



45 Honeysuckle Drive Modification 3

Internal Reconfigurations
State Significant Development Modification Assessment
(SSD 9827 MOD 3)

October 2022



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Glossary

Abbreviation	Definition
Council	City of Newcastle Council
Department	Department of Planning and Environment
EIS	Environmental Impact Statement
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2021
EPI	Environmental Planning Instrument
Minister	Minister for Planning and Public Spaces
NDCP	City of Newcastle Development Control Plan 2012
NLEP	Newcastle Local Environmental Plan 2012
Planning Secretary	Secretary of the Department of Planning and Environment
SEPP	State Environmental Planning Policy
SSD	State Significant Development

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1 Introduction

This report provides the NSW Department of Planning and Environment's (the Department's) assessment of an application to modify the State significant development (SSD) consent SSD 9827 for the construction of a mixed-use development at 45 Honeysuckle Drive, Newcastle.

The modification application (SSD 9827 MOD 3) seeks approval to make internal design changes to some apartments for the amalgamation of 17 apartments to 8 apartments and therefore, reducing the total number of apartments from 110 to 101.

The application has been lodged by Horizon Newcastle Pty Ltd (the Applicant) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*.

1.1 Background

The site is located in the Honeysuckle Urban Renewal Precinct within the City of Newcastle (Council) local government area. The site is west of the Newcastle CBD and has frontage to the Hunter River (**Figure 1**).

The site has an area of 5,711m² and is bound by Honeysuckle Waterfront Promenade to the north, 35 Honeysuckle Drive to the east (future mixed-use development), Honeysuckle Drive to the south and vacant land to the west (future mixed-use development) (**Figure 2**).

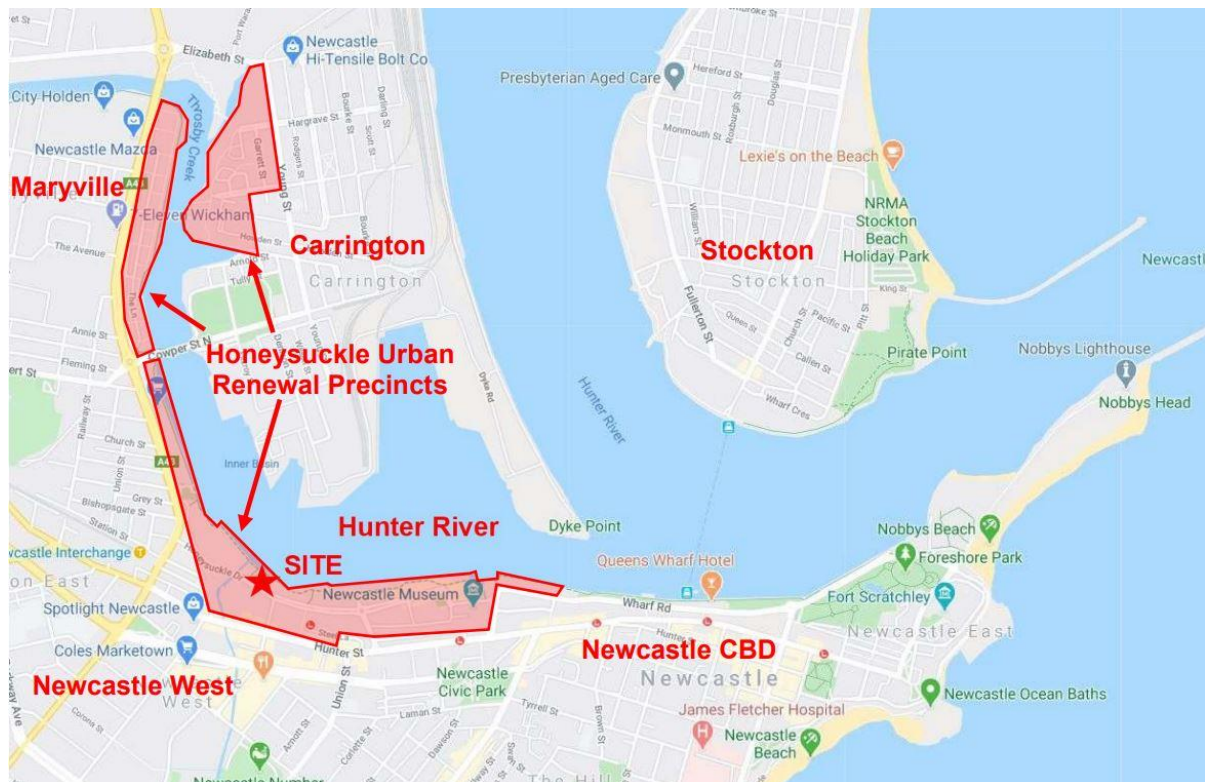


Figure 1 | Regional Context Map (Source: Department's Assessment Report SSD 9827)

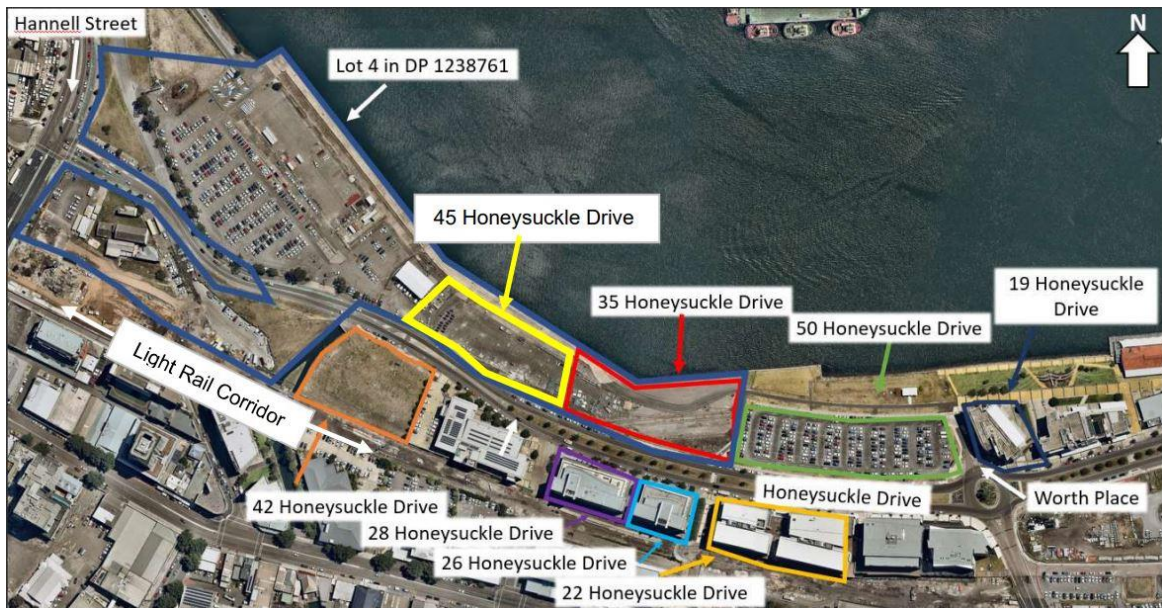


Figure 1 | Local Context Map (Source: Department's Assessment Report SSD 9827)

1.2 Approval history

On 18 June 2020, development consent was granted by the Executive Director, Regions, Industry and Key Sites under delegation from the Minister for Planning and Public Spaces for the construction of mixed-use development. The consent was modified on two occasions.

The consent permits the following works:

- construction of three 8 to 9 storey buildings containing 110 apartments and four retail and commercial tenancies
- residential gross floor area (GFA) of 13,107m² and commercial premises GFA of 527.5m²
- 183 basement car parking spaces
- public domain including Steel Street Floodway works, waterfront promenade tie in works, Cottage Creek tie in works and Honeysuckle Drive improvements.

On 22 September 2020, the consent was modified by the Department to:

- change two publicly accessible through-site links to private courtyards for residents
- correct an error in calculation of commercial car parking with the two surplus spaces being allocated for residential use
- undertake minor internal and external changes to apartments, lift cores and stairs
- correct typographical errors and remove a reference in Condition B12 for compliance with Australian Standard AS2499 for Adaptable Housing as no adaptable housing is required.

On 24 August 2021, the consent was modified a second time by the Department to:

- amend carparking requirements including increasing the overall car parking spaces from 183 to 186 and changes to car parking mix
- increase commercial premises gross floor area by 32.5m² (from 527.5m² to 560m²)
- amendments to basement floor levels including a minor expansion of the footprint, layout changes and removal of the residential bulky good storage area

- amendments to the ground floor level including a new bulky mail room, reduction in the size of the resident common room and replacement of a bike storage area with the residential bulky goods storage area
- correct an error in the calculation of apartment mix

2 Proposed modification

The application seeks to modify the approved development as follows:

- internal design amendments to certain apartments (**Figures 3 and 4**) to amalgamate the following apartments:
 - level 1:
 - 1 x two-bedroom apartment (W3-1) and 1 x one-bedroom apartment (W4-1) to create 1 x three-bedroom apartment (W3-1 + W4-1)
 - level 2:
 - 2 x two-bedroom apartments (M2-2 + M3-2) to create 1 x three-bedroom apartment (M2-2 + M3-2)
 - 1 x three-bedroom apartment (E3-2) and 1 x one-bedroom apartment (E4-2) to create 1 x four-bedroom apartment (E3-2 + E4-2)
 - level 3:
 - 2 x two-bedroom apartments (M2-3 + M3-3) to create 1 x three-bedroom apartment M2-3 + M3-3)
 - level 4:
 - 2 x two-bedroom apartments (M2-4 + M3-4) to create 1 x three-bedroom apartment M2-4 + M3-4)
 - level 5:
 - 1 x two-bedroom apartment (W3-5) and 1 x one-bedroom apartment (W4-5) to create 1 x three-bedroom apartment (W3-5 + W4-5)
 - 2 x two-bedroom apartments (M2-5 + M3-5) to create 1 x three-bedroom apartment (M2-5 + M3-5)
 - level 6:
 - 3 x two-bedroom apartments (M3-6 + M4-6 + M5-6) to create 1 x three-bedroom apartment (M3 +M4 + M5)
- reduce the total number of apartments from 110 to 101, a net loss of 9 apartments, due to the abovementioned amalgamation
- an increase to the amount of residential gross floor space by 169m² stemming from the reduction of the total number of apartments associated with the development (110 to 101) and therefore, a reduction in the number of residential car parking spaces excluded in the calculation of GFA. The number of residential car parking spaces is not proposed to be amended.
- amend the unit mix to the following (**Table 1**) as a result of the abovementioned amalgamation:

Table 1 | Existing and proposed unit mix

Number of Bedrooms	Approved Unit Mix	Proposed Unit Mix
One-bedroom	14	11
Two-bedroom	51	38
Three-bedroom	45	51
Four-bedroom	0	1
<i>Total apartments</i>	110	101

The Applicant’s justification for the modification includes:

- the apartment amalgamations respond to market demand and buyer feedback
- the amendments comprise of only internal changes and do not result in design changes to the façade of the buildings
- no increase in the physical footprint and floor area is proposed
- a new four-bedroom unit type is to be provided, contributing to the apartment mix in accordance with the Apartment Design Guide (ADG)
- 73.2% of the 101 apartments achieve minimum mid-winter sunlight as per the ADG
- 82.1% of the 101 apartments are cross-ventilated, exceeding the ADG requirement
- internal reconfigurations will further contribute to the demonstrated design excellence
- the proposed modification does not seek to significantly alter the nature or scale of the proposal.

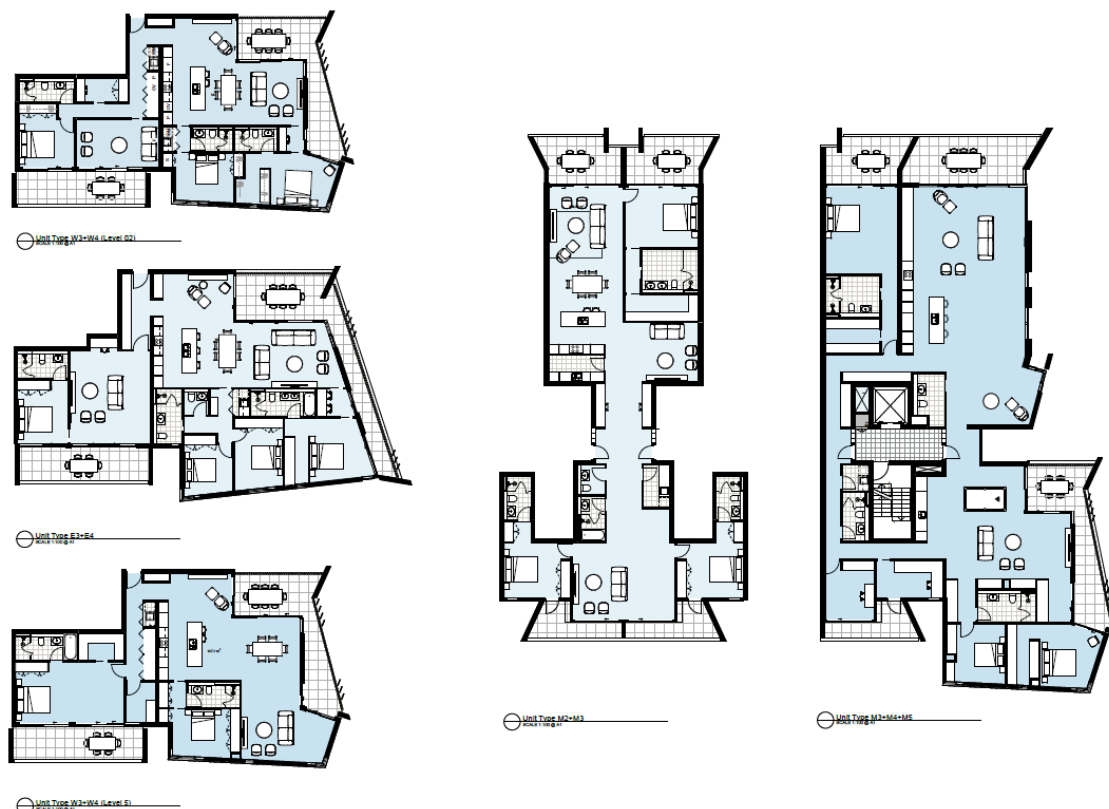


Figure 3 | Example of proposed amalgamated apartments (Source: Applicant’s SEE)



Figure 4 | Example of existing (left) and proposed (right) amalgamated apartments: M2 + M3
(Source: Applicant's SEE)

3 Statutory context

3.1 Scope of modifications

Section 4.55(1A) of the EP&A Act outlines the matters that a consent authority must take into consideration when determining an application that seeks to modify an SSD application and results in minor environmental impacts.

The matters for consideration under Section 4.55(1A) of the EP&A Act that apply to this modification have been considered in **Table 1** below.

Table 2 | Section 4.55(1A) consideration

Section 4.55 (1A) extract	Consideration
a) that the proposed modification is of minimal environmental impact	Section 5 of this report provides an assessment of the impacts associated with the modification application. The Department is satisfied that the changes will have minimal environmental impacts.
b) that the development to which the consent as modified relates is substantially the same development as development for which the consent was originally granted and before that consent as originally granted be modified (if at all)	The proposed modification seeks internal reconfigurations of some apartments. However, the overall use of the development remains as approved. On this basis, the Department is satisfied the modification is substantially the same as the originally approved development.
c) the application has been notified in accordance with the regulations	The notification requirements of the EP&A Regulation do not apply to SSD Section 4.55(1A) modifications with minimal environmental impact applications. Accordingly, due to the minor nature of the proposed modifications, the application was not publicly exhibited.
d) any submission made concerning the proposed modification has been considered.	The Department received a submission from Council. The issues raised in the submission have been considered in Section 4 of this report.

3.2 Consent authority

The Minister for Planning is the consent authority for the application under Section 4.5(a) of the EP&A Act. However, under the Secretary's delegation dated 7 March 2022, the Team Leader, Regional Assessments, may determine the application as:

- a political disclosure statement has not been made
- there are no public submissions in the nature of objections
- Newcastle City Council has not made a submission by way of objection

3.3 Mandatory matters for consideration

The Department conducted a comprehensive assessment of the project against the mandatory matters for consideration as part of the original assessment of SSD 9827. The Department considers this modification application does not result in significant changes that would alter the mandatory matters for consideration under Section 4.15 of the EP&A Act and conclusions made as part of the original assessment.

Table 3 below identifies the matters for consideration that apply to the proposed modification.

Table 3 | Section 4.15 Evaluation

Section 4.15 (1) Evaluation	Consideration
(a)(i) any environmental planning instrument	The modified proposal is consistent with the relevant legislation, the Newcastle Local Environmental Plan 2012. The proposed increase in gross floor area and floor space ratio is addressed in Section 5 .
(a)(ii) any proposed instrument	Not applicable.
(a)(iii) any development control plan	Under clause 2.10 of State Environmental Planning Policy (Planning Systems) 2021, Development Control Plans do not apply to SSD.
a)(iv) any planning agreement	Not applicable
(a)(iv) the regulations	The application meets the relevant requirements of the EP&A Regulation, including the procedures relating to applications (Part 6), the requirements for notification (Part 6, Division 6) and fees (Part 15, Division 1AA).

(b) 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 Department considers the likely impacts of the development are acceptable and have been appropriately addressed (refer to Section 5 of this report).
c) the suitability of the site for the development	The site remains suitable for the development as assessed in the original application.
(d) any submissions	No public submissions were received for this proposal. A submission from Council has been addressed in this assessment and can be viewed at Appendix A .
(e) the public interest	The Department considers the modified proposal to be in the public interest as is consistent with the approved development and involves only minor amendments.

Environmental Planning Instruments

Under section 4.15 of the EP&A Act, the consent authority is required to take into consideration any EPI relevant to the development that is the subject of a development application. The EPIs that have been considered as part of the assessment of the modified proposal are:

- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy No. 65: Design Quality of Residential Design Development
- Newcastle Local Environmental Plan 2012

The Department has undertaken a detailed assessment of these EPIs in **Appendix B** and is satisfied the modification application remains consistent with the requirements of the EPIs.

3.4 Objects of the Act

The Minister or delegate must consider the objects of the EP&A Act when making decisions under the EP&A Act. The Department is satisfied the proposed modifications are consistent with the objects of the EP&A Act.

4 Engagement

4.1 Department's engagement

Section 105(2) of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation) specifies that the notification requirements of the EP&A Regulation do not apply to SSD Section 4.55(1A) modifications. Accordingly, the application was not publicly exhibited

The modification application was made publicly available on the Department's website and referred to City of Newcastle (Council) for their comments. Council provided comments on the application, a copy of which is provided in **Appendix C**. The Department received no submissions from the public.

4.2 Submission from City of Newcastle

The Department received one submission from Council with comments on the modification. Council's comments are as follows:

- the internal areas of the proposed apartments stated in the ADG Area Schedule (drawing DA-700 H) differ from that shown on the floorplans
- some apartments do not have new descriptions and number of bedrooms stated on the floor plan
- the Applicant is recommended to provide a detailed breakdown of the proposed apartment mix and associated parking calculations to confirm compliance with the relevant parking requirements of the Newcastle DCP 2012
- it is recommended that the text of Condition E36 be changed include the specific street addresses for each apartment
- the cost of the approved development according to Condition B8 of the Development Consent is \$59,401,859. It is recommended the Applicant is required to provide a current cost summary report for the modified proposal and the required monetary contribution, based on a levy of 3% of the cost of the development, is reinstated in Condition B8 of the Development Consent

4.3 Response to City of Newcastle Submission

The Department placed a copy of Council's submission on its website and requested the Applicant provide a response to Council's comments.

On Tuesday 19 July 2022, the Applicant provided a Response to Submissions (RtS) on the comments raised by Council. The RtS included the following:

- updated ADG Area Schedule consistent with internal areas of proposed apartments as stated on the floor plans
- a table detailing specific project components including site area, GFA, FSR, building height, land use mix, car parking provision and dwelling mix
- approved parking schedule table detailing approved parking rates for MOD 1 and MOD 2
- proposed apartment mix and parking calculation table for MOD 3

The RtS was made publicly available on the Department's website.

4.4 Additional Information

On Friday 12 August 2022, the Department requested clarification regarding the calculation of approved residential GFA. On Tuesday 16 August 2022, the Applicant provided a Supplementary Response to Submissions (SRtS), identifying errors in the calculation of approved residential GFA in the SSD 9827 Development Consent, as well as the Development Consents for MOD 1 and MOD 2. This matter is discussed further in **Section 5**.

5 Assessment

The Department has considered the Modification Report, RtS and SRtS and the issues raised in the Council submission in its assessment of the modification. The Department considers the key assessment issues relevant to the proposal are:

- gross floor area
- car parking

The Department’s assessment of other issues is set out in **Section 5.3**.

5.1 Gross floor area and FSR

The proposal results in an increase to GFA by 169m² and FSR by 0.04:1 (4.13%) associated with 13 residential car parking spaces above what is required by the NDCP. This increase stems from the reduction of the total number of apartments associated with the development from 110 to 101, and therefore a reduction in the residential car parking spaces excluded in the calculation of GFA. The number of residential car parking spaces is not proposed to be amended. No additional physical floor area is proposed.

When taking into account the additional GFA from the carparking calculation change (169m²) this would result in a total GFA of 14,388.1m² and FSR of 2.52:1.

The Department has reviewed development consents and assessment reports for SSD 9827, MOD 1 and MOD 2 and notes that while GFA and FSR were correctly calculated and assessed in the assessment reports associated with the relevant applications,:

- GFA associated with additional parking (above what is required by the NDCP) was not added to the residential GFA total in the development description of the original SSD consent and MOD 2 modifying instrument
- 17m² of residential GFA was left out of the additional residential GFA added in MOD 1 (only 131m² was added instead of 148m² proposed in MOD 1).

Table 4 identifies additional GFA that should have been added to the overall residential GFA development description figure in all three consents.

Table 4 | Identified GFA calculation errors

Consent	Residential GFA (m ²) identified in Consent	Commercial GFA (m ²) identified in Consent	Total GFA (m ²) as per Consent	Total GFA (m ²) identified in Department’s Assessment Report	FSR identified in Department’s Assessment Report	Comment on discrepancy
SSD 9827	Consent: 13,107 Correct: 13,302m Discrepancy: 195	Consent: 527.5 Correct: 527.5	Consent: 13,634.5 Correct: 13,829.5	13,829.5	2.42:1	195m ² from an additional 15 car spaces

Consent	Residential GFA (m ²) identified in Consent	Commercial GFA (m ²) identified in Consent	Total GFA (m ²) as per Consent	Total GFA (m ²) identified in Department's Assessment Report	FSR identified in Department's Assessment Report	Comment on discrepancy
		Discrepancy: 0	Discrepancy: 195			
MOD 1	Consent: 13,238.0 Correct: 13,450.0 Discrepancy: 212	Consent: 527.5 Correct: 527.5 Discrepancy: 0	Consent: 13,765.5 Correct: 13,977.5 Discrepancy: 212	13,977.5	2.44:1	195m ² from SSD 9827, 17m ² from design changes from MOD 1
MOD 2	Consent: 13,238.0 Correct: 13,659.1 Discrepancy: 421.1	Consent: 560.0 Correct: 560.0 Discrepancy: 0	Consent: 13,798.0 Correct: 14,219.1 Discrepancy: 421.1	14,219.1	2.48:1	195m ² from SSD 9827, 17m ² from MOD 1, and 209.1m ² from an additional 16 car spaces from MOD 2
MOD 3 (this modification)	Proposed: 13,828.1	Consent: 560.0	Proposed: 14,388.1	14,388.1	2.52:1	MOD 3 will seek to correct the previous discrepancies (421.1m ²) and include the addition of 169m ² from excess car parking

The Department considers the increase in GFA and FSR acceptable as:

- additional GFA associated with the 13 carparking spaces does not lead to any increase in the footprint or envelope of the building. The car parking spaces already exist in the basement and the changes do not lead to any additional impacts
- additional GFA associated with the 13 carparking spaces represents a minor increase (1.2%) in GFA from that approved
- the GFA associated with the additional carparking spaces (above the minimum required by the NDCP) from the original consent and MOD 2 and GFA left out of MOD 1, has already been assessed by the Department in consideration of the overall GFA and FSR associated with the development and is to correct the consent to bring it in line with the Department's assessment report.

5.2 Parking

Due to the proposed decrease in apartments, the NDCP required amount of car parking decreases with this modification.

The Applicant argued the increase in excess spaces is minor, and as the physical number of car parking spaces is not proposed to change, there will be no additional traffic impacts on the local road network.

The NDCP 2012 requires 154 parking spaces be provided for the proposed mix of 101 apartments. The currently approved number of parking spaces is 186 spaces, a difference of 19 spaces in excess of what is required by the DCP. The proposed modification results in an excess of 32 spaces, an increase from the previously approved 19 spaces, due to the overall unit mix being reduced from 110 apartments to 101 apartments.

The Department notes that the increase in excess spaces (than what is required by the DCP) stems from the number of apartments being reduced from 110 to 101 apartments. The Department notes and accepts the Applicant's justification that as the physical number of car parking spaces is not proposed to change, the environmental impacts in respect to traffic will not change.

5.3 Other issues

Table 5 | Other assessment issues

Issue	Findings	Recommendations
Residential Amenity	<p>The proposal seeks to make several internal design changes to apartments to amalgamate 17 apartments into 9 apartments.</p> <p>The Department has assessed the proposed apartments against the relevant requirements of the ADG (Appendix B) and notes that:</p> <ul style="list-style-type: none"> • all amalgamated apartments continue to meet the minimum apartment sizes for one, two, three and four-bedroom apartments • a greater range of apartment types and sizes are provided, including one four-bedroom apartment, satisfying the ADG's recommendation for a range of apartment types and sizes • 73.2% of all apartments continue to receive the minimum two hours of direct sunlight between 9am and 3pm during the mid-winter solstice, above the minimum 70.0% of apartments required by the ADG • 82.2% of all apartments achieve cross-ventilation, above the minimum 60.0% of apartments required by the ADG. 	<p>No recommendations to changes of conditions.</p>

Table 5 | Other assessment issues

Issue	Findings	Recommendations
	<ul style="list-style-type: none"> all amalgamated apartments include balconies exceeding minimum area requirements recommended by the ADG. Some balconies are slightly narrower than the minimum recommended depth of 3m, however the Department considers the balconies are large enough to provide a functional space for residents and is integrated with the building architecture. 	
<p>Street Addresses</p>	<p>Council provided advice on the proposal, requesting an updated schedule detailing street addresses in the Consent.</p> <p>The Department notes Condition E36 requires house numbering be in accordance with the NSW Address Policy and User Manual by the Geographical Names Board of New South Wales and the directions of Newcastle City Council and Council's <i>House Numbering Policy</i> and the <i>Surveying and Spatial Regulation</i>. The Department therefore considers the issue of street addresses to be conditioned appropriately.</p>	<p>No recommendations to changes of conditions.</p>
<p>Development Contributions</p>	<p>Council provided advice requesting Condition B8 Development Contributions be updated to reflect a new cost summary report prepared by the Applicant.</p> <p>The Department notes that Condition B8 makes reference to a 3% monetary contribution and does not otherwise reference any other numerical monetary contribution. The Department therefore considers development contributions to be conditioned appropriately.</p>	<p>No recommendations to changes of conditions.</p>

6 Recommendation

It is recommended that the Director, Regional Assessments, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report
- **determines** that the application SSD 9827 MOD 3 falls within the scope of section 4.55(1A) of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **agrees** with the key reasons for approval listed in the draft notice of decision
- **modify** the consent SSD 9827
- **signs** the attached approval of the modification (**Appendix C**).

Recommended by:



Lewis Demertzi
Planning Officer
Regional Assessments

Recommended by:



Chris Eldred
Senior Planning Officer
Regional Assessments

7 Determination

The recommendation is **Adopted** by:



Michelle Niles

A/Team Leader

Regional Assessments

as delegate of the Minister for Planning

Appendices

Appendix A – List of referenced documents

Modification Report

<https://pp.planningportal.nsw.gov.au/major-projects/projects/horizon-lee-5-modification-3-internal-design-amendments>

Response to Submissions

<https://pp.planningportal.nsw.gov.au/major-projects/projects/horizon-lee-5-modification-3-internal-design-amendments>

Appendix B – Statutory considerations

State Environmental Planning Policy (Planning Systems) 2011

The State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP) aims to identify development that is of State significance due to its size, economic value, or potential impact.

The modified proposal is classified as State significant development (SSD) under section 4.36 of the EP&A Act, as it comprises development on land identified as being within the Honeysuckle Site and has a capital investment value of more than \$10 million under clause 2 of Schedule 2 of the Planning Systems SEPP.

State Environmental Planning Policy No. 65 – Residential Apartment Development, including Apartment Design Guide

State Environmental Planning Policy 65 – Residential Apartment Development (SEPP 65) seeks to improve the design quality of residential developments and encourage innovative design. The ADG is closely linked to the principles of SEPP 65 and sets out best practice design principles for residential developments.

Clause 30(2) of SEPP 65 outlines that development consent must not be granted if, in the opinion of the consent authority, the development does not demonstrate that adequate regard has been given to the design quality principles and the objectives specified within the Apartment Design Guide for the relevant design criteria. An assessment of how the proposal satisfies Clause 30(2) of SEPP 65 is provided below.

Table 6 below provides the Department’s consideration of the Design Quality Principles in relation to the proposed modification

Table 6 | Consideration of the Design Principles of SEPP 65

SEPP 65 Principle	Department Response
-------------------	---------------------

Context and Neighbourhood Character	The Department is satisfied that the modification does not alter the relationship between the proposed development, its site and the surrounding residential context and satisfied the Design Quality Principle 1.
Built Form and Scale	The modification application does not alter the built form and scale of the development. The department is satisfied that the modified development is consistent with the Design Quality Principle 2.
Density	The modification proposes an FSR of 2.52:1, an increase from the currently approved GFA of 14,219.m ² and FSR of 2.48:1. The Department considers that the modified development will still achieve a level of density that is appropriate to the site and its context.
Sustainability	The modified design achieves improved solar access and cross-ventilation for the development. The Department is satisfied that the modified development is consistent with Design Quality Principle 4.
Landscape	The proposed modification does not seek to alter landscaping of the development. Department considers that the proposal is consistent with Design Quality Principle 5.
Amenity	The modified design has achieved an acceptable level of amenity for the apartments with respect to adequate access to sunlight and natural ventilation. The Department is satisfied that the development is consistent with Design Quality Principle 6.
Safety	The proposed modification maintains the development's positive relationship between public and private spaces through clearly defined secure access point, well-lit and visible areas that promote safety.
Housing Diversity and Social Interaction	The proposed modification amalgamates several apartments and therefore creates a more diverse range of housing types for the development. The Department is satisfied that the development complies with Principle 8.
Aesthetics	The proposed modification does not alter the aesthetics of the development, as the proposed changes are internal only.

A SEPP 65/ Apartment Design Guide compliance statement was provided by the applicant’s architect. The table below provides the Department’s considerations of the relevant Objectives and Design Criteria contained within the ADG:

Table 7 | Consideration of the Apartment Design Guide

Objective	Department Consideration
<p>3A-1 Site Analysis</p> <p>Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.</p>	<p>Satisfactory</p> <p>The design remains substantially the same as originally approved that was based on the opportunities and constraints of the site.</p>
<p>3B-1 Orientation</p> <p>Building types and layouts respond to the streetscape and site whilst optimising solar access within the development</p>	<p>Satisfactory</p> <p>The modified design achieves greater solar access for the development.</p>
<p>3B-2 Orientation</p> <p>Overshadowing of neighbouring properties is minimised during mid-winter.</p>	<p>Satisfactory</p> <p>The proposed modification contains internal reconfigurations only, therefore the extent of overshadowing of neighbouring properties has not changed.</p>
<p>3C-1 Public Domain Interface</p> <p>Transition between private and public domain is achieved without compromising safety and security.</p>	<p>Satisfactory</p> <p>The interface between the development and the public domain has not changed through the proposed modification of internal reconfigurations.</p>
<p>3C-2 Public Domain Interface</p> <p>Amenity of the public domain is retained and enhanced.</p>	<p>Satisfactory</p>
<p>3D-1 Communal and Public Open Space</p> <p>An adequate area of communal open space is provided to enhance residential</p>	<p>Satisfactory</p> <p>The modified design makes no changes to communal open space.</p>

Objective	Department Consideration
amenity and to provide opportunities for landscaping.	
<p>3D-1 Communal and Public Open Space – Design Criteria</p> <p>Communal open space has a minimum area equal to 25% of the site area.</p> <p>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two hours between 9am and 3pm on 21 June (mid-winter).</p>	<p>Satisfactory</p> <p>As above</p>
<p>3D-2 Communal and Public Open Space</p> <p>Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting.</p>	<p>Satisfactory.</p> <p>As above</p>
<p>3D-3 Communal and Public Open Space</p> <p>Communal open space is designed to maximise safety.</p>	<p>Satisfactory</p> <p>As above</p>
<p>3D-4 Communal and Public Open Space</p> <p>Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood.</p>	<p>Satisfactory</p> <p>As above</p>
<p>3E-1 Deep Soil Zones – Design Criteria</p> <p>Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality.</p>	<p>Satisfactory</p> <p>The modified design makes no changes to deep soil zones.</p>
<p>3E-1 Deep Soil Zones - Design Criteria</p>	<p>Satisfactory</p>

Objective	Department Consideration
<p>Deep soil zones are to meet the following minimum requirements:</p> <p><u>Site area >1,500m²</u></p> <p>Minimum dimensions of 6m and 7% of site area.</p> <p><u>Site area >1,500m² with significant existing tree cover</u></p> <p>Minimum dimensions of 6m and 7% of site area.</p>	<p>As above</p>
<p>3F-1 Visual Privacy</p> <p>Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.</p>	<p>Satisfactory</p> <p>The modified design does not alter visual privacy.</p>
<p>3F-1 Visual Privacy – Design Criteria</p> <p>Separation distance between windows and balconies is provided to ensure visual privacy is achieved. Minimum requires separation distance from buildings to the side and rear boundaries are as follows:</p> <ul style="list-style-type: none"> • Building up to 12m (4 storeys) 6m between habitable rooms and balconies, 3m between non-habitable rooms. • Building up to 25m (5-8 storeys) 9m between habitable rooms and balconies, 4.5m between non-habitable rooms. • Building over 25m (9+ storeys) 12m between habitable rooms and balconies, 6m between non-habitable rooms. <p>Separation distances between buildings on the same site should combine required</p>	<p>Satisfactory.</p> <p>As above</p>

Objective	Department Consideration
<p>building separations depending on the type of room.</p> <p>Gallery access circulation should be treated as habitable space when measuring privacy separation distance between neighbouring properties.</p>	
<p>3F-2 Visual Privacy</p> <p>Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space.</p>	<p>Satisfactory</p> <p>As above</p>
<p>3G-1 Pedestrian Access and Entries</p> <p>Building entries and pedestrian access connects to and addresses the public domain.</p>	<p>Satisfactory</p> <p>The modified design does not alter building entries or pedestrian access.</p>
<p>3G-2 Pedestrian Access and Entries</p> <p>Access, entries and pathways are accessible and easy to identify.</p>	<p>Satisfactory</p> <p>As above</p>
<p>3H-1 Vehicle Access</p> <p>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.</p>	<p>Satisfactory</p> <p>The modified design does not alter vehicle access points.</p>
<p>3J-1 Bicycle and Car Parking</p> <p>Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas.</p>	<p>Satisfactory</p> <p>Due to the proposed increase in apartments, the required amount of car parking decreases with this modification. This is discussed in Section 5.2.</p>
<p>3J-1 Bicycle and Car Parking – Design Criteria</p>	<p>Satisfactory</p> <p>As above.</p>

Objective	Department Consideration
<p>For development in the following locations:</p> <ul style="list-style-type: none"> on sites that are within 800m of a railway station or light rail stop in the Sydney Metropolitan Area, or on land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre. <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever less.</p> <p>The car parking need for a development must be provided off-street.</p>	
<p>3J-2 Bicycle and Car Parking</p> <p>Parking and facilities are provided for other modes of transport.</p>	<p>As above.</p>
<p>3J-3 Bicycle and Car Parking</p> <p>Car park design and access is safe and secure.</p>	<p>As above.</p>
<p>3J-4 Bicycle and Car Parking</p> <p>Visual and environmental impacts of underground car parking are minimised.</p>	<p>As above.</p>
<p>4A-1 Solar and Daylight Access</p> <p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.</p>	<p>Satisfactory</p> <p>The Department considers that the revised design optimises the number of apartments receiving sunlight to habitable rooms.</p>
<p>4A-1 Solar and Daylight Access – Design Criteria</p>	<p>The Department is satisfied that the amended design provides suitable solar access based on the following:</p>

Objective	Department Consideration
<p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of two hours direct sunlight between 9am and 3pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas.</p> <p>A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter.</p> <p>Achieving the design criteria may not be possible on some sites. This includes:</p> <p>where significant views are oriented away from the desired aspect for direct sunlight</p>	<p>74 of the 101 apartments achieve the minimum required-mid-winter sunlight.</p> <p>The Department is satisfied that 73.2% solar access is acceptable and compliant with the ADG.</p>
<p>4B-1 Natural Ventilation</p> <p>All habitable rooms are naturally ventilated.</p>	<p>Satisfactory</p>
<p>4B-2 Natural Ventilation</p> <p>The layout and design of single aspect apartments maximises natural ventilation.</p>	<p>Satisfactory</p>
<p>4B-3 Natural Ventilation</p> <p>The number of apartments with natural cross ventilation is maximized to create a comfortable indoor environment for residents.</p>	<p>Satisfactory</p>
<p>4B-3 Natural Ventilation – Design Criteria</p> <p>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be naturally ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</p>	<p>Satisfactory</p> <p>82.1% of apartments are naturally ventilated.</p>

Objective	Department Consideration
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	
<p>4C-1 Ceiling Heights</p> <p>Ceiling height achieves sufficient natural ventilation and daylight access.</p>	<p>Satisfactory</p> <p>The modified design does not alter ceiling heights.</p>
<p>4C-1 Ceiling Heights – Design Criteria</p> <p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <p><u>Habitable rooms</u></p> <p>2.7m.</p> <p><u>Non-habitable rooms</u></p> <p>2.4m.</p> <p><u>Two storey apartments</u></p> <p>2.7m for main living area floor.</p> <p>2.4m for second floor, where its area does not exceed 50% of the apartment area.</p>	<p>Satisfactory</p> <p>As above.</p>
<p>4C-2 Ceiling Heights</p> <p>Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms.</p>	<p>As above.</p>
<p>4D-1 Apartment Size and Layout</p> <p>The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity.</p>	<p>The modified design amalgamates several apartments to create larger apartments that are functional and provide a high standard of amenity.</p>
<p>4D-1 Apartment Size and Layout – Design Criteria</p> <p>Apartments are required to have the following minimum internal areas:</p> <ul style="list-style-type: none"> • Studio 35m². 	<p>Satisfactory</p> <p>All apartments meet the minimum size requirements based on the number of bedrooms.</p>

Objective	Department Consideration
<ul style="list-style-type: none"> • One bedroom 50m². • Two bedroom 70m². • Three bedroom 90m². <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p> <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</p>	
<p>4D-2 Apartment Size and Layout</p> <p>Environmental performance of the apartment is maximized.</p>	<p>Satisfactory</p>
<p>4D-3 Apartment Size and Layout – Design Criteria</p> <p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</p> <p>In open plan layout (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</p>	<p>Satisfactory</p> <p>The proposal is consistent with Objective 4D-3.</p>
<p>4D-3 Apartment Size and Layout – Design Criteria</p> <p>Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space),</p> <p>Bedrooms have a minimum dimension of 3m (excluding wardrobe space).</p>	<p>Satisfactory</p> <p>Bedrooms and living rooms satisfy the minimum areas and dimensions.</p>

Objective	Department Consideration
<p>Living rooms or combined living/dining rooms have a minimum width of:</p> <p><u>One-bedroom apartments</u></p> <p>3.6m.</p> <p><u>Two- or three-bedroom apartments</u></p> <p>4m.</p> <p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.</p>	
<p>4E-1 Private Open Space and Balconies</p> <p>Apartments provide appropriately sized private open space and balconies to enhance residential amenity.</p>	<p>Satisfactory</p>
<p>4E-1 Private Open Space and Balconies - Design Criteria</p> <p>All apartments are required to have primary balconies as follows:</p> <p>Studio apartments</p> <p>4m².</p> <p><u>One bedroom apartments</u></p> <p>8m² with a minimum depth of 2m.</p> <p><u>Two bedroom apartments</u></p> <p>10m² with a minimum depth of 2m.</p> <p><u>Three+ bedroom apartments</u></p> <p>12m² with a minimum depth of 2.4m.</p> <p>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m.</p>	<p>Satisfactory</p>

Objective	Department Consideration
<p>4E-2 Private Open Space and Balconies</p> <p>Primary private open space and balconies are appropriately located to enhance liveability for residents.</p>	<p>Satisfactory</p>
<p>4E-3 Private Open Space and Balconies</p> <p>Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building.</p>	<p>Satisfactory</p>
<p>4E-4 Private Open Space and Balconies</p> <p>Private open space and balcony design maximizes safety.</p>	<p>Satisfactory</p>
<p>4F-1 Common Circulation and Spaces</p> <p>Common circulation spaces achieve good amenity and properly service the number of apartments.</p>	<p>Satisfactory.</p> <p>The modified design does not alter common circulation spaces.</p>
<p>4F-2 Common Circulation and Spaces</p> <p>Common circulation spaces promote safety and provide for social interaction between residents.</p>	<p>Satisfactory.</p>
<p>4G-1 Adequate, well designed Storage is provided in each apartment</p> <p>Adequate, well designed storage is provided in each apartment.</p>	<p>Satisfactory</p>
<p>4G-1 Adequate, well designed Storage is provided in each apartment</p> <p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p>	<p>Satisfactory</p> <p>Apartments meet the storage requirements as prescribed.</p>

Objective	Department Consideration
<p><u>Studio apartments</u> 4m³.</p> <p><u>One bedroom apartments</u> 6m³.</p> <p><u>Two bedroom apartments</u> 8m³.</p> <p><u>Three+ bedroom apartments</u> 10m³.</p> <p>At least 50% of the required storage is to be located within the apartment.</p>	
<p>4G-2 Adequate, well designed Storage is provided in each apartment</p> <p>Additional storage is conveniently located, accessible and nominated for individual apartments.</p>	<p>Satisfactory.</p>
<p>4H-1 Acoustic Privacy</p> <p>Noise transfer is minimised through the siting of buildings and building layout.</p>	<p>Satisfactory</p>
<p>4H-2 Acoustic Privacy</p> <p>Noise impacts are mitigated within apartments through layouts and acoustic treatments.</p>	<p>Satisfactory</p>
<p>4J-1 Noise and Pollution</p> <p>In noisy or hostile environments, the impacts of external noise and pollution are minimized through the careful siting and layout of buildings.</p>	<p>Not Applicable.</p> <p>Not located in a noisy or hostile environment.</p>
<p>4J-2 Noise and Pollution</p> <p>Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.</p>	<p>Not Applicable.</p> <p>Not located in a noisy or hostile environment.</p>
<p>4K-1 Apartment Mix</p>	<p>Satisfactory</p> <p>The modified development provides a greater mix of apartment types and sizes.</p>

Objective	Department Consideration
<p>A range of apartment types and sizes is provided to cater for different household types now and into the future.</p>	
<p>4K-2 Apartment Mix</p> <p>The apartment mix is distributed to suitable locations within the building.</p>	<p>Satisfactory</p> <p>The apartments are appropriately distributed throughout the building.</p>
<p>4L-1 Ground Floor Apartments</p> <p>Street frontage is maximized where ground floor apartments are located.</p>	<p>Satisfactory</p> <p>Street frontages have not been altered as the modified design seeks to amalgamate apartments only.</p>
<p>4L-2 Ground Floor Apartments</p> <p>Design of ground floor apartments delivers amenity and safety for residents.</p>	<p>Satisfactory</p> <p>As above.</p>
<p>4M-1 Facades</p> <p>Building facades provide visual interest along the street while respecting the character of the local area.</p>	<p>Satisfactory</p> <p>The modified design does not alter building facades.</p>
<p>4M-2 Facades</p> <p>Building functions are expressed by the façade.</p>	<p>Satisfactory</p> <p>As above.</p>
<p>4N-1 Roof Design</p> <p>Roof treatments are integrated into the building designed and positive respond to the streets.</p>	<p>Satisfactory</p> <p>The modified design does not alter roof design.</p>
<p>4N-3 Roof Design</p> <p>Roof design incorporates sustainability features.</p>	<p>Satisfactory</p> <p>As above.</p>
<p>4O-1 Landscape Design</p> <p>Landscape design is viable and sustainable.</p>	<p>The modified design does not alter landscaping.</p>

Objective	Department Consideration
<p>4O-2 Landscape Design</p> <p>Landscape design contributes to the streetscape and amenity.</p>	<p>Satisfactory</p> <p>As above.</p>
<p>4P-3 Planting on Structures</p> <p>Planting on structures contributes to the quality and amenity of communal and public open spaces.</p>	<p>Satisfactory</p> <p>As above.</p>
<p>4Q-1 Universal Design</p> <p>Universal design features are included in apartment design to promote flexible housing for all community members.</p>	<p>Satisfactory</p>
<p>4Q-2 Universal Design</p> <p>A variety of apartments with adaptable designed are provided.</p>	<p>Satisfactory</p> <p>A variety of apartments have been designed to ensure they are adaptable.</p>
<p>4Q-3 Universal Design</p> <p>Apartment layouts are flexible and accommodate a range of lifestyle needs.</p>	<p>Satisfactory</p> <p>A number of apartments have been designed to ensure they are adaptable.</p>
<p>4U-1 Energy Efficiency</p> <p>Development incorporates passive environmental design.</p>	<p>Satisfactory</p> <p>Suitable passive environmental design elements have been included.</p>
<p>4U-2 Energy Efficiency</p> <p>Development incorporates passive solar design to optimize heat storage in winter and reduce heat transfer in summer.</p>	<p>Satisfactory</p> <p>The modified design has imposed solar access to a number of apartments. The development would be subject to BASIX controls.</p>
<p>4U-3 Energy Efficiency</p> <p>Adequate natural ventilation minimises the need for mechanical ventilation.</p>	<p>Satisfactory</p> <p>Suitable natural ventilation has been achieved.</p>
<p>4W-1 Waste Management</p>	<p>The modified design does not alter waste storage facilities.</p>

Objective	Department Consideration
Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents.	
4W-2 Waste Management	Satisfactory
Domestic waste is minimised by providing safe and convenient source separation and recycling.	As above.
4X-1 Building Maintenance	Satisfactory
Building design detail provides protection from weathering.	The modified design does not alter the building design.
4X-2 Building Maintenance	Satisfactory
Systems and access enable ease of maintenance.	As above.
4X-3 Building Maintenance	Satisfactory.
Material selection reduces ongoing maintenance costs.	As above.

Table 8 | Department's consideration of the Newcastle Local Environmental Plan 2012

Relevant section	Department's consideration	Compliance
2.2 Zoning of land to which Plan applies and land use table	No applicable changes with this modification.	No change proposed
4.3 Height of buildings	No applicable changes with this modification.	No change proposed
4.4 Floor Space Ratio The maximum floor space ratio for a building is not to exceed to floor space ratio shown for the land on the Floor Space Ratio Map.	The proposed development exceeds the maximum floor space ratio as shown on the Floor Space Ratio Map.	No, refer to Section 5.1 of this report.

4.6 Exceptions to development standards	The proposed development exceeds the maximum floor space ratio as shown on the Floor Space Ratio Map.	Refer to Section 5.1 of this report.
5.10 Heritage conservation	No applicable changes with this modification.	No change proposed
6.1 Acid sulfate soils	No applicable changes with this modification.	No change proposed
6.2 Earthworks	No applicable changes with this modification.	No change proposed
7.5 Design excellence	No applicable changes with this modification.	No change proposed

Appendix C – Notice of modification

<https://pp.planningportal.nsw.gov.au/major-projects/projects/horizon-lee-5-modification-3-internal-design-amendments>

Appendix D – Council submissions

<https://pp.planningportal.nsw.gov.au/major-projects/projects/horizon-lee-5-modification-3-internal-design-amendments>