



45 Honeysuckle Drive Modification 1

Design and Administrative Changes
State Significant Development Modification Assessment
(SSD 9827 MOD 1)

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Glossary

Abbreviation	Definition
Council	City of Newcastle Council
Department	Department of Planning, Industry 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 2000
EPI	Environmental Planning Instrument
LEP	Local Environmental Plan
Minister	Minister for Planning and Public Spaces
Planning Secretary	Secretary of the Department of Planning, Industry 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, Industry 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-1) seeks approval for design changes and amendments to conditions of consent.

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**).

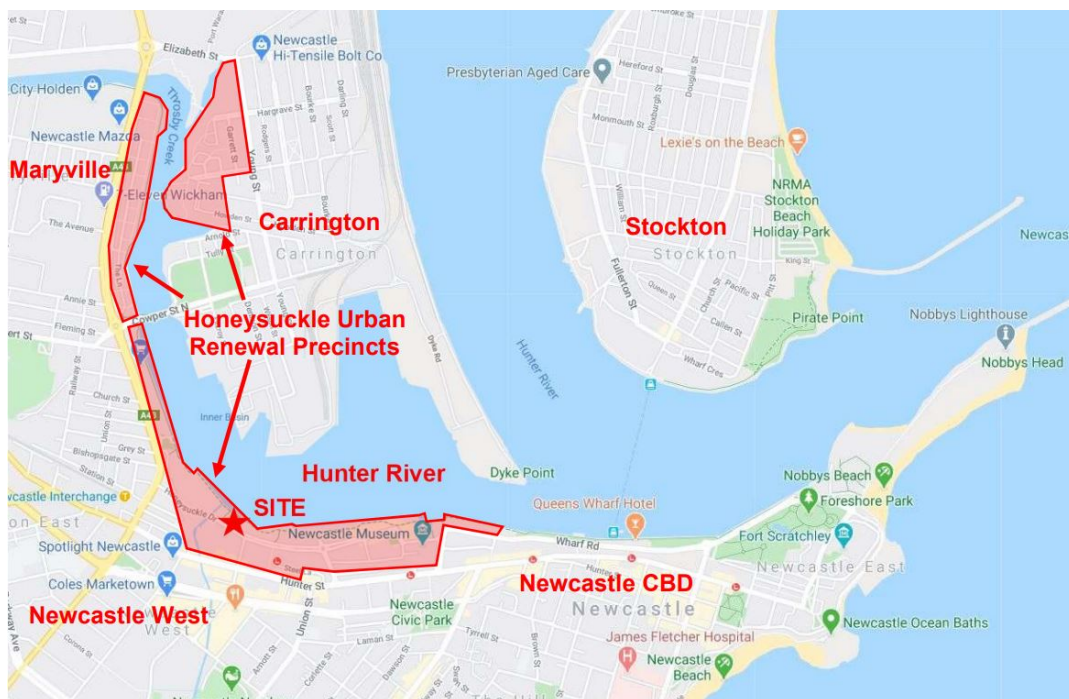


Figure 1 | Regional Context Map (Source: Department's Assessment Report SSD 9827)

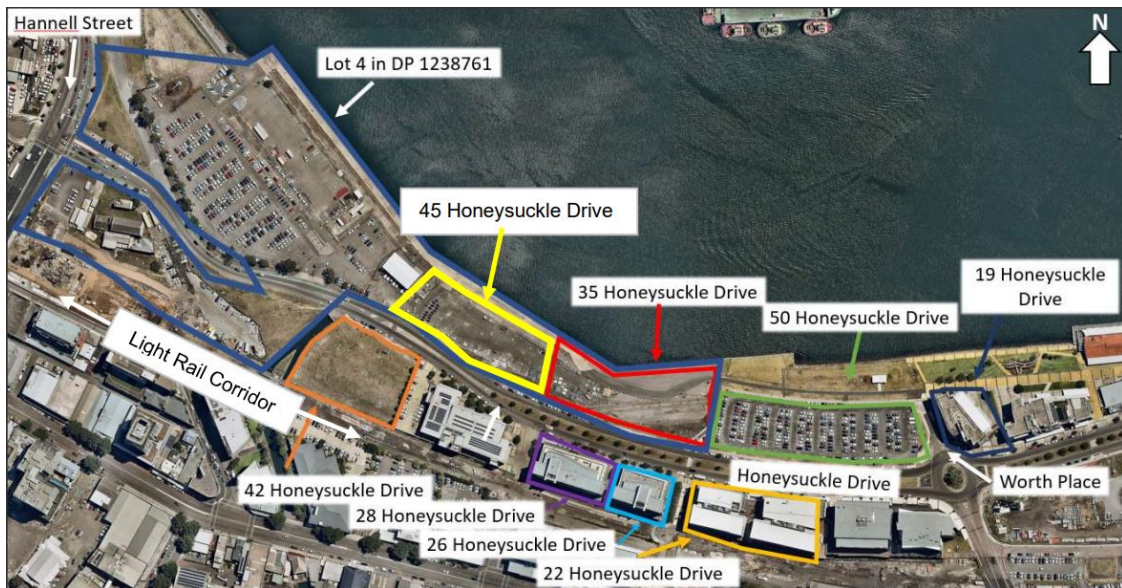


Figure 2 | Local Context Map (Source: Department's Assessment Report SSD 9827)

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 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.

SDD 9827 MOD 1 is the only modification to SSD 9827 to date.

2 Proposed modification

The application seeks to modify the approved development as follows:

1. change two approved publicly accessible through-site links to private courtyards for residents, involving removal of Condition A23 requiring registration of easements for public rights of access over the links
2. minor internal and external design amendments to apartments, lift cores and stairs
3. recalculation of commercial car parking spaces based on Newcastle DCP rates, resulting in two less commercial car parking spaces required
4. reallocation of the abovementioned two commercial parking spaces to residential spaces
5. rectify typographical errors in the consent arising from document management issues
6. removal of a reference in Condition B12 to compliance with Australian Standard AS2499 for Adaptable Housing as no adaptable housing is required.

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 1 | 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 modification will have minimal environmental impacts. The design changes relate to detailed design features regarding the location of some internal and external walls and the administrative changes to conditions have no impacts upon the development or locality.
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 Department considers the proposed modification remains substantially the same development as the originally approved development. The aspects of the consent proposed to be modified are either the wording of conditions or the detailed design of the development. The modification does not alter the nature or key aspects of the 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 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 or notified.
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 5 of this report.

3.2 Consent authority

The Minister for Planning and Public Spaces is the consent authority for the application under Section 4.5(a) of the EP&A Act. However, under the Minister's delegation dated 9 March 2020, the Director, Key Sites Assessments, may determine the application as:

- a political disclosure statement has not been made
- less than 10 submissions in the nature of an objection have been received.

3.3 Mandatory considerations

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

Table 2 | 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. Proposed minor increase in floor space ratio is addressed in Section 5.1.
(a)(ii) any proposed instrument	Not applicable.
(a)(iii) any development control plan	Under clause of the SRD SEPP, Development Control Plans do not apply to SSD. However, the Department has considered the relevant provisions of the Newcastle DCP and finds the modification is acceptable.
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	The Department considers the likely impacts of the development are acceptable and have been appropriately addressed (refer to Section 5 of this report).

environments, and social and economic impacts in the locality

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.
(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.

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

Clause 117(3B) of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) specifies that the notification requirements of the EP&A Regulation do not apply to 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.

The modification application was made publicly available on the Department's website. The Department received no submission from the public.

The application was referred to Council for their comments. Council provided comments on the application, a copy of which is provided in **Appendix C**.

4.2 Summary of submissions

The Department received one submission from Council with comments on three aspects of the modification. Council's comments were as follows.

- support changing the approved public through-site links to private courtyards for residents
- support changes to car parking calculations and allocation
- recommend a revised Cost of Development Report to ascertain if there is a change to the Section 7.11 developer contributions under Condition B8 of the consent.

Further details of Council's comments are included in Section 5 below.

5 Assessment

The Department has considered the potential environmental impacts resulting from the modification application and considers the key issues relevant to the proposed modifications are:

- Built form
- Floor space ratio
- Open space
- Car parking

The proposed administrative changes to conditions are considered in **Section 5.5**.

5.1 Built form

The Applicant proposed several internal changes to reconfigure lift cores and stairwells on all levels within the central and eastern buildings. These modifications will also result in consequential changes to apartments adjoining the building cores (**Figures 4 and 5**).



Figure 4 | Approved Level 1–6 Plan showing lift and stairs



Figure 5 | Proposed Level 1-6 Plan with lift core, stairs, storerooms and internal layout of apartments changed

The Applicant also sought to enlarge the living rooms of apartments on Levels 7 and Level 8 in all three buildings by moving the glass line into the approved balconies by 1.7 m and by 2.3 m respectively (**Figures 6, 7 and 8**).

The Applicant submitted that the proposed changes are part of normal detailed design development from coordinating services, reviewing apartment layouts and consulting with the builders on the construction. The Applicant said the amendments improve the buildability, functionality and operation of the buildings and will have no environmental impacts.

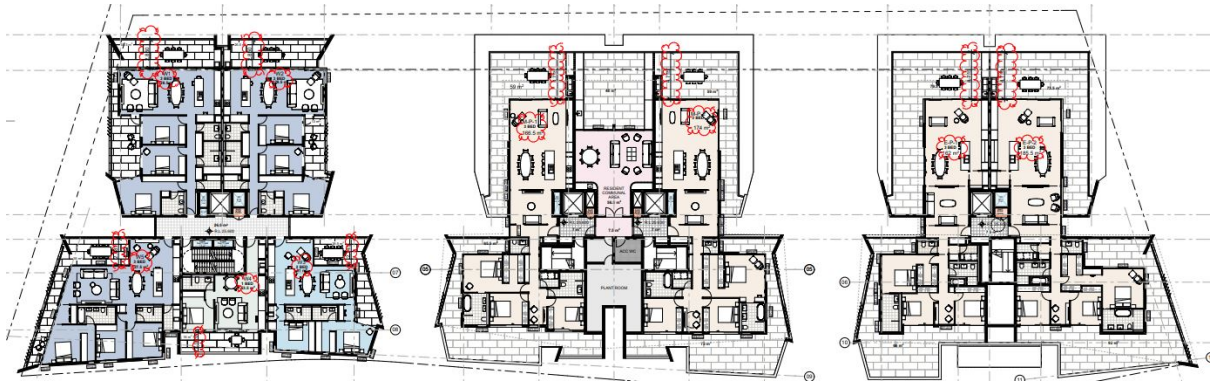


Figure 6 | Approved Level 7 Plan

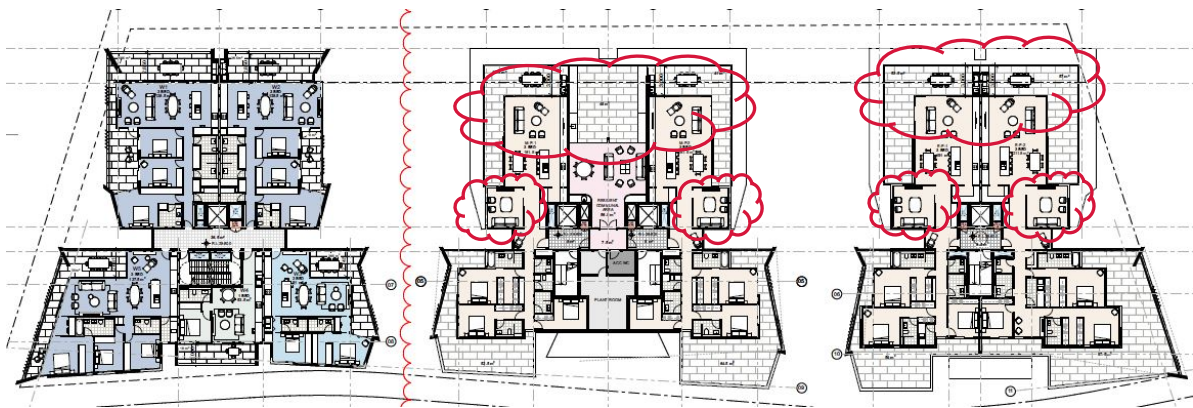


Figure 7 | Proposed Level 7 Plan showing larger apartments in the central and eastern buildings, by extending the glass line to the north and having the living rooms protrude from the facades on the east and west



Figure 8 | East Elevations – approved on the left and proposed on the right – showing extension of typical Level 7 apartments to the north

The Department is satisfied the proposed internal changes to lift cores and associated changes will not cause additional impact or affect the amenity of the approved apartments.

The Department considers the proposed enlargement of apartments on Levels 7 and 8 would not change the visual appearance of the approved development when viewed from the Waterfront Promenade or Honeysuckle Drive. The Department notes the proposed changes to the apartments on Level 7 and 8 will not be readily visible from the public domain as the upper levels will maintain a 3m to 5m setback to the north and are aligned with balconies and balustrades on the east and west

sides (**Figure 7**). The amended east and west facades have an additional projection beyond the approved walls. The Department considers these amendments to the built form provide greater articulation and modulation of the facades when compared to the approved walls and improves the overall architectural appearance of the buildings.

The Department notes the apartments on Level 7 and Level 8 are made larger by bringing their glass line forward and by extending the living room. The Department is satisfied the proposed apartment will maintain compliance with the Apartment Design Guide (ADG) in terms of apartment sizes and private open space area and dimensions as illustrated in the submitted ADG details. The Department considers the changes are generally improvements in the layout of apartments compared to the approved plans.

The Department therefore concludes the proposed changes to the approved plans are supported.

5.2 Floor space ratio

The proposed modifications will result in an increase in gross floor area of 148 m². The development consent permits a gross floor area (GFA) of 13,829.5m² which equals a floor space ratio (FSR) of 2.42:1. The development as modified will result in a GFA of 13,977.5m² and an FSR of 2.44:1. .

The Department notes the proposed increase in GFA are the result of:

- amendments to lifts and stairs
- changes to excess car spaces from 17 to 19 spaces
- increase in apartment sizes on Level 7 and Level 8.

The Department considers the proposed additional GFA is acceptable because:

- the proposed modifications do not result in readily visible additional building bulk or external impacts as discussed in Section 5.1 in this report
- the additional GFA is numerically minor and does not result in additional number of apartments or amended apartment mix
- the proposed changes relating to excess car parking is administrative in nature and is wholly contained within the basement levels.

5.3 Open space

The application seeks to change the approved publicly accessible through site links between the approved buildings to common property for the use of residents of the buildings. The two approved links are between the central building and the western building and between the central building and the eastern building (**Figure 9**). The Applicant does not propose any changes to the design of the landscaping within the spaces.

The Applicant argued the approved through site links are not natural desire lines for travelling from the Waterfront and Honeysuckle Drive when compared to pathways and open space alongside Steel Street and Cottage Creek. The Applicant also argued the design of the spaces were always intended

to be private property and the design of gates and fencing was specifically amended in response to the advice of the State Design Review Panel.

Condition A23 on the development consent requires the creation of an easement, restriction or covenant for public access within and through the approved through site links.

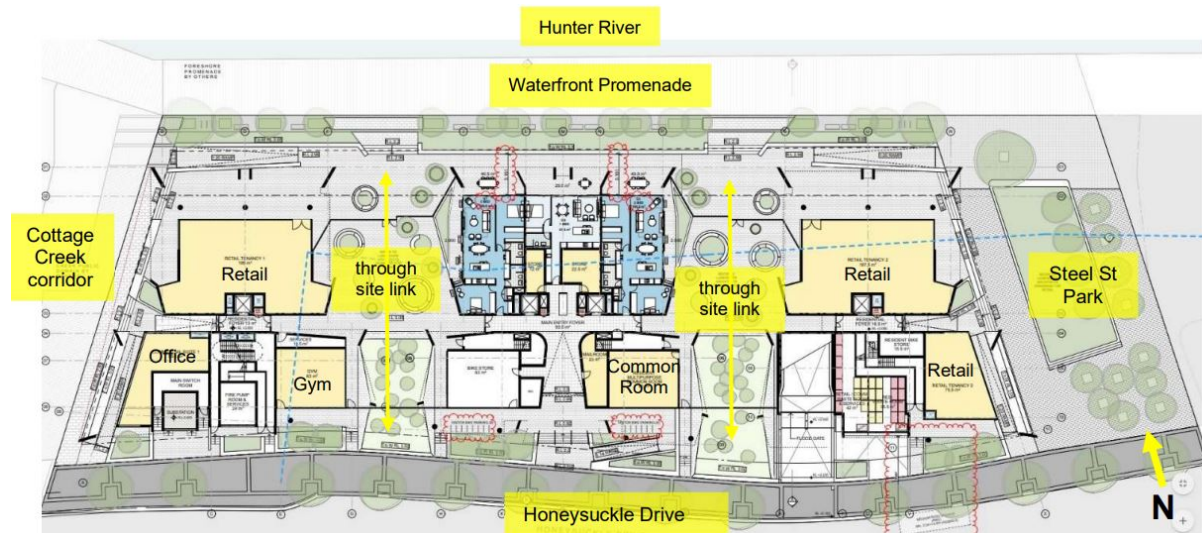


Figure 9 | Site plan with through site links marked

Council provided comments on converting the through site link to private communal open spaces. Council supports the changes as the eastern and western walkways alongside Steel Street and Cottage Creek provide sufficient connectivity for pedestrians, in accordance with the Newcastle DCP.

Council also advised that residential uses on the ground floor of the central building would be compromised if the courtyards were open to the general public and would warrant a redesign to have commercial uses at ground floor only and to address CPTED and security issues. Council submitted that, on balance, the public through-site links are not required.

The Department considers the approved through site links would improve pedestrian permeability between the waterfront promenade and Honeysuckle Drive. However, the Department does not object to the conversion of the approved thorough site links to common property for private residents only because:

- the approved through site links are not envisaged in the Newcastle DCP and are not required under planning controls
- pedestrian access along the eastern and western sides of the development along Steel Park and Cottage Creek are more generous and accessible than the through site links
- the through site links are not designed to support major thoroughfare, given their variation in width and changes in levels
- the conversion of the through site links to common properties will benefit residents and visitors by providing options for breakout space, gatherings and passive recreation.

The Department however notes that the majority of the building footprint along the through-site links is occupied by non-residential uses comprising two retail premises, a gym, bicycle storage room and a

resident's common room. These uses would benefit from casual passive surveillance by people occasionally walking through the site. The Department therefore recommends that an updated Crime Prevention Through Environmental Design (CPTED) assessment be prepared prior to the issue of the relevant construction certificate. The updated CPTED report is to specify measures to be adopted on passive surveillance and access control to address crime prevention issues associated with the additional common properties converted from the through site links. The Applicant has no objection to the proposed additional condition.

The Department therefore supports the conversion of the approved thorough site links to common property and deletion of Condition A23 subject to the additional condition on CPTED (Condition A24).

5.4 Car parking

The application proposes reallocation of two commercial spaces to residential spaces, resulting in a total of nine commercial car spaces and 151 residential car spaces. The maximum total amount of car spaces will remain unchanged at 183.

The proposed changes to car parking spaces will also require amendments to:

- Condition B2, which requires amendments to the basement car parking plans and specifies the approved car parking allocation.
- Condition B26, which limits the maximum number of approved car parking spaces and the approved allocation of parking.

The Applicant stated that the commercial car parking rate of 1 space per 50m² was incorrect in the Department's assessment of SSD 9827 and a rate of 1 space per 60m² should have been applied.

Council raised no issue in relation to the car parking changes proposed.

The Department acknowledges that the commercial car parking rate applied in the original assessment was incorrect and a reduction in approved amount of commercial spaces is justified and appropriate. The reduced amount of commercial car parking will comply with Newcastle DCP parking rates.

The Department considers the reallocation of the two commercial car parking spaces to two new residential spaces is acceptable because:

- the maximum number of car spaces remain unchanged at 183 and will not result in any notable change in traffic generation
- the modification application will increase the size of a number of approved apartments with apartments size up to a maximum of 117 m² for a 2 bedroom apartment and 212 m² for a 3 bedroom apartment when compared to a minimum apartment size of 70 m² and 90 m² respectively under the Apartment Design Guide
- a limit of a maximum of two car parking spaces will continue to apply to the development to discourage excessive private car ownership.

The Department notes Conditions B2 and B26 provide car parking rates of 1 space per 1 bedroom apartment and 1.4 spaces per 2 or 3 bedroom apartment. The proposed reallocation of two car spaces will result in inconsistencies with these specific rates. The Department therefore recommends

the conditions be amended to delete the specific rates per apartment type and instead specify the maximum number of spaces and the maximum spaces to be allocated to an apartment only. The Department considers this will provide some flexibility in allocation of car spaces based on apartment sizes.

5.5 Administrative changes

The modification seeks to rectify typographical errors in the consent, including:

- broken reference links in Condition A4 and Condition A21
- an incorrect reference in Condition B12 to compliance with Australian Standard AS2499.

Council also recommended the Applicant supply a revised Cost of Development Report with the modification application to ascertain if a revised Section 7.11 contribution amount should be calculated for the purposes of Condition B8.

The Department accepts errors arising from document management issues were administrative errors only and recommends these errors be rectified within the modified consent.

The Department also agrees a reference in Condition B12 to compliance with Australian Standard AS2499 for Adaptable Housing is not required as no adaptable housing is required under any planning instruments or policies in the Newcastle area. However, the condition otherwise requires compliance with Liveable Housing Australia's Design Guidelines.

The Department accepts Council's advice regarding Condition B8 and recommends it be amended to require an updated Cost of Development Report to be lodged with Council prior to the issue of the first construction certificate (CC). This will allow for any further modification applications to the development prior to the CC stage without the need to revise Condition B8 each time. It will allow the Council to calculate the Section 7.11 contributions at the CC phase, which is consistent with many other local government practices and leads to the same outcome as specifying the contribution amount in a consent.

6 Evaluation

The Department has assessed the modification request and supporting information in accordance with the relevant requirements of the EP&A Act.

The Department's assessment concludes that the proposed modifications are appropriate as they:

- will have no discernible change from the approved design when viewed from the public domain
- maintains good amenity for the apartments and compliance with SEPP 65 and the Apartment Design Guide
- will not result in any significant impacts beyond those already assessed and approved given the overall height and the number of apartments remain the same
- is substantially the same development as originally approved.

Consequently, the Department concludes the proposal is in the public interest and should be approved, subject to the recommended changes to existing conditions of consent as outlined in **Appendix B**.

7 Recommendation

It is recommended that the Director, Key Sites Assessments, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report
- **determines** that the application SSD 9827 MOD 1 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 B**).

Recommended by:



Russell Hand
Principal Planning Officer
Key Sites Assessments

Recommended by:



Annie Leung
Team Leader
Key Sites Assessments

8 Determination

The recommendation is **Adopted** by:



Anthony Witherdin
Director
Key Sites Assessments

as delegate of the Minister for Planning and Public Spaces

Appendices

Appendix A – List of referenced documents

Modification Request

<https://www.planningportal.nsw.gov.au/major-projects/project/39446>

Appendix B – Notice of modification

<https://www.planningportal.nsw.gov.au/major-projects/project/39446>

Appendix C – Council submission

<https://www.planningportal.nsw.gov.au/major-projects/project/39446>