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Horizon at Lee 5 (SSD 9827 Modification 3)

Section 4.55(1A) Modification Report Proposed Internal Design Amendments

Property:

Lot 4 DP 1265104
45 Honeysuckle Drive, Newcastle

Applicant:

Horizon Newcastle Pty Ltd

Date:

May 2022

Document Control Sheet

Issue No.	Amendment	Date	Prepared By	Reviewed By
A	Draft	20/05/2022	LD/ZS	ZS
B	Final	24/05/2022	LD/ZS	ZS

Limitations Statement

This report has been prepared in accordance with and for the purposes outlined in the scope of services agreed between ADW Johnson Pty Ltd and the Client. It has been prepared based on the information supplied by the Client, as well as investigation undertaken by ADW Johnson and the sub-consultants engaged by the Client for the project.

Unless otherwise specified in this report, information and advice received from external parties during the course of this project was not independently verified. However, any such information was, in our opinion, deemed to be current and relevant prior to its use. Whilst all reasonable skill, diligence and care have been taken to provide accurate information and appropriate recommendations, it is not warranted or guaranteed and no responsibility or liability for any information, opinion or commentary contained herein or for any consequences of its use will be accepted by ADW Johnson or by any person involved in the preparation of this assessment and report.

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Figure 1: Extract from the Hunter Regional Plan (Inner Newcastle).

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1.0 Introduction

1.1 PROJECT DETAILS

Horizon Newcastle Pty Ltd (the Applicant) is seeking to modify the State Significant Development (SSD) approval for the Horizon at Lee 5 Project (SSD 9827) under the provisions of Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*.

The proposed modification (Modification 3) seeks to amend Schedule 1 and Schedule 2, Condition A2, B15 and E29 of the SSD 9827 consent in order to amend the internal design of a number of apartments to respond to market demand and buyer feedback. The proposed internal design changes include the amalgamation of a number of apartments across Levels 1 to 6 resulting in an overall reduction in the total number of residential apartments from 110 to 101.

The application seeks to modify the project approval under Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The application has been prepared in accordance with the State Significant Development Guidelines – preparing a Modification Report.

REPORT PREPARED BY:	
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PROJECT DETAILS:	
Proposed Modification:	Modification under Section 4.55(1A) of the EP&A Act to SSD 9827 (as Modified). The proposed modification (Modification 3) seeks to amend Schedule 1 and Schedule 2, Condition A2, B15 and E29 of the SSD 9827 consent in order to amend the internal design of a number of apartments to respond to market demand and buyer feedback. The proposed internal design changes include the amalgamation of a number of apartments across Levels 1 to 6 resulting in an overall reduction in the total number of residential apartments from 110 to 101.
Applicant Name:	Horizon Newcastle Pty Ltd
Applicant Address:	Horizon Newcastle Pty Ltd C/- ADW Johnson Pty Ltd 7/335 Hillsborough Road, Warners Bay NSW 2282
Property Description:	Lot 4 DP 1265104 45 Honeysuckle Drive, Newcastle NSW 2300

1.2 PROJECT BACKGROUND

On the 18th June 2020 the then Department of Planning, Industry and Environment approved the State Significant Development (SSD 9827) for a proposed mixed-use development known as Horizon at Lee 5, comprising:

- *Construction of three 8 to 9 storey buildings containing 110 apartments and four retail and commercial tenancies;*
- *Residential gross floor area of 13,107m² and commercial premises GFA of 527.5m²;*
- *183 basement car parking spaces;*
- *Public domain including Steel Street Floodway works; and*
- *Waterfront promenade tie in works, Cottage Creek tie in works and Honeysuckle Drive improvements.*

On 22nd September 2020 the consent was modified with the approval of SSD 9827 Mod 1 (MOD 1) by the Department. MOD 1 provided approval for design and administrative changes, including minor internal reconfigurations and amendments, removal of publicly accessible through site links and reallocation of parking spaces to align with Newcastle Council's DCP rate for commercial development within the City Centre, permitting the following:

- *Construction of three 8 and 9 storey buildings containing 110 apartments and four retail and commercial tenancies;*
- *Residential gross floor area of 13,238m² and commercial premises GFA of 527.5m²;*
- *183 basement car parking spaces including a maximum of 151 residential car spaces (a maximum of two (2) car parking spaces are to be allocated to any one apartment), 23 residential visitor car parking spaces and 9 commercial car parking spaces including 1 service/loading space; and*
- *Public domain including Steel Street Floodway works, waterfront promenade tie in works, Cottage Creek tie in works and Honeysuckle Drive improvements.*

On the 24th August 2021 the consent was modified with the approval of SSD 9827 Mod 2 (MOD 2) by the Department. Mod 2 provided approval of amended car parking requirements, an increase to gross floor area by 241.6m², minor changes to the basement and ground floor levels and correct calculation of apartment mix, permitting the following:

- *Construction of three 8 and 9 storey buildings containing 110 apartments and four retail and commercial tenancies;*
- *Residential gross floor area of 13,238m² and commercial premises GFA of 560m²;*
- *186 basement car parking spaces; and*
- *Public domain including Steel Street Floodway works, waterfront promenade tie in works, Cottage Creek tie in works and Honeysuckle Drive improvements.*

1.3 OVERVIEW OF CURRENT PROJECT APPROVAL

The Horizon at Lee 5 project comprises a multi-storey mixed-use development within the Honeysuckle Precinct. Its key objective is to deliver a high-quality, architecturally designed development, comprising residential and commercial land uses compatible with the existing and future planned development of the precinct.

The approved project (SSD 9827) as most recently amended comprises the following major elements:

- Construction of three 8 and 9 storey buildings containing 110 apartments and 4 retail and commercial tenancies;
- Residential gross floor area of 13,238m² and commercial premises GFA of 560m²;
- 186 basement car parking spaces; and
- Public domain including Steel Street Floodway works, waterfront promenade tie in works, Cottage Creek tie in works and Honeysuckle Drive improvements.

Table 1 below provides a schedule of specific project components within the currently approved development.

Table 1: Project Component Schedule

PROJECT COMPONENT	Approved Development		
Site Area	5,599m ²		
Gross Floor Area (GFA)	Retail / Commercial: 560m ²		
	Residential: 13,238m ²		
Building Height	Building 1 (West)	9 storeys	
	Building 2 (Central)	8 storeys	
	Building 3 (East)	8 storeys	
	Basement	2 levels	
Land Use Mix	110 residential units, 3 retail premises and 1 commercial suite		
Car Parking Provision	Residential spaces: 167		
	Residential visitor spaces: 10		
	Shared use commercial / residential visitor spaces: 9		
	Total car parking provision: 186 spaces		
Dwelling Mix	1 Bed	14	13%
	2 Bed	51	46%
	3 Bed	45	41%

2.0 Strategic Context

Local Context

The subject site is located at the western end of the Honeysuckle Precinct, and has been identified as being suitable for future mixed-use development. The site is located within an emerging hub, comprising of a mix of modern multi-storey development, construction sites and vacant parcels identified for future development as open space.

The site has excellent access to public transport services, the surrounding road and pedestrian networks, the Newcastle CBD, essential services and recreational facilities. The site has been identified by Newcastle Council in the strategic planning process as being suitable for future mixed-use development and zoned B4 Mixed Use.

The proposal will allow the orderly economic use of a site located in a desirable inner-city location. The proposal will contribute to the continued development of the Honeysuckle precinct and revitalisation of the Newcastle City Centre. The site is capable of accommodating the proposed development without significant environmental impacts. The proposed development is considered ideal for the subject site.

Strategic Planning Context

The proposed internal design changes result in the project remaining entirely consistent with the relevant strategic planning documentation applying to the site, including the *Hunter Regional Plan 2036*, *Greater Newcastle Metropolitan Plan 2036*, and *Newcastle Local Strategic Planning Statement*. The overall development will result in a number of public benefits including the provision of additional housing, with excellent amenities and services.

3.0 Description of Modification

3.1 PROPOSED MODIFICATION

The proposed modification seeks to amend Schedule 1 and Schedule 2, Condition A2, B15 and E29 of the SSD 9827 consent in order to amend the internal design of a number of apartments to respond to market demand and buyer feedback. The proposed internal design changes include the amalgamation of a number of apartments across Levels 1 to 6 resulting in an overall reduction of nine (9) residential apartments from 110 to 101. A copy of the amended Architectural Plans is provided within **Appendix A**.

Importantly, the proposed changes do not alter the external façade of the building and will not be noticeable from the outside.

Proposed Apartment Mix

The proposed amalgamation of nine (9) apartments will result in a change to the approved unit mix and the introduction of a new apartment type to include a four (4) bedroom unit. The proposed unit mix includes:

- **101** apartments being:
 - **11** one-bedroom;
 - **38** two-bedroom;
 - **51** three-bedroom; and
 - **1** four-bedroom.

An amended area schedule plan confirming the unit mix has been provided within **Appendix A**.

3.1.1 Modifications to Conditions

A summary of the proposed change to Schedules 1 and 2 is provided below:

Proposed Changes to Schedule 1

Table 2: Proposed Change to Schedule 1

SCHEDULE 1	
Current Schedule	Proposed Amendment
<p>Application Number: SSD 9827 Applicant: Horizon Newcastle Pty Ltd Consent Authority: Minister for Planning and Public Spaces Site: 45 Honeysuckle Drive, Newcastle (Lot 4, DP 1238761) Development: Construction of a mixed use development known as "Horizon at Lee 5", including:</p> <ul style="list-style-type: none"> • construction of three 8 and 9 storey buildings containing 110 apartments and four retail and commercial tenancies • residential gross floor area of 13,107 13,238m² and commercial premises GFA of 527.5 560m² 	<p>Application Number: SSD 9827 Applicant: Horizon Newcastle Pty Ltd Consent Authority: Minister for Planning and Public Spaces Site: 45 Honeysuckle Drive, Newcastle (Lot 4, DP 1238761) Development: Construction of a mixed use development known as "Horizon at Lee 5", including:</p> <ul style="list-style-type: none"> • construction of three 8 and 9 storey buildings containing 110 101 apartments and four retail and commercial tenancies

<ul style="list-style-type: none"> • 183 186 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 	<ul style="list-style-type: none"> • residential gross floor area of 13,107 13,238m² and commercial premises GFA of 527.5 560m² • 183 186 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
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Proposed Changes to Schedule 2 – Part A

A2. The development may only be carried out:

- (a) in compliance with the conditions of this consent.
- (b) in accordance with all written directions of the Planning Secretary.
- (c) in accordance with the EIS and Response to Submissions.
- (d) in accordance with the approved plans in the table below.

ARCHITECTURAL DRAWINGS PREPARED BY HILL THALIS AND CKDS ARCHITECTURE			
Sheet No.	Revision	Name of Drawing	Date
DA-001	E	Cover Sheet	23/01/20
DA-002	E	Site Context and Planning Controls	23/01/20
DA-003	E	Site Situations and Local Connections	23/01/20
DA-006	E	Site Plan	23/01/20
DA-006	G	Site Plan	01/07/20
DA-006	F	Site Plan	28/03/22
DA-007	E	Site Analysis	23/01/20
DA-008	G	GFA Calculations	28/05/20
DA-008	I	GFA Calculations	16/07/20
DA-008	G	GFA Calculations	13/05/21
DA-009	G	GFA Calculations	28/05/20
DA-009	I	GFA Calculations	16/07/20
DA-101	L	Basement Level 02	23/01/20
DA-101	N	Basement Level 02	01/07/20
DA-101	R	Basement Level 02	19/07/21
DA-102	N	Basement Level 01	02/06/20
DA-102	O	Basement Level 01	01/07/20
DA-102	S	Basement Level 01	19/07/21
DA-103	L	Ground Floor	28/05/20
DA-103	N	Ground Floor	01/07/20
DA-103	O	Ground Floor	13/05/21
DA-104	L	Typical Floor Plan (L1-6)	23/01/20
DA-104	O	Typical Floor Plan (L1-6)	01/07/20
DA-105	K	Level 07	23/01/20
DA-105	N	Level 07	01/07/20
DA-106	L	Level 8 / Roof	23/01/20
DA-106	O	Level 8 / Roof	01/07/20
DA-107	A	Roof	23/01/20
DA-107	C	Roof	01/07/20
DA-110	B	Level 01	11/04/22
DA-111	B	Level 02	11/04/22
DA-112	B	Level 03	11/04/22
DA-113	B	Level 04	11/04/22

DA-114	B	Level 05	11/04/22
DA-115	B	Level 06	11/04/22
DA-201	E	Typical Unit Plans	23/01/20
DA-202	E	Typical Unit Plans	23/01/20
DA-202	G	Typical Unit Plans	01/07/20
DA-203	E	Typical Unit Plans	23/01/20
DA-203	G	Typical Unit Plans	01/07/20
DA-204	E	Typical Unit Plans	23/01/20
DA-204	G	Typical Unit Plans	01/07/20
DA-205	B	Typical Unit Plans	11/04/22
DA-301	H	Proposed Elevations	23/01/20
DA-301	I	Proposed Elevations	01/07/20
DA-302	H	Proposed Elevations	23/01/20
DA-302	I	Proposed Elevations	01/07/20
DA-303	H	Proposed Elevations	23/01/20
DA-303	I	Proposed Elevations	01/07/20
DA-304	H	Proposed Elevations	23/01/20
DA-304	I	Proposed Elevations	01/07/20
DA-401	H	Sections A & B	23/01/20
DA-401	I	Sections A & B	01/07/20
DA-402	F	Section C	23/01/20
DA-402	G	Section C	01/07/20
DA-501	F	Elevation Studies	23/01/20
DA-502	F	Elevation Studies	23/01/20
DA-503	F	Elevation Studies	23/01/20
DA-504	F	Elevation Studies	23/01/20
DA-505	E	Elevation Studies	23/01/20
DA-506	E	External Materials and Colours	23/01/20
DA-507	A	Signage Details	23/01/20
DA-508	A	Signage Details	23/01/20
DA-700	F	Area Schedule	23/01/20
DA-700	G	Area Schedule	01/07/20
DA-700	G	Area Schedule	19/02/21
DA-700	H	Area Schedule	28/03/22
DA-704	F	Solar Analysis	28/03/22
DA-705	F	Solar Analysis	28/03/22
DA-706	F	Cross Ventilation Analysis	28/03/22
DA-707	F	Cross Ventilation Analysis	28/03/22

Proposed Changes to Schedule 2 – Part B

B15. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate No. 1012649M_02 and an updated certificate issued if amendments are made. The BASIX certificate must be submitted to the Certifying Authority with all commitments clearly shown on the Construction Certificate plans.

Proposed Changes to Schedule 2 – Part E

E29. Prior to the issue of any Occupation Certificate, the Applicant shall implement the commitments outlined in BASIX Certificate No. 1012649M_02

4.0 Statutory Context

4.1 APPROVAL PATHWAY AND PERMISSIBILITY

The proposed modification to the Horizon at Lee 5 consent is proposed in accordance with Section 4.55(1A) of the EP&A Act.

In accordance with Section 4.55(1A), a consent authority may modify the consent if it is satisfied that the development to which the consent as modified relates involves minimal environmental impact and is substantially the same development as the development for which consent was originally granted. The applicant has formed the position that the proposed modification is consistent with the criteria under Section 4.55(1A) as demonstrated throughout the relevant sections of this Modification Report.

The Department's Response to the Scoping Report issued on the 7th April 2022 has confirmed that the appropriate approval pathway for the modification application would be under section 4.55(1A) of the EP&A Act.

4.2 RELEVANT ISSUES UNDER SECTION 4.55 OF THE EP&A ACT 1979

Under Section 4.55(1A) of the EP&A Act, the consent authority needs to be satisfied that the modified development is of minor environmental impact and is substantially the same as the development approved under SSD 9827 as follows:

“(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: There are no additional impacts resulting from the proposed amendment over and above those anticipated and assessed with the development as originally approved or subsequent modifications. The proposed modification will result in internal design amendments, which have been proposed as a result of the overall detailed design review phase and in response to market demand and buyer feedback.

(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 proposed modification does not change the approved development that will be carried out on the land and will therefore result in substantially the same development as approved under SSD 9827.

The proposed modification does not seek to alter the nature or scale/bulk of the proposed development. The number of units will reduce from 110 to 101, however this will not alter the external façade and will not be noticeable from outside the affected units.

The proposed modification of SSD 9827 will have minimal environmental impacts and will remain substantially the same development for which consent was originally granted.

(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

(d) 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.

Subsections (1), (2) and (5) do not apply to such a modification."

Comment: Section 105(4) of the *Environmental Planning and Assessment Regulation 2021* (EP&A Regulation) states that the notification requirements of the EP&A Regulation do not apply to Section 4.55(1A) modification applications in respect to State Significant Development. As such, the application is not required to be notified or advertised.

It is anticipated, however, that the application will be made publicly available on the DPIE Major Projects website, and will be referred to City of Newcastle for comment, consistent with the previous Mod 2 approval.

4.3 RELEVANT ISSUES UNDER THE EP&A REGULATION 2021

Part 5, Division 1 of the *Environmental Planning and Assessment Regulation 2021* sets out additional requirements that all applications for modifications of consent must comply with. The relevant requirements and how they have been addressed are set out in **Table 3** below:

Table 3: Division 1, Section 99 and 100 Requirements

SECTION 99 REQUIREMENTS	COMMENT
(1) A modification application must—	
(a) be in the approved form, and	The application has been prepared in the approved form in accordance with the State Significant Development Guidelines – preparing a modification report.
(b) contain all the information and documents required by—	
(i) the approved form, and	The application has been prepared in the approved form
(ii) the Act or this Regulation, and	The application contains all the relevant information and documents required by the Act and Regulation
(c) be submitted on the NSW planning portal	The Modification Application will be submitted via the NSW Planning Portal
(2) If the modification application is for State significant development—	
(a) the application must also include particulars of the nature of the modification, and	Provided within Section 3.0 of this Section 4.55(1A) Report.

<p>(b) the applicant must consider the State Significant Development Guidelines in preparing the application.</p>	<p>The applicant has considered the State Significant Development Guidelines in preparing this application as demonstrated throughout the report.</p>
SECTION 100 REQUIREMENTS	COMMENT
<p>(1) A modification application must contain the following information—</p>	
<p>(a) the name and address of the applicant,</p>	<p>Provided within Section 1.0 of this Section 4.55(1A) Report and as part of the application on the NSW Planning Portal.</p>
<p>(b) a description of the development that will be carried out under the development consent,</p>	<p>Discussed within Sections 1.0 and 2.0 of this Section 4.55(1A) Report.</p>
<p>(c) the address and folio identifier of the land on which the development will be carried out,</p>	<p>Provided within Section 1.0 of this Section 4.55(1A) Report and as part of the application on the NSW Planning Portal.</p>
<p>(d) a description of the modification to the development consent, including the name, number and date of plans that have changed, to enable the consent authority to compare the development with the development originally approved,</p>	<p>Discussed within Sections 3.0 and 4.0 of this Section 4.55(1A) Report.</p>
<p>(e) whether the modification is intended to— (i) merely correct a minor error, misdescription or miscalculation, or (ii) have another effect specified in the modification application,</p>	<p>Discussed within Section 4.0 of this Section 4.55(1A) Report.</p>
<p>(f) a description of the expected impacts of the modification,</p>	<p>Discussed within Section 6.0 of this Section 4.55(1A) Report.</p>
<p>(g) an undertaking that the modified development will remain substantially the same as the development originally approved,</p>	<p>Discussed within Sections 4.0 and 7.0 of this Section 4.55(1A) Report.</p>
<p>(h) for a modification application that is accompanied by a biodiversity development assessment report—the biodiversity credits information,</p>	<p>N/A</p>
<p>(i) if the applicant is not the owner of the land—a statement that the owner consents to the making of the modification application,</p>	<p>N/A. The applicant is the owner of the land.</p>
<p>(j) whether the modification application is being made to— (i) the Court under the Act, section 4.55, or (ii) the consent authority under the Act, section 4.56.</p>	<p>N/A</p>

4.4 RELEVANT ISSUES UNDER SECTION 4.15 OF THE EP&A ACT 1979

Under Section 4.15 of the *EP&A Act 1979*, the following matters are required to be considered as part of the assessment of the application:

(a)(i) The Provisions of any Environmental Planning Instrument

Consideration has been given to the provisions of all relevant environmental planning instruments (EPIs). The EP&A Act 1979 is addressed in earlier sections of this report. Other EPIs applicable to the proposed amendments are discussed below:

SEPP 65 – Design Quality of Residential Apartment Development

The broad objective of SEPP 65 is to improve the design quality of residential apartment development across NSW.

As per Section 4, the policy applies to this Development Application as the development is for the purpose of mixed-use development with a residential component, involves the erection of a new building that exceeds three storeys and proposes more than four dwellings.

Section 29(1) of the SEPP requires the consent authority to refer an application for the modification of development consent (other than in relation to State significant development) to the relevant design review panel (DRP) for advice as to whether the modifications diminish or detract from the design quality, or compromise the design intent, of the development for which the consent was granted. As the proposed modifications are to a State significant development, referral to the relevant DRP is not required in this instance.

Regardless, the design of the development approved under SSD 9827 has been prepared in consultation with a constituted DRP, with various revisions and refinement undertaken to address the advice provided. Further, the design has also been prepared having regard to the ADG. The final design was to the satisfaction of the SEPP 65 DRP.

The proposed modifications comprise internal design changes only, and will not diminish or detract from the design quality, or compromise the design intent, of the development for which the consent was granted.

The proposed modifications are consistent with the relevant provisions of SEPP 65.

SEPP (Building Sustainability Index: BASIX) 2004

The aim of the BASIX SEPP is to encourage sustainable residential development across the State, through the reduction of water and energy consumption in dwellings.

An amended BASIX Certificate has been prepared by Evergreen Energy Consultants Pty Ltd to encompass the proposed modifications. The report details the BASIX commitments required to satisfy the relevant targets for water, energy and thermal comfort. A copy of the Certificate is contained in **Appendix B** of this report.

Newcastle Local Environmental Plan 2012

The subject site is zoned B4 Mixed Use Zone under the *Newcastle Local Environmental Plan 2012*.

The objectives of the B4 Mixed Use Zone are as follows:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To support nearby or adjacent commercial centres without adversely impacting on the viability of those centres.*

The proposed modification does not result in any changes to the approved use and remains entirely consistent with the objectives of the B4 zone.

Other Environmental Planning Instruments

Several environmental planning instruments apply to the site including:

- *State Environmental Planning Policy (Planning Systems) 2021*, Chapter 2 State and Regional Development;
- *State Environmental Planning Policy (Resilience and Hazards) 2021*, Chapter 2 Coastal Management and Chapter 4 Remediation of Land; and
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*, Chapter 2 Infrastructure.

The proposed modifications comprise internal design changes only and remain consistent with the relevant aims, objectives and provisions of these instruments.

(a)(ii) The Provisions of any Draft Environmental Planning Instruments

There are no draft environmental planning instruments relevant to the application.

(a)(iii) Any Development Control Plans

The proposed development is State Significant Development, and therefore the Newcastle Development Control Plan (DCP) 2012 does not apply, the SEARs (Ref: SSD 9827) request consideration of the DCP in the context of built form and urban design.

The proposed modifications comprise internal design changes only and have no impact on built form or urban design.

(a)(iiia) Any Planning Agreement that has been entered into Under Section 7.4, or any Draft Planning Agreement that a Developer has Offered to enter into Under Section 7.4, and

Not applicable.

(a)(iv) Any Matters Prescribed by the Regulations

Division 1 of the EP&A Regulation 2021 is addressed in the earlier sections of this report. There are no other matters prescribed by the regulations relevant to the application.

(b) The Likely Impacts of The Development, Including Environmental Impacts on both the Natural and Built Environments, and Social and Economic Impacts in the Locality,

An environmental assessment of the proposal is provided within **Section 6** of this modification report that addresses all potential impacts of the proposal.

(c) The Suitability of the Site for the Development

The subject site remains entirely suitable for the proposed development.

(d) Any Submissions made in Accordance with the Act or Regulations

Any public submissions will be considered by the NSW DPIE and the applicant.

(e) The Public Interest

The proposal is considered to be in the public interest.

4.5 OTHER LEGISLATIVE MATTERS

Several acts apply to the site including:

- *Coal Mine Subsidence Compensation Act 2017;*
- *Heritage Act 1977;*
- *National Parks and Wildlife Act 1974;*
- *Water Management Act 2000;*
- *Roads Act 1993; and*
- *Biodiversity Conservation Act 2016.*

The proposed modifications comprise internal design changes only and remain consistent with the relevant aims and objectives of these acts and not require any additional approvals over and above those already required in accordance with the current consent.

4.6 STRATEGIC CONTEXT

4.6.1 Hunter Regional Plan 2036

The NSW Government has developed the *Hunter Regional Plan 2036* as an overarching framework to guide land use planning priorities and infrastructure funding decisions in the Hunter region over the next 20 years.

The Plan sets priorities and provides a direction for regional planning decisions. It focuses on new housing and jobs, and targets growth in strategic centres and renewal corridors close to transport to deliver social and economic benefits. It sets in place line-of-sight land use planning for the region, regional districts like the Greater Newcastle metropolitan area and each council area.

The vision of the *Hunter Regional Plan 2036* is for the Hunter to be the leading regional economy in Australia with a vibrant new metropolitan city at its heart. To achieve this vision, the NSW Government has acknowledged the growing importance of Greater Newcastle and set the following regionally focused goals:

- The leading regional economy in Australia;
- A biodiversity-rich natural environment;
- Thriving communities; and
- Greater housing choice and jobs.

The subject site is identified in the plan as being located within an urban renewal corridor extending from Wickham to Newcastle East (refer **Figure 1** below).

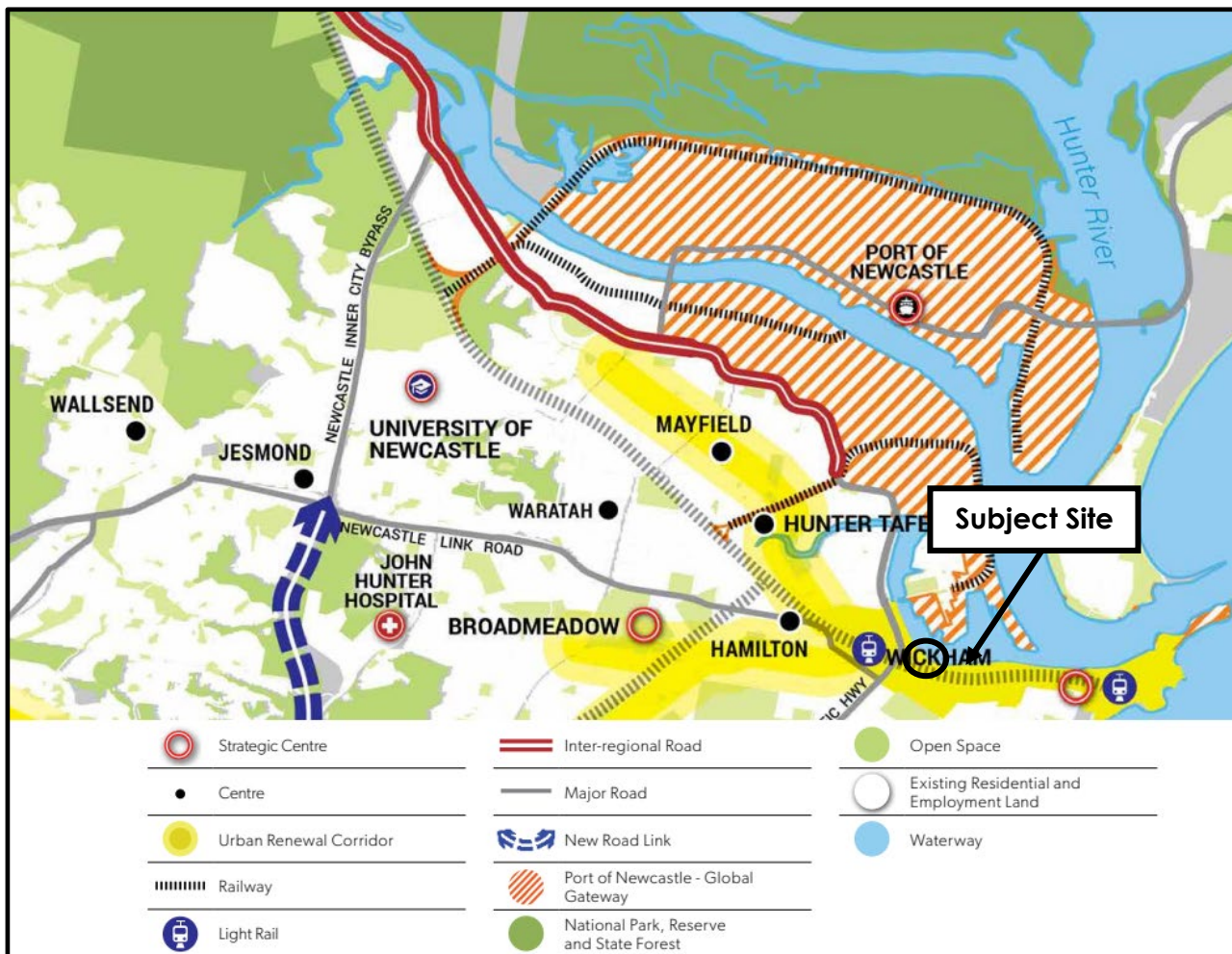


Figure 1: Extract from the Hunter Regional Plan (Inner Newcastle).

Of relevance to this site and proposal, the plan details the following visions and directions:

- Growing Greater Newcastle as Australia's next metropolitan city;
- Revitalising Newcastle City Centre;
- Creating healthy built environments through good design;
- Creating a compact settlement;
- Promotion of housing diversity; and
- Growing centres and renewal corridors.

The proposed development will assist in achieving the abovementioned visions through contributing towards the revitalisation and growth of the Newcastle City Centre, establishing additional compact housing close to facilities and public transport.

Greater housing choice is sought by the plan through encouraging the delivery of diverse housing options. The proposed modification provides greater housing diversity in line with market demand, including the provision of a 4-bedroom unit, in addition to the 1, 2, and 3-bedroom units originally provided.

The proposed development is considered consistent with the objectives of the *Hunter Regional Plan 2036*.

4.6.2 Greater Newcastle Metropolitan Plan 2036

The *Greater Newcastle Metropolitan Plan 2036* (GNMP) sets out strategies and actions that will drive sustainable growth across Cessnock City, Lake Macquarie City, Maitland City, Newcastle City and Port Stephens communities, which together make up Greater Newcastle.

The Plan places a strong emphasis on the Newcastle City Centre as the heart of Greater Newcastle. It reinforces the need for continued revitalisation of the City Centre and expansive transformation along the waterside, through the development of sites for public open space, new retail and residential opportunities and connecting the city to the waterfront.

The GNMP also recognises the need to deliver additional housing in the region, with a priority on the delivery of infill housing opportunities within existing urban areas, close to jobs and services. The Plan envisages Newcastle City Centre as playing an important role in accommodating future housing and employment growth.

The subject site is identified within an Urban Renewal Corridor, and within the Newcastle City Centre Catalyst Area. Within the catalyst area, the site is in the West End Precinct (refer **Figure 2** below). The proposed development will contribute to the revitalisation of the West End Precinct, and the broader urban renewal corridor, providing housing in a well-serviced and established location.



Figure 2: Extract from the Greater Newcastle Metropolitan Plan 2036.

The approved development is consistent with the relevant strategies and actions detailed in the GNMP and the proposed modification will further enhance the overall development.

4.6.3 Planning Newcastle 2040 – Local Strategic Planning Statement

The *Local Strategic Planning Statement* (LSPS) has been adopted by CoN as a means of providing direction to future development patterns throughout the City of Newcastle. The comprehensive land use strategy aims to guide the future growth and development of Newcastle.

The Strategy implements the land use directions from the *Newcastle 2030 – Community Strategic Plan* and underpins the NLEP 2012, providing a land use planning platform to move towards a smarter, more liveable and sustainable Newcastle.

The Planning Priorities relevant to the proposed development are outlined below.

Planning Priority 8 – Plan for growth and change in Catalyst Areas, Strategic Centres, Urban Renewal Corridors and Housing Release Areas

Planning Priority 8 seeks to Plan for growth and change in Catalyst Areas, Strategic Centres, Urban Renewal Corridors and Housing Release Areas. The proposed development is consistent with the intent of this planning priority as it will provide a mix of commercial and residential uses in the Newcastle City Centre. The proposal ensures greater choice in housing and jobs, with good access to the existing active and public transport networks.

Planning Priority 10 – Development responds to the desired local character of our communities

Planning Priority 10 aims to protect communities from new development that is not compatible with the desired local character of the area.

The proposed development complies with the various planning controls relevant for the site.

Planning Priority 12 – Sustainable, affordable and inclusive housing

Planning Priority 12 outlines that access to secure, appropriate and affordable housing is not only a basic requirement for all people, it is an essential component of an inclusive, dynamic and sustainable city.

The proposed development aligns with Planning Priority 12 as it provides a range of apartment types, from one (1) bedroom units to three (4) bedroom penthouse style apartments that have good access to active and public transport networks.

The proposed development is consistent with the aims and relevant planning priorities within the LSPS.

4.6.4 Newcastle 2030 – Community Strategic Plan 2018-2028

The *Newcastle 2030 – Community Strategic Plan 2018-2028* is based on the aspirations, knowledge and values of our community. The Community Strategic Plan (CSP) is a shared community vision to inform actions over the next 10 years. This plan is reviewed every four years to ensure it still meets our community's needs.

The vision set out for Newcastle in the plan is a smart, liveable and sustainable global city. Based on the community's values, the plan seeks to create the following:

- Integrated transport network;
- A protected environment;
- Vibrant, safe and active public places;
- An inclusive community;
- A liveable built environment;
- A smart and innovative city; and
- A city with open and collaborative leadership.

The approved Horizon at Lee 5 development represents the orderly and efficient use of a currently underutilised parcel of land. The development provides additional high-quality housing, commercial spaces and public spaces to meet the growing demands of the community.

The development, inclusive of the proposed internal design changes, is consistent with the vision and desired character of the Newcastle Area.

4.6.5 Newcastle Local Housing Strategy

The Newcastle Local Housing Strategy 2020 sets a framework for the provision of housing across the Newcastle Local Government Area over the next 20 years.

Based on the projected population growth, future household composition, and the number of dwelling vacancies, it is estimated that there will be a demand for 19,450 new dwellings in the Newcastle LGA by 2041.

Priority 2 of the strategy seeks to ensure the provision of a mix of dwelling types across the LGA to provide for a range of housing needs that support a diverse community. The proposed modifications provide an amended internal layout in response to market demand and buyer feedback. The modifications will introduce a 4-bedroom unit type, which increases dwelling diversity within the development. As such, the proposed development is considered to align with Priority 2 of the Newcastle Housing Strategy.

The proposal is consistent with the Newcastle Local Housing Strategy and will contribute to the delivery of diverse housing opportunities within a suitable location.

5.0 Engagement

5.1 NSW DEPARTMENT OF PLANNING, INDUSTRY AND ENVIRONMENT

The applicant has consulted with staff from the NSW Department of Planning and Environment (DPE) regarding the proposed modification application.

An initial Scoping Report was submitted to the NSW DPE on the 6th April 2022 in accordance with the State Significant Development Guidelines to introduce the proposed modification to seek confirmation on the proposed approval pathway and level of assessment.

A response to the Scoping Report from DPIE was received on 7th April 2022 confirming that the appropriate approval pathway for the modification application would be under section 4.55(1A) of the EP&A Act. DPIE was generally satisfied with the issues identified to be addressed in the Modification Report and also requested additional requirements be included.

The DPE requirements and where they have been addressed within this Modification Report are detailed in **Table 4** below.

Table 4: DPIE Scoping Report Response

REQUIREMENT	ADDRESSED
Entry to Apartments: The draft plans appear to have removed common walls of apartments, but has still left dual entrances to the apartments. The department requests clarification as to whether the final design would retain the dual entrances.	Section 6.1 and Appendix A.
BASIX: The modification should be accompanied by a revised BASIX document to reflect the change in the design.	Section 6.2 and Appendix B.

5.2 COMMUNITY ENGAGEMENT

Section 105(4) of the *Environmental Planning and Assessment Regulation 2021* (EP&A Regulation) states that the notification requirements of the EP&A Regulation do not apply to Section 4.55(1A) modification applications in respect to State Significant Development. As such, the application is not required to be notified or advertised.

It is anticipated, however, that the application will be made publicly available on the DPE Major Projects website, and will be referred to City of Newcastle for comment, consistent with the previous Mod 2 approval.

6.0 Assessment of Impacts

This section provides an assessment of the key environmental issues associated with the proposed modification.

Given the significant amount of work undertaken across the site to date by the applicant as part of the original approval and subsequent modification approvals, there is an excellent understanding of the site and surrounding environment.

6.1 DESIGN QUALITY

The proposed modifications will have a negligible impact on the design quality of the Horizon at Lee 5 development. The internal design changes do not alter the external façade of the building and will not be noticeable from the outside.

As part of the HCCDC competitive tender process for Lee 5, the Project design team articulated a strong concept plan for the site which resulted in Horizon Newcastle Pty Ltd becoming the successful candidate to undertake development of the site.

The proposal (inclusive of modifications 1-3) has been developed having regard to the requirements of SEPP 65 and the ADG, and has evolved through ongoing consultation with the SDRP and buyer feedback. The proposed design represents a high-quality mixed-use development, taking advantage of the sites opportunities and responding to the surrounding environment.

The project's design quality has been retained through the proposed modification, as follows:

- The proposed internal design changes can be accommodated within the existing footprint of each building;
- Private open space for each apartment remains to be provided through the provision of balconies, extending from internal living spaces;
- As shown on the Solar Analysis Plans provided within **Appendix A**, 74 (73.2%) out of the 101 apartments achieve the minimum required mid-winter sunlight as per the ADG;
- As shown on the Cross Ventilation Analysis Plans provided within **Appendix A**, 83 (82.1%) out of the 101 apartments are cross ventilated, exceeding the ADG requirement; and
- The Departments assessment and approval of SSD 9827 concluded the development demonstrates design excellence and satisfies the requirements of Clause 7.5 of Newcastle LEP 2012. It is considered that the proposed internal design changes will further contribute to the demonstrated design excellence of the project.

The DPE Scoping Report response (dated 7th April 2022) provided that additional clarification is required in regard to the amended entry to apartments. This response is provided below:

"The draft plans appear to have removed common walls of apartments, but has still left dual entrances to the apartments. The department requests clarification as to whether the final design would retain the dual entrances."

As shown on the Amended Architectural Plans in **Appendix A**, dual entrances are proposed for apartments M2/M3 and M3/M4/M5. This will provide these apartments access to both lifts. Following the Departments scoping response, the dual entrances have been removed for apartments W3/W4, E3/E4, and W3/W4.

6.2 ENERGY EFFICIENCY

An amended BASIX Certificate has been obtained for the proposed development by Evergreen Energy Consultants Pty Ltd. A copy of the Certificate is provided in **Appendix B**.

6.3 SOCIO-ECONOMIC IMPACTS

The development inclusive of the proposed modifications will have a positive socio-economic impact on the community for the following reasons:

- The proposed design changes respond positively to buyer feedback and market demand;
- The proposal will continue to deliver additional, high-quality housing stock within the Newcastle City Centre;
- The proposed apartments vary in size and configuration, providing housing diversity for future residents;
- In relation to accessibility, approximately 25% of the proposed dwellings have been designed to incorporate universal design features to meet the Liveable Housing Design Guidelines Silver Level. Thus, increasing housing options for those with mobility requirements;
- The approved development is well-located in terms of access to employment, services and public transport;
- The development will continue to generate employment during the construction phase, and ongoing employment once the commercial and retail tenancies become occupied; and
- On a broader scale, the proposal is consistent with the vision for the Honeysuckle Precinct and the revitalization of the City Centre, which is considered to have a significant positive impact on the community.

6.4 SUMMARY OF KEY MATTERS FOR CONSIDERATION

The following provides a summary of the key matters considered as part of this Section 4.55(1A) report:

Table 5: Summary of Key Factors for Consideration

ISSUE	CONSIDERATION
Internal design changes to residential apartment on Levels 1 to 6.	<ul style="list-style-type: none"> • The proposed internal design changes can be accommodated within the existing footprint of each building; • Private open space for each apartment remains to be provided through the provision of balconies, extending from internal living spaces; • As shown on the Solar Analysis Plans provided within Appendix B, 74 (73.2%) out of the 101 apartments achieve the minimum required mid-winter sunlight as per the ADG; • As shown on the Cross Ventilation Analysis Plans provided within Appendix B, 83 (82.1%) out of the 101 apartments are cross ventilated, exceeding the ADG requirement; and • The Departments assessment and approval of SSD 9827

ISSUE	CONSIDERATION
	concluded the development demonstrates design excellence and satisfies the requirements of Clause 7.5 of Newcastle LEP 2012. It is considered that the proposed internal design changes will further contribute to the demonstrated design excellence of the project.
Apartment mix	<ul style="list-style-type: none"> The proposed design changes respond positively to buyer feedback and market demand; and The proposed change will enable a new four (4) bedroom unit type to be provided. This contributes to the apartment mix in accordance with the ADG.
Social & economic	<ul style="list-style-type: none"> The proposed design changes respond positively to buyer feedback and market demand; The proposal will continue to deliver additional, high-quality housing stock within the Newcastle City Centre; The proposed apartments vary in size and configuration, providing housing diversity for future residents; In relation to accessibility, approximately 25% of the proposed dwellings have been designed to incorporate universal design features to meet the Liveable Housing Design Guidelines Silver Level. Thus, increasing housing options for those with mobility requirements; The approved development is well-located in terms of access to employment, services and public transport; The development will continue to generate employment during the construction phase, and ongoing employment once the commercial and retail tenancies become occupied; and On a broader scale, the proposal is consistent with the vision for the Honeysuckle Precinct and the revitalization of the City Centre, which is considered to have a significant positive impact on the community.
Traffic	<ul style="list-style-type: none"> No change as a result of the proposed modification.
Access	<ul style="list-style-type: none"> No change as a result of the proposed modification.
Heritage	<ul style="list-style-type: none"> No change as a result of the proposed modification.
Amenity	<ul style="list-style-type: none"> No change as a result of the proposed modification.
Biodiversity	<ul style="list-style-type: none"> No change as a result of the proposed modification.
Air Quality	<ul style="list-style-type: none"> No change as a result of the proposed modification.
Noise	<ul style="list-style-type: none"> No change as a result of the proposed modification.
Visual	<ul style="list-style-type: none"> No change as a result of the proposed modification.

7.0 Justification of Modified Project

7.1 PROJECT JUSTIFICATION

The proposed design amendments are a result of the overall detailed design review phase and in response to market demand and buyer feedback. The justification for the proposed modification includes:

- The proposed internal design changes can be accommodated within the existing footprint of each building and will not result in any design changes to the façade of the buildings;
- The proposed unit amalgamation will not result in a change to the currently approved GFA;
- The proposed internal changes are considered to be appropriate design changes to adequately respond to buyer requirements and market demand;
- The proposed change will enable a new four (4) bedroom unit type to be provided. This contributes to the apartment mix in accordance with the ADG. The mix will continue to provide flexibility in arrangement and occupation of the apartments;
- Dual entrances are proposed for apartments M2/M3 and M3/M4/M5. This will provide these apartments access to both lifts. Single entrance's will be provided for apartments W3/W4, E3/E4, and W3/W4;
- As shown on the Solar Analysis Plans provided within **Appendix B**, 74 (73.2%) out of the 101 apartments achieve the minimum required mid-winter sunlight as per the ADG;
- The design changes will see three (3) x 1 bedroom south facing apartments amalgamated with east facing apartments, which will reduce the overall number of south facing units;
- As shown on the Cross Ventilation Analysis Plans provided within **Appendix B**, 83 (82.1%) out of the 101 apartments are cross ventilated, exceeding the ADG requirement;
- Private open space for each apartment is provided through the provision of balconies extending from internal living spaces. The primary balconies for each of the amalgamated apartments will exceed the ADG requirements for 3 and 4 bedroom apartments;
- The Department's assessment and approval of SSD 9827 concluded the development demonstrates design excellence and is consistent with the requirements of Clause 7.5 of Newcastle LEP 2012. It is considered that the proposed internal design changes will further contribute to the demonstrated design excellence of the project;
- There are no additional impacts resulting from the proposed internal design changes over and above those anticipated and assessed with the development as originally approved and subsequent modifications;
- The proposed modification does not change the approved development that will be carried out on the land and will therefore result in substantially the same development as approved under SSD 9827; and
- The proposed modification does not seek to significantly alter the nature or scale of the proposed development.

8.0 Conclusion

This modification application is made under Section 4.55(1A) of the EP&A Act and seeks to modify the Horizon at Lee 5 Project originally approved under SSD 9827 (modification 3).

The proposed modification seeks to amend Schedule 1 and Schedule 2, Condition A2, B15 and E29 of the SSD 9827 consent in order to amend the internal design of a number of apartments to respond to market demand and buyer feedback. The proposed internal design changes include the amalgamation of a number of apartments across Levels 1 to 6 resulting in an overall reduction of nine (9) residential apartments from 110 to 101.

Specifically, the proposal seeks the following:

Schedule 1	
Current Schedule	Proposed Amendment
<p>Application Number: SSD 9827 Applicant: Horizon Newcastle Pty Ltd Consent Authority: Minister for Planning and Public Spaces Site: 45 Honeysuckle Drive, Newcastle (Lot 4, DP 1238761) Development: Construction of a mixed use development known as "Horizon at Lee 5", including:</p> <ul style="list-style-type: none"> • construction of three 8 and 9 storey buildings containing 110 apartments and four retail and commercial tenancies • residential gross floor area of 13,107 13,238m² and commercial premises GFA of 527.5 560m² • 183 186 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 	<p>Application Number: SSD 9827 Applicant: Horizon Newcastle Pty Ltd Consent Authority: Minister for Planning and Public Spaces Site: 45 Honeysuckle Drive, Newcastle (Lot 4, DP 1238761) Development: Construction of a mixed use development known as "Horizon at Lee 5", including:</p> <ul style="list-style-type: none"> • construction of three 8 and 9 storey buildings containing 110 101 apartments and four retail and commercial tenancies • residential gross floor area of 13,107 13,238m² and commercial premises GFA of 527.5 560m² • 183 186 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
Schedule 2	
Condition A2 Terms of Consent	
Modify Condition A2 to include a reference to the amended plans and documentation submitted as part of the modification application (refer Section 3.1 for full details).	
Modify Condition B15 to include a reference to the amended BASIX Certificate No 1012649M_02 submitted as part of the modification application (refer Section 3.1 for full details).	
Modify Condition E29 to include a reference to the amended BASIX Certificate No 1012649M_02 submitted as part of the modification application (refer Section 3.1 for full details).	

The proposed modification of SSD 9827 will have negligible environmental impacts and will remain substantially the same development for which consent was originally granted. As such it is considered the modification can be approved pursuant to Section 4.55(1A) of the EP&A Act.



Appendix A

AMENDED ARCHITECTURAL PLANS (CKDS ARCHITECTURE)

Appendix B

AMENDED BASIX CERTIFICATE (EVERGREEN ENERGY CONSULTANTS PTY LTD)

Appendix C

STATUTORY COMPLIANCE TABLE