age groups and genders	Existing security arrangements will be retained
<p>5. Amenity</p> <p><i>Schools should provide pleasant and engaging spaces that are accessible for a wide range of educational, informal and community activities, while also considering the amenity of adjacent development and the local neighbourhood.</i></p> <p><i>Schools located near busy roads or near rail corridors should incorporate appropriate noise mitigation measures to ensure a high level of amenity for occupants.</i></p> <p><i>Schools should include appropriate, efficient, stage and age appropriate indoor and outdoor learning and play spaces, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage and service areas.</i></p>	
Be integrated into, and maximise the use of the natural environment for learning and play	Proximity to grassed play area to the south with tiered seating adjacent to the canteen area maximises the use of open space play areas. The new smaller scale outdoor learning areas at first floor level allows for interaction with the outdoors environment. The assembly area/ sports court area with seating encourages students' use of the outdoors area at the school. Seating interspersed within the new

<i>Design Quality Principles and Design Considerations</i>	How Addressed
	landscaping allows for quiet areas for small groups.
Ensure access to sunlight, natural ventilation, outlook and visual outlook wherever possible	All achieved with homebase building
Facilitate learning by providing seamless access to technology	This issue would be more relevant to the fitout, but the proposed interior has been designed with this in mind. Smartboards and a drop down projection screen are included in the plans.
Seek opportunities for buildings and outdoor spaces to be learning tools in themselves	Noted
Provide a diversity of indoor and outdoor spaces to facilitate informal and formal uses	Covered and open outdoor learning spaces are provided which lend themselves to both formal and informal uses. The maker space allows for informal learning spaces and the tiered breakout area and withdrawal/group rooms provide distinct small areas for instruction or group work. A flexible layout is shown in the plans.
Design learning spaces to cater for a range of learning styles and group sizes	The indoor spaces have maker spaces, and a flexible layout. There are withdrawal areas, maker spaces and flexible homebase areas, with tiered break out area and outdoor learning spaces.
Consider providing areas for collaboration, group learning, presentations, specialised focus labs, project space and wet areas, display areas, student breakout, teacher meetings, and reflective / quiet spaces	Makerspaces and withdrawal areas provided and a student breakout area suitable for presentations. Wet areas are shown outside each homebase room.
Provide buffer planting in setbacks where appropriate to reduce the impact of new development	Provided – see landscape plan
High rise schools should consider and seek to minimise the negative impacts of overshadowing and wind on surrounding built form and open space, and on school grounds.	NA

Design Quality Principles and Design Considerations	How Addressed
Outdoor play ground space should be sufficient to accommodate the student population including future growth. It should also allow for passive and dynamic play of different age groups	Provided and improved by the enhanced sports court covered area. Seating overlooking the grassed area to the south encourages outdoor play ground use. The new building does not take away existing play space.
Consider height and scale of school development in relationship to neighbouring properties	The building takes into account the fall of the land and from the eastern elevation can be seen as forming a consistent drop in height of the buildings as the land falls to the south. No height control is included in the LEP, but the majority of the new building is opposite the reservoir.
Wherever possible, seek to locate buildings away from noisy roads and other noise sources to ensure acoustic levels within teaching and learning spaces are acceptable	Achieved. The building is opposite a reservoir and one residential house. It is not anticipated that there would be any significant acoustic impact on users of the building. Brown Street is not a busy street.
Where teaching and learning spaces must be located alongside noise sources, arrange built form to ensure dual aspect that will allow for natural ventilation away from the noise source. In extreme cases, mechanical systems and other technologies may be necessary to ensure acoustic levels can be maintained along with cross flow ventilation and natural light.	NA
6. Whole of life, flexible and adaptive <i>School design should consider future needs and take a whole-of-life-cycle approach underpinned by site wide strategic and spatial planning.</i> <i>Good design for schools should deliver high environmental performance, ease of adaptation and maximise multi-use facilities.</i>	
Allow for future adaptation to accommodate demographic changes, new teaching and learning approaches and the integration of new technologies	Internal walls are lightweight allowing for future alterations
Be based on a masterplan of the school site that includes	Options were tested and discussed during the planning stages

Design Quality Principles and Design Considerations	How Addressed
the testing of options for future potential growth	
Take a whole-of-lifecycle approach when considering cost and consider wider public benefits over time.	The proposal is intended to provide a long term solution to growing population at the school until 2031.
Provide capacity for multiple uses, flexibility and change of use over time	The flexible layout of the homebase building provides for this, as does the covered assembly/sports court area. Multiple learning areas and sizes provide flexibility.
Respond to the findings of a site appraisal including (but not limited to) in-ground conditions, contamination, flora and fauna, flooding, drainage and erosion, noise and traffic generation	These have been taken into consideration, see site plan. Excavation is proposed to be limited given the placement of fill under the existing COLA site (see the Geotechnical report). Consideration of the bushfire risk is incorporated in the design and all materials will comply with BAL 12.5.
Understand the potential impacts of future local projected growth and respond to demand for facilities after hours	Additional space is provided by the proposal. The assembly area/sports court allows for the use of these facilities after hours by community uses from within and outside the school.
Ensure school buildings and grounds are designed to be resilient to change, enabling them to be used for multiple purposes and to evolve over time to meet future requirements	Flexibility is inbuilt into the design. The new covered first floor areas enable multiple purposes.
<p>7. Aesthetics</p> <p><i>School buildings and their landscape setting should be aesthetically pleasing by achieving a built form that has good proportions and a balanced composition of elements.</i></p> <p><i>Schools should respond to positive elements from the site and surrounding neighbourhood and have a positive impact on the quality and character of a neighbourhood.</i></p> <p><i>The built form should respond to the existing or desired future context, particularly, positive elements from the site and surrounding neighbourhood, and have a positive impact on the quality and sense of identity within the neighbourhood.</i></p>	
Reflect a commitment to and investment in design	The façade is articulated and includes differing materials for interest. It relates well to the heritage building by not mimicking the style or features and being clearly distinct

<i>Design Quality Principles and Design Considerations</i>	How Addressed
excellence	visually and physically separated from the heritage building.
Create engaging and attractive environments	New learning and play environments are provided
Achieve a purposeful composition of materials and elements through rigorous design process	Yes – see materials selection. Operable louvres allow for seasonal alteration of sun access and improves privacy. Shading provided on first floor balconies by polycarbonate roof sheeting, whilst allowing light infiltration.
Provide an engaging environment for pedestrians visually and materially along public street frontages	Pedestrian interaction is enhanced by the attractive landscape setting proposed and improved wayfinding around the court area. Covered access to the building to the south is also provided.
Seek opportunities to enhance public facing areas with landscaping and ensure landscape and building design are integrated	See landscape plan. The new building provides a dynamic streetscape to Brown Street, with visual interaction between students and passersby.
Integrate service elements with the building design	Toilets, an accessible bathroom and canteen area are proposed. Large storage areas, cleaner's rooms and a refuse area have been included to ensure service areas are appropriately integrated.
Balance internal spatial requirements with an external mass and scale that responds to its environment	The articulated form with breakout areas reduces the visual bulk of the building from all elevations. The first floor circulation spaces and outdoor learning area encourage outdoors interaction, as does the attractive assembly/sports court area
Avoid long stretches of security fencing to public facing areas through arrangement of building edges, landscaping, gates and other openings	No additional fencing is proposed, although enhanced hedging is proposed to separate the vehicular and pedestrian entrance off Brown Street.
Look for opportunities to include public art	There is scope within the school to include public art at a later stage.

4.3.3. State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

Clause 104 of the SEPP (Infrastructure) refers to traffic generating development. Schedule 3 has been amended by the Education SEPP to remove the provisions relating to educational establishments.

4.3.4. State Environmental Planning Policy No 71 – Coastal Protection

The site is within the Coastal Protection Zone identified by the Coastal Protection Act 1979. A consent authority is required to take into account various matters set out in clause 8 of the SEPP when determining a development application to carry out development on land to which this policy applies. Table 4-1 considers the identified matters:

Table 4-2 Matters for Consideration under SEPP 71 Coastal Protection

Objectives and Requirements	Response
(a)Aims of the SEPP:	
(a) Protect and manage the natural, cultural, recreational and economic attributes of NSW coast	Noted
(b) Protect/improve public access to coastal foreshores	NA
(c) New opportunities for public access to coast foreshores	NA
(d) Protect and preserve Aboriginal heritage, places etc.	None noted on site
(e) Ensure visual amenity of coast is protected	NA
(f) Protect beach environments and beach amenity	NA
(g) Protect and preserve native coastal vegetation	NA
(h) Protect and preserve the marine environment of NSW	NA
(i) Protect and preserve rock platforms	NA
(j) Manage the coastal zone with principles of ecologically sustainable development	Stormwater is managed by rainwater tank and the stormwater system.
(k) Ensure type, bulk, scale of development is appropriate for location and protects natural scenic quality of the surrounding area	See architectural plans. Only two storey development. Replacement landscaping is proposed.
(l) Encourage strategic approach to coastal management	New works are within the existing school environment/ boundaries.

Objectives and Requirements	Response
Matters for consideration:	
(b) existing public access to coastal foreshore	No impact
(c) opportunities to provide new public access	Site does not adjoin the foreshore and therefore this is not relevant.
(d) suitability of the development given its type, location and design and its relationship with the surrounding area	The development is within an existing school site and not inconsistent with surrounding area.
(e) any detrimental impact on the amenity of the coastal foreshore	NA
(f) scenic qualities of NSW coast and means to protect and improve these qualities	The site is not within sight of the coast.
(g) measures to conserve animals and plants and their habitats under the TSC Act	The site is highly developed and no TSC listed communities are affected.
(h) measures to conserve fish and marine vegetation	NA
(i) existing wildlife corridors and impact of development on these corridors	No wildlife corridors on site
(j) the likely impact of coastal process and hazards on the development	NA – the site is not affected by coastal processes and hazards.
(k) measures to reduce conflict between land-based and water-based coastal activities	NA
(m) Measures to protect cultural places etc of Aboriginals	None identified on site.
(n) the conservation and preservation of heritage etc items	NA
(o) NA – encouraging towns & cities	NA
(p) cumulative impacts of the proposed development on the environment and measures to ensure efficient water and energy use	Energy and water efficiency incorporated into design, such as 30,000 litre rainwater tank

4.3.5. State Environmental Policy No 44: Koala Habitat Protection

The SEPP applies to the site, however none of the trees identified in the tree risk assessment are feed trees identified in the SEPP. The site is not considered potential koala habitat. As the proposal conforms to the SEPP, no further koala studies are required under the SEPP.

4.3.6. State Environmental Planning Policy 55 – Remediation of Land

Consent authorities are required to consider whether the land is contaminated and if so, whether the land is suitable for the proposed use or whether it would be suitable following remediation. A geotechnical report and preliminary waste classification report by Douglas Partners accompanies the application. In the boreholes the report indicates they found asphalt, fill, sandy clay, overlying clayey sand. Contaminants were generally limited to the presence of fill (source unknown) and the presence of building wastes in one bore.

The chemical results of the testing found all were below the maximum concentrations except lead levels and benzo(a)pyrene in bore 2 were above those for ENM classification. Chemical testing of TRH and BTEX were all found to have levels below the maximum concentrations for ENM. Bore 2 was found to have PAH levels above the maximum for ENM classification. The site was classified as Class P owing to the presence of fill at depths greater than 0.4 metre.

The presence of fill on site precludes the use of high level footings.

The site is not on the EPA Contaminated Land Management Register, the list of contaminated sites notified to the NSW EPA or listing as subject to a licence or notice under the *Protection of the Environment Operations Act 1997*. Historical photographs illustrate possible buildings on the COLA site as early as 1954.

A review of the contamination report indicates that the material from bore 2 has lead levels, benzo(a)pyrene and above the maximum permissible for general solid waste, however following acid leachate testing those concentrations were below the maximum values for classification as general solid waste. The conclusion is that the existing fill materials on site are preliminarily classified as general solid waste. The natural residual clay soil are preliminarily classified as VENM for reuse on the site or for direct disposal to a licensed landfill, although further lead testing after stripping of the top fill is required before final classification as VENM.

4.3.7. Draft State Environmental Planning Policy (Coastal Management) 2016

The Department of Planning & Environment has exhibited a draft SEPP (Coastal Management) 2016 which is to be read in conjunction with the *Coastal Management Act 2016* (which itself has not as yet commenced). The site is located within the coastal use area as mapped under the draft NSW Coastal Management SEPP maps but is not mapped as coastal vulnerability area, coastal wetlands and littoral rainforests area.

4.3.8. State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

SEPP (Vegetation in Non-Rural Areas) 2017 commenced 25 August 2017 and applies to clearing of vegetation on land in urban areas and on land in environmental zones. It establishes a Biodiversity Offset Scheme and if the clearing is below the threshold, it encourages Councils to regulate clearing of native vegetation through a permit system. The SEPP applies to Councils in Sydney metropolitan area and to land outside of Sydney on land zoned (relevantly) R3 Medium Density Residential.

4.4. Newcastle Development Control Plan 2012

4.4.1. Community Services

Section 3.11 of the Newcastle Development Control Plan 2012 (DCP) applies to community services, including educational establishments. It identifies other parts of the DCP which are relevant. The aims of the section are:

- To maintain the streetscape, amenity and character of areas surrounding community services;
- To ensure community services are accessible, convenient and appropriately located; and
- To encourage social connections, community participation and promote health and wellbeing.

When designing and siting community facilities consideration is to be given to:

- Location and use of surrounding buildings;
 - Comment: The building is within an existing school site in an area largely covered by an existing COLA. There is only one residence opposite the proposed building and another opposite Building C on Brown Street. Otherwise the building is opposite a reservoir. Little adverse impact on surrounding land uses is considered likely. There are no specific setback provisions noted in the DCP.
- Views to and from the site;
 - Comment: The school is at the southern edge of The Hill Conservation Area. There are no views to and from this part of the site. The northern section of the site does have vistas towards Newcastle Harbour but any views from the building site are largely blocked by the existing Building C to the south of the proposed location.
- Access to the site;
 - Comment: Access to the site will largely remain unchanged. There is an existing separated pedestrian and vehicular entranceway off Brown Street which will be retained.
- Existing vegetation and topography of the site:
 - Comment: The building makes use of the existing slab construction of the existing sports court and steps down the slope for the lower ground floor. The roofline reflects the reducing contours by stepping down the school site from the 1878 building which is 2.9 metres higher than the roofline of the proposed building.

Some sections of the DCP are considered in detail below and the remainder in Table 4-3 at the end of this section.

4.4.2. Safety and Security

Section 4.04 of the DCP applies to communal space or areas and public accessibility for all developments. It aims to ensure safe and activated places and encourage a built environment that maintains and enhances our sense of identity. It encourages consideration of Crime Prevention through Environmental Design (CPTED) principles. A summary of the way in which the proposal meets the DCP requirements is below:

- Surveillance:

- Clear sightlines through the Brown Street entrance are achieved. There is visual interaction between the users of the sports court/ assembly area and Brown Street.
- Landscaping will soften the exterior face of the buildings but without providing places to hide.
- Access control:
 - Landscaping and the existing access routes provide defined entrances for the public to the communal areas of the school, such as the assembly area and the surrounds, due to the tiered seating and sandstone seating areas in the area.
 - The car park remains visible from Brown Street.
- Community ownership:
 - The enhanced assembly area allows for visitors to interact with the students for community events.
 - There is a clear distinction between the public ground floor area and the homebase areas above, and this is demonstrated by the security grill at the top of the stairs to help prevent the public access to these areas out of school hours.
 - The markings on the basketball court make it very clear that the area is for sporting and gathering use by the students.
- Space management strategies:
 - Activity coordination is demonstrated by the encouragement of student activity under the homebase building and the provision of tiered seating overlooking the grassed play area to the west.
 - A new refuse area forms part of the proposal.
 - Graffiti resistant materials are to be used.

4.4.3. Social Impact

Section 4.05 of the DCP considers social impact. A review of Council's *Social Impact Assessment Policy for Development Applications 1999* indicates that the provision of a new building within an existing school environment, with the provision for an additional 46 students, will not trigger the requirements for a social impact assessment as the impact on employment, community meeting places or community facilities in the locality is slight.

The Policy indicates that a social impact comment in the SEE is required for educational establishments. The proposal is within an existing school environment. It replaces two demountable buildings with 4 new homebase rooms and is placed over an existing sports area which will be retained. Although the nominal increase in students is 46 students, the actual increase over the existing school population is only 29 students.

It is highly unlikely to have any adverse impact on crime and public safety, community identity, community facilities, health, local economic needs and population change. It will have a minimal effect on employment in the area. There will be a visual impact on the two residences on Brown Street. However as the play area is not moving from the existing site, it is considered that there will be very little change to the existing situation. It does however provide for a much improved assembly space for the school, including services to support the sports court and assembly area. CPTED has been considered above and is found to be treated satisfactorily by the proposal.

4.4.4. Heritage

Section 5.05 of the DCP considers heritage items and section 5.07 considers heritage conservation areas. A heritage impact statement has been included in the application. The whole school is heritage listed given its historical value as the first school in NSW, and the 1878 building is important and will be retained. The setting of that building will not be compromised by the proposal which is set at a distance from the 1878 building and retains a suitable setting for that building. The application does not affect the 1878 building's fabric.

The heritage impact statement concludes:

- that the removal of the COLA and demountable buildings will not impact on the heritage significance of the place or the conservation area;
- that the proposal will leave the 1878 building as the dominant corner building, and the new building will provide views back to the original building;
- that the existing mature landscaping to the east of the 1878 building will break up views to the new building from Tyrrell Street and will not impact on the heritage significance of The Hill Heritage Conservation Area;
- that the contemporary building can co-exist with the 1878 building without diminishing the significance of that building in the streetscape of the Conservation Area;
- that mimicking the detail of the 1878 building is inappropriate, and that the colours and textures of the proposed building do not compete with the 1878 building and in fact will be partially screened by the 1878 building;
- that the landscape architecture proposed will not have a detrimental effect; and
- that the project has the potential to provide students, staff and visitors with key view back to the original building.

4.4.5. Traffic and Parking

Section 7.03 of the DCP considers traffic parking and access. Parking for staff is provided off Brown Street in an asphalt car park where staff tandem park with 8 car spaces. An additional car park is adjacent to the building next to the car park.

There is a school bus stop on the corner of Brown Street and Tyrrell Street which operates as school pick up and drop off times. Bus 201 operates between the Marketown Shopping Centre via Tyrrell Street to Bar Beach and beyond with a bus stop 150 metres to the east. Bus 320 runs from Newcastle Centre along Darby Street to Warners Bay. Bus 310 operates from Newcastle Centre to Belmont along Darby Street. The Darby Street bus stop is about 420 metres from the Tyrrell Street entrance to the school.

Timed (ticketed) parking is on Tyrrell Street opposite the school and to the west. Immediately outside the school on Tyrrell Street are 2 hour ticketed parking zones which reverts to a five minute parking period between 8am to 9.30 and 2.30pm to 4.00pm. There is a no stopping zone on Brown Street between 8.00am and 9.30am and 2.30pm and 4.00pm on school days near the crossing on Brown Street, and five minute parking on the eastern side of Brown Street further south along Brown Street during those hours. There is no parking along Brown Street on the western side during school pick up and drop off periods. Untimed informal all day parking is available along Kitchener Parade and Pit Street, south of the school.

Table 1 of Section 7.03 in the DCP requires 1 car space per 2 staff plus 1 space per 100 students for visitors. It also requires 1 bike space per 10 staff and 1 space per 10

students. 1 motor bike space per 20 car spaces is set out. There will be 12 teaching spaces provided at the school following the development. The 9 car spaces currently provided with 276 students means that there is compliance with the required number of car spaces. No change is proposed to the car parking or bike parking.

It is noted that the ESEPP clause 57 does not require referral to the RMS as the number of new places does not exceed 50.

Further the Department of Education has advised that it is no longer Departmental policy to provide staff car parking on a school site, and that school sites and Departmental budgets should be utilised for their primary role of providing education and amenities to school children, not car parking and facilities for staff. A letter supporting this position is available to Council upon request if required.

4.4.6. Waste Management

Section 7.08 of the DCP provides waste management controls. A waste management plan detailing waste areas for construction will be further detailed in the CEMP when tenders for construction have been received and the builders commissioned. There will be very little demolition waste from the construction as it principally involves the removal of demountable buildings from the site, the removal of the structure of the COLA and the adjacent roof of the tiered seating, and the removal of vegetation.

Demolition roofing from the tiered seating and COLA will be taken to recyclers and asphalt can also be sent to recyclers. The demountable buildings will be removed after construction works are finalised and there will be no waste from their removal.

Tree waste can be mulched and used on site for landscaping.

The proposal includes a new waste refuse area in the north western corner of the building which is adjacent to the driveway for good vehicular access.

4.5. Other Environmental Considerations

4.5.1. Noise and Privacy Impacts on Residents

Privacy to the residences to the east will be retained from the proposal. At ground level the tiered seating remains as currently provided and vision to the court area will remain generally the same. The operable louvre windows to the group withdrawal areas will provide visual privacy between the building and the residences which will be about 30 metres distant across Brown Street. Additional planting along the Brown Street frontage will improve privacy.

Acoustically, the use of the COLA area for playing sport and gathering will not change and it is not anticipated any acoustic treatment would be needed. The use of the eastern section of the first floor is for small groups which again will not provide a high volume of noise. The stairwell on the south eastern corner of the new building is to be enclosed which will also provide some acoustic privacy for the residents opposite.

4.5.2. Construction Management Plan

A request for tenders for the construction of the proposed development has not been issued and the manner of construction (other than in accordance with the conditions of consent) will be a matter for the successful construction tenderer. It is proposed that a construction management plan would be issued prior to a construction certificate being issued. This management plan will include details of a temporary work zone area which is likely to be in the existing car park off Brown Street.

4.5.3. BCA Compliance

A BCA compliance assessment accompanies the development application. The construction type is Type B and the BCA classification is 5 and 9b.

Table 4-3 Compliance with DCP Requirements

Clause	Objectives and Requirements	How Addressed
4.02	Bushfire Protection	Section 4.02 applies to the land but not educational establishments. It references Planning for Bushfire Protection 2006 and requires compliance with it and the Rural Fires Act 1997. A bushfire protection assessment report accompanies the application.
4.03	Mine subsidence	The site is within a mine subsidence area. The section requires that all developments in mine subsidence areas be referred to the Mine Subsidence Board for investigation and approval. It is noted that section 90(2) of the <i>Environmental Planning and Assessment Act 1979</i> applies in this case, which removes the integrated development provisions from Crown developments such as this one.
5.01	Soil Management	Sediment control fencing is shown on the civil stormwater drawings accompanying the proposal. The geotechnical and contamination report has considered the nature of the existing soils on site and the classification of those soils and finds that they can be considered Excavated natural materials. Very little excavation is proposed in the development.
5.02	Soil Contamination	Douglas Partners undertook investigations of the contaminants in the soil and the results are set out in section 4.3.6 above. The section does not apply to a development application such as this.
5.03	Tree Management	This section applies to all prescribed trees. The section references section 5.9 of the LEP which has since been repealed. A tree assessment report has been prepared as required by the section. A tree schedule is provided by the Arborist's report by Terras Landscape Architects. Three of the affected trees are Z rated and are to be removed. The remaining trees are A rated. The trees to be removed are within the dripline and the construction area. The architectural plans show the removal of additional shrubs and smaller trees in addition to those identified in the Tree Risk Assessment as these are all within the construction area. Additional planting of trees is proposed to replace these trees.
7.02	Landscape, Open Space & Visual Amenity	A landscaping plan is proposed to provide seating areas for gathering, ornamental trees to provide seasonal interest along the eastern boundary at Brown Street and to provide shade for students and staff using the school grounds. It will soften the impact of the building on the streetscape. The provision of a new access from Kitchener Parade will assist in giving access to the site.

Clause	Objectives and Requirements	How Addressed
7.06	Stormwater	A stormwater plan has been lodged with the application. It includes connection to the council stormwater system and a 30,000 litre rainwater tank. Some details for an erosion and sediment plan are provided; however these will be updated when the building contractor is appointed before construction certificate stage. The building is slightly larger than the existing COLA but will result in only a small increase in the non-permeable area. There is additional new paving proposed, however this has been taken into consideration by the stormwater plan. The site is not in a flood prone area or a coastal wetland catchment area.

5. Conclusions

5.1. Environmental Planning Instruments – Section 79C(1)(a)

The provisions of relevant environmental planning instruments relating to the proposed development are provided in this SEE and have been satisfactorily addressed. The proposed development is generally consistent with the requirements of the Newcastle LEP.

5.2. Impacts of the Development – Section 79C(1)(b)

An assessment of key issues relating to the proposed development is provided in this SEE. It is considered that the likely impacts of the development, including noise, waste, erosion and sediment control, biodiversity and the like have been satisfactorily addressed and that the proposed development has social and environmental benefits.

5.3. Suitability of the Site – Section 79C(1)(c)

The subject site is identified as being zoned R3 Medium Density Residential under the *Newcastle Local Environmental Plan 2012*. The subject development is considered satisfactory in terms of the likely impacts of the development and, as such, the subject site is considered suitable for the proposed development. Consent will need to be obtained from the Mine Subsidence Board and the Rural Fire Service.

The proposal is within an existing school site and removes demountable buildings by replacing them with a permanent structure. It makes a good use of space on this relatively small school site by having the homebase classrooms over the sports court /assembly area. The provision of a lift to the first floor will improve access for mobility constrained students and staff and an accessible toilet at ground level will again be of assistance to those using the sports court / assembly area.

5.4. The public interest – Section 79C(1)(e)

The school is a relatively small primary school and currently includes two demountable buildings. Further expansion is required on the relatively small site and the proposal allows for a homebase building over the existing assembly and sports court area without taking up the grassed area on site. The construction of a homebase building to consolidate these classrooms will be of benefit to the ambiance of the school and create a more efficient use of the space within the school. The landscaping and outdoors area will enhance the play areas for the students.

It is considered that the proposed additions and alterations to this local primary school will be in the public interest.

The proposal is therefore considered a suitable proposal for consent and there is no matter which should preclude approval.



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