

12 October 2021

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Emma Butcher
Department Planning, Industry and Environment
GPO Box 39
Sydney NSW 2001

Dear Emma,

Proposed s4.55(1A) Application - SSD 8999 - Delete Condition of Consent B18 42 Honeysuckle Drive, Newcastle NSW 2300

1 Introduction

SLR Consulting Australia Pty Ltd (SLR) acts on behalf of its client DOMA Group (DOMA) in lodging this s4.55(1A) application to the Department of Planning, Industry and Environment (the Department) for minor changes to the conditions of consent (Condition B18) relating to SSD 10378, being a mixed-use development located at 42Honeysuckle Drive, Newcastle NSW 2300.

The condition requires the height clearance of the carpark entry to be increased to 4.5m to meet AS2890.2. The current provision is 4.2m at the crossover, due to the location of an overhead transfer beam which would require a major redesign to alter. The following statement and Traffic Addendum at Appendix A, demonstrates how the proposal can be appropriately serviced under the current height clearance.

Section 4.55 (1A) of the Environmental Planning and Assessment Act 1979 (EP& A Act) states that a consent authority may, on application, modify a development consent if it is satisfied that the proposed modification is of minimal environmental impact and the modification is substantially the same as the development for which the consent was originally granted. Given the minor nature of the proposed modification, it is considered that this is the most suitable approval pathway.

1.1 Background

A State Significant Development (SSD) for the *construction a mixed-use development including: 187 hotel rooms, 5,442sqm of commercial office space, a café and gym, a licensed bar and outdoor terrace, 177 car parking spaces, and associated landscaping*, was approved by the Department of Planning, Industry, and Environment on 27 January 2021.

No physical works, change of use, or operations is proposed under this modification.

2 The Site & Surrounds

The site is described as 42 Honeysuckle Drive Newcastle, situated within the Local Government Area (LGA) of Newcastle. The site is legally described as Lot 22 DP 1072217 and has a site area being 3,728m². The site is currently under development, aligned with the previously approved SSD application of 2018. At this stage, only earthworks have been undertaken on the land. The site is under the ownership of DOMA Group Pty Limited, who purchased the land from the Hunter Central Coast Development Corporation.

The site is a regular quadrilateral configuration, with its boundaries shared with public space on three sides, being Honeysuckle Drive (north), public reserve (west), Light Rail Corridor (south). Private land that supports a three-storey commercial building is located to the immediate east.

The Newcastle Transport Interchange is located approximately 200 metres west of the site, with the new Light Rail Corridor extending along the rear, southern boundary of the site.

Refer to Figure 1 and Figure 2 for the site and its surroundings.

Figure 1 Site Aerial (Source: Near Maps)



Figure 2 – Cadastre Plan (Source: Six Maps)



3 Proposed Modifications

3.1 Proposed Design Modifications

The proposed modification seeks to amend Condition B18, relating to vehicle access:

B18. The vertical height clearance of the ground floor shall be increased to 4.5m for Medium Rigid Vehicles to comply with AS2890. 2-2002 Parking facilities: Off-street commercial vehicle facilities. Full details are to be included in documentation for a Construction Certificate application.

It is requested that this condition is deleted and the height clearance remains consistent with that shown on the stamped plans.

4 Consultation

Department of Planning, Industry, and Environment

A scoping meeting was held between the DPIE and SLR on 20 July 2021 to discuss the proposal. The comments provided from the Department noted that any correspondence with Newcastle City Council should be included in the application to modify the consent.

Newcastle City Council

Several attempts were made to discuss the proposed modification with Council's waste services and traffic divisions, however Council requested that a DA was to be submitted prior to further advice being provided.

5 Legislation & Planning Controls

The following legislation, Environmental Planning Instrument (EPI) and Development Control Plan (DCP) are relevant to the proposed amendment:

- Environmental Planning and Assessment Act 1979;
- Newcastle Local Environmental Plan (LEP) 2012; and
- Newcastle Local Development Control Plan (DCP) 2012.

5.1 Environmental Planning and Assessment Act 1979

It is considered that the modification of the development consent proposed will result in minimal environmental impact and is substantially the same development as that for which the original consent was granted. Accordingly, the approval path for the proposed modification is s4.55(1A) Minimal Environmental Impact under the EP&A Act 1979:

Section 4.55 Modification of consents - generally

(1A) Modifications involving minimal environmental impact

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) It is satisfied that the proposed modification is of minimal environmental impact, and

Comment: the proposed modification will not result in any environment impact such as overshadowing, noise, etc. and does not alter the original environmental assessment or mitigation measures.

(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and

Comment: The proposal seeks to amend one condition only in the notice of decision, no changes to the plans or use are proposed, as such it can be deemed to be 'substantially the same' as that which was approved under the original consent.

(c) it has notified the application in accordance with:

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

(c) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

Comment: the proposal does not require notification.

This application is made pursuant to section 4.55(1A) of the EP&A Act 1979 and the proposed modification is 'substantially the same' as the approved development, for the above reasons.

5.2 Newcastle Local Environmental Plan (LEP) 2012

The proposed modification does not amend the approved land uses and the development remains consistent with the objectives of the B4 Mixed Use Zone.

Clause 4.3 - Height of Buildings

No changes to existing. The intent is not require a further redesign of the building and another modification to meet the clearance height.

Clause 4.4 - Floor Space Ratio

No change to approved.

Clause 4.6 – Exception to Development Standards

The clearance height relates to an Australia Standard, not a development standard and therefore Clause 4.6 is not relevant.

5.3 Newcastle Development Control Plan (DCP) 2012

The relevant chapter of the DCP is 7.03 Traffic, Parking and Access, specifically section 7.03.04 Design and layout of parking and access:

B. Parking areas and structures Objectives

- 1. Ensure that parking and vehicular access do not dominate the streetscape or detract from the character of the area.*
- 2. Ensure that parking does not detract from the overall appearance or the continuity of streetscapes or streetscape elements, including street tree planting.*
- 3. Ensure parking areas and structures are designed to be easily and safely negotiated by vehicles and pedestrians.*

Controls

Controls applying to all development to which this section applies

- 1. Design and construction of parking, set down areas and loading facilities comply with the provisions of AS2890 Parking facilities.*

As outlined in the traffic amendment at Appendix A, and an extract in Figure 3 below, the largest service vehicle required to the site is 3.4m, the plans have been reviewed by the waste service provider and they have confirmed the site can be adequately and regularly serviced by their standard refuse collection vehicle.

Figure 3 - Development Servicing Summary Extract (pg. 17)

Delivery Type	Associated Land Use	Indicative Vehicle Type	Approx. Length & Height
Linen Collection	Hotel	Vans	5m x 2.5m
Food Delivery	Café / Hotel Lounge	Vans	5m x 2.5m
Cleaning supplies	Hotel / Office	Vans	5m x 2.5m
Stationary supplies	Office	Vans	5m x 2.5m
Couriers	All	Vans	5m x 2.5m
Catering deliveries	Office	Vans	5m x 2.5m
Document shredding	Office	Small Rigid Vehicle (SRV)	6.6m x 2.5m
Trade vehicles	All	B99 Car	5m x 2m
Waste collection	All	Refuse Collection Vehicle	9.8m x 3.4m (see below)

DOMA have several residential, commercial and hotel developments nationally and understand the importance of adequate, safe, and efficient serving. The height as currently presented at 4.2m does not impede the serviceability of the future development, and can meet the objectives of the DCP in demonstrating: *parking areas and structures are designed to be easily and safely negotiated by vehicles and pedestrians.*

6 Environmental Impact Assessment

The following is an assessment of the environmental effects of the proposed development as described in the preceding sections of this report. The assessment considers only those matters under Section 4.15 (1) of the EP&A Act which are relevant to the proposal.

6.1 Built Form and Urban Design

The intent of this modification is to prevent further re-design and changes to the approved built form.

6.2 Traffic, Access and Parking

Traffic

No change to traffic flow or transport networks would be experienced as a result of the modification.

Access

No changes are proposed to vehicular or pedestrian access to the site. The access can operate with the required sight distances.

Parking

No changes.

Servicing

No changes to servicing are proposed as part of this modification.

7 Conclusion

The proposed modification to the conditions of consent at 42 Honeysuckle Drive is considered minor and

As demonstrated in Section 4 and 5, the deletion of the height requirement has been justified as the building can be adequately serviced at the approved height clearance. The proposed modifications are considered minor and will result in the proposed development continuing to provide a high-quality mixed-use building in the Greater Newcastle community within the Honeysuckle precinct. The proposal is permissible with consent within the B4 Mixed Use under Newcastle Local Environmental Plan 2012.

Given the merits of the proposal and the absence of any significant adverse environmental impacts, the DA is considered to be in the public interest and is recommended for Council's support.

We thank you for the opportunity to lodge this application and look forward to timely approval. Should you have any questions please do not hesitate to contact the undersigned.

Yours sincerely,

Kale Langford
Project Consultant – Planning
SLR Consulting Australia Pty Ltd

Appendices

Appendix A – Traffic Impact Assessment Addendum

APPENDIX A – TRAFFIC IMPACT ASSESSMENT ADDENDUM