



**STATE SIGNIFICANT DEVELOPMENT
ASSESSMENT REPORT:**

***Mixed Use Commercial, Retail and
Residential Development at 50 Honeysuckle
Drive, Newcastle***

SSD 8019



Environmental Assessment Report
Section 89H of the
Environmental Planning and Assessment Act 1979

February 2018

ABBREVIATIONS

ADG	Apartment Design Guide
AHD	Australian Height Datum
Applicant	21 HD - Doma Holdings (NSW) Pty Ltd, or anyone else entitled to act on this consent
AS	Australian Standard
CIV	Capital Investment Value
Consent	Development Consent
Council	Newcastle City Council
DCP	Development Control Plan
Department	Department of Planning and Environment
DPI	Department of Primary Industries
EIS	Environmental Impact Statement
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPA	Environment Protection Authority
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
FSR	Floor space ratio
GFA	Gross floor area
HDC	Hunter Development Corporation
LEP	Local Environmental Plan
LGA	Local Government Area
Minister	Minister for Planning
NCC	National Construction Code
OEH	Office of Environment and Heritage
RMS	Roads and Maritime Services
RtS	Response to Submissions
SEARs	Secretary's Environmental Assessment Requirements
Secretary	Secretary of the Department of Planning and Environment
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development
TfNSW	Transport for New South Wales

Cover Photograph: Artist's impression of proposed development (Source: Applicant's Environmental Impact Statement (EIS))

© Crown copyright 2018
Published February 2018
NSW Department of Planning & Environment
www.planning.nsw.gov.au

Disclaimer:

While every reasonable effort has been made to ensure that this document is correct at the time of publication, the State of New South Wales, its agents and employees, disclaim any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance upon the whole or any part of this document.

EXECUTIVE SUMMARY

This report provides an assessment of a State Significant Development (SSD) application seeking approval for the construction of a mixed-use development. The site is known as 50 Honeysuckle Drive, Newcastle. The site forms part of the Honeysuckle Precinct, within the Newcastle City Council Local Government Area. The applicant is 21 HD - Doma Holdings (NSW) Pty Ltd.

The proposal seeks approval for the construction of a mixed-use, two to seven storey development comprising three buildings with 154 residential units, 226 square metres (m²) commercial/retail area and 190 car parking spaces over two levels of parking.

The proposal has a Capital Investment Value (CIV) of \$53,046,331 million and would generate 50 operational jobs and 100 construction jobs. The proposal is SSD as it is development within the Honeysuckle Site with a CIV of more than \$10 million and the Minister for Planning is the consent authority.

The Department publicly exhibited the application from 6 July 2017 until 21 August 2017. The Department received a total of 18 submissions, comprising 6 public submissions (2 objections) and 12 public authority submissions (providing comments). An additional 4 public authority submissions (providing comments) and 7 public submissions (6 objections, 1 comment) were received in response to the Applicant's Response to Submissions (RtS). The key issues raised include height, view impacts, parking, loss of privacy, activation of foreshore, noise and BASIX commitments.

The Department has considered the merits of the proposal in accordance with relevant matters under Section 79C, the objects of the *Environmental Planning and Assessment Act 1979*, the principles of Ecologically Sustainable Development and issues raised in all submissions as well as the Applicant's response to these.

The Department concludes the design of the building is of a high standard and will positively contribute to the locality and wider Honeysuckle Precinct. The height and form of the building is consistent with the planned future character of the area. The Department supports the variation to the building height and FSR development standards which enable increased height and floor space in the southern portion of the site, including rooftop communal open space. This is offset by lower scale building along the entire northern foreshore frontage, resulting in an improved urban design outcome than a development which complied with the development standards.

The Department acknowledges there will be some loss of foreshore views from neighbouring residential and commercial buildings to the south of the site. However, those views are only largely available because of the undeveloped nature of the site and surrounding area. Notwithstanding, the Department recommends the removal of one communal rooftop area which will improve view sharing for the upper floors of these buildings. On this basis the Department considers view impacts to be acceptable and reasonable in this context.

The Department's assessment has considered the amenity of the building for future occupants including access to sunlight and natural ventilation, size and functionality of private open space, provision of communal open space and is satisfied the proposal will provide a high level of amenity for future residents, subject to the Department's recommended conditions.

The proposal will form an integral part of the renewal of the Honeysuckle Precinct and the wider area. The proposal will provide significant public benefit as it will contribute to the completion of the Hunter Urban Renewal Project (HURP) and will provide new residential accommodation, public domain works and employment opportunities.

The Department concludes that the proposal is in the public interest and recommends that the application be approved subject to conditions.

TABLE OF CONTENTS

1.	BACKGROUND	1
1.1.	Introduction	1
1.1	The Honeysuckle Precinct	1
1.2.	The site and surrounds	2
1.3.	Other relevant application	2
2.	DESCRIPTION OF PROPOSAL	3
2.1	Description of proposal	3
2.2	Strategic context, project need and justification	6
3.	STATUTORY CONTEXT	7
3.1	State Significant Development	7
3.2	Consent Authority	8
3.3	Permissibility	8
3.4	Environmental Planning Instruments	8
3.5	Objects of the EP&A Act	8
3.6	Ecologically Sustainable Development	9
3.7	Secretary's Environmental Assessment Requirements	9
4.	CONSULTATION AND SUBMISSIONS	10
4.1.	Exhibition	10
4.1.1.	Public Authority submissions	10
4.1.2.	Public submissions	11
4.2.	Response to Submissions	12
5.	ASSESSMENT	13
5.1	Section 79C(1) matters for consideration	13
5.2	Key assessment issues	14
5.3	Built form and urban design	14
5.4	View Impacts	21
5.5	Residential amenity	26
5.6	Other Issues	31
6.	CONCLUSION	34
7.	RECOMMENDATION	35
APPENDIX A ENVIRONMENTAL IMPACT STATEMENT / SUBMISSIONS / RESPONSE TO SUBMISSIONS		
APPENDIX B CONSIDERATION OF EPIS / SEPPS		
APPENDIX C – EXCEPTION TO THE DEVELOPMENT STANDARD: BUILDING HEIGHT		
APPENDIX D – EXCEPTION TO THE DEVELOPMENT STANDARD: FSR		
APPENDIX E RECOMMENDED CONDITIONS OF CONSENT		

1. BACKGROUND

1.1. Introduction

This report provides an assessment of a State significant development (SSD) application for a mixed-use development at 50 Honeysuckle Drive, Newcastle (SSD 8019).

The proposal seeks approval for the construction of a mixed-use two to seven storey development comprising three buildings with 154 residential units, 226 square metres (m²) commercial/retail area, 190 car parking spaces over two levels of parking and landscaping including green roof areas.

The application has been lodged by 21 HD - Doma Holdings (NSW) Pty Ltd (the Applicant). The site is located within the Newcastle City Council local government area (LGA).

1.1 The Honeysuckle Precinct

The site forms part of the Honeysuckle Precinct, which is located within the broader Honeysuckle Urban Renewal Project (HURP) within the Newcastle City Council Local Government Area (LGA).

The HURP began more than two decades ago as a means to revitalising 50 hectares of surplus government land stretching from Newcastle CBD in the east to Wickham and Carrington in the north west. The Honeysuckle Precinct is the last remaining portion of the HURP to be developed.

The Honeysuckle Precinct is located within the Newcastle City Centre and to the west of Newcastle CBD. The Precinct is bound by the Hunter River to the north, a railway corridor to the south, Merewether Street to the east and Lee Wharf/ Hannel Street to the west (**Figure 1**).

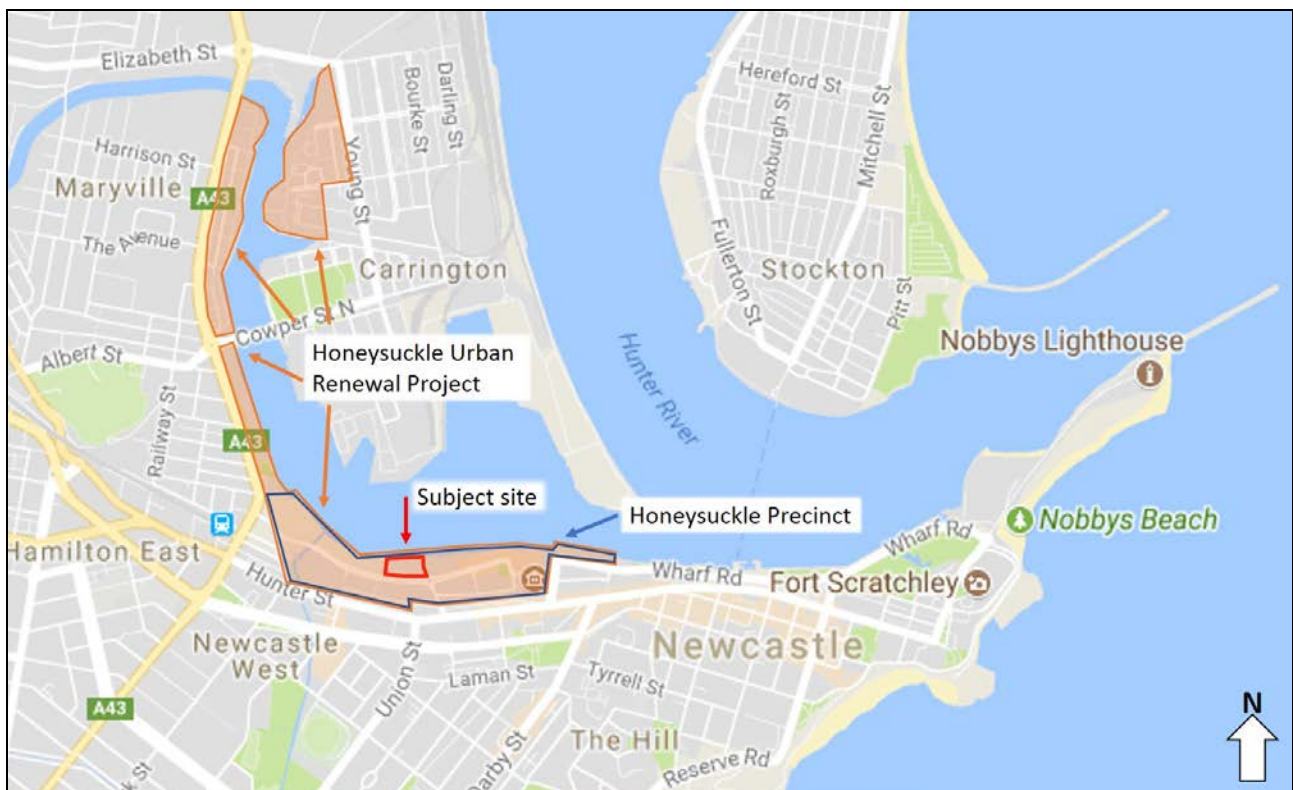


Figure 1: Site location (Source: NearMap)

1.2. The site and surrounds

The site is known as 50 Honeysuckle Drive, Newcastle and is legally defined as Lot 2000 in Deposited Plan 1145678. Lot 2000 occupies former railway land that extends from Worth Place to the east and Hannell Street to the west (outlined blue in **Figure 2**).

In December 2016 Newcastle City Council (Council) granted subdivision consent for Lot 2000. The development site is the eastern most lot created in this subdivision (Lot 2) and will become known as 21 Honeysuckle Drive once the subdivision plan is registered (outlined in red in **Figure 2**).

The development site has an area of 7,292 m² and is irregular in shape, with a northern frontage to Worth Place Park, eastern frontage to Worth Place, southern frontage to Honeysuckle Drive and western frontage to vacant land. The site contains an at-grade Hunter Development Corporation (HDC) operated car park.

The surrounding area is characterised by a mix of buildings and uses, including:

- Worth Place Park West, a landscaped public open space area with a shared pedestrian and cycleway adjoining the Hunter River foreshore, to the north. The HDC will be upgrading this landscaped public domain in the future
- a mixed use seven storey building at 19 Honeysuckle Drive including ground floor commercial tenancies to the east
- seven storey commercial buildings, including the NIB building at 22 Honeysuckle Drive, a newly constructed 9-10 storey mixed-use building at 10 Worth Place and 18 Honeysuckle Drive containing 71 apartments, commercial and retail tenancies, to the south
- former railway tracks, including shared pedestrian and cycle pathway providing direct linkage between Honeysuckle and the city centre, to the west and development site 35 Honeysuckle Drive.



Figure 2: Aerial view showing site details (Source: Nearmap)

1.3. Other relevant application

On 2 June 2017, the Department issued SEARS for a SSD application seeking consent for a nine storey mixed use development consisting of commercial premises, hotel, serviced apartments and residential apartments (SSD 8440) at 42 Honeysuckle Drive, Newcastle.

On 15 January 2018, the Department issued SEARs for a SSD application seeking consent for an eight storey mixed use development consisting of commercial premises and residential apartments (SSD 8999) at 35 Honeysuckle Drive, Newcastle.

Doma Holdings is also the applicant for these two applications.

2. DESCRIPTION OF PROPOSAL

2.1 Description of proposal

The proposal, as outlined in the Applicant's Environmental Impact statement (EIS) initially sought approval for a mixed-use development comprising three, two to seven storey buildings, two levels of parking (basement and at-grade), commercial/retail space on the ground floor, 154 residential units including 10 terraces and green roof areas.

As part of its Response to Submissions (RtS) the Applicant made amendments to the application in response to concerns raised by the Department, Newcastle City Council, government agencies and public submissions. Key amendments include the addition of rooftop communal areas to each building, increase in building height by 3.38 m to 27.28 m and additional window openings to the western elevation of Building A. The key components and features of the proposal (as refined in the RtS) are provided in **Table 1** and are shown in **Figures 3 to 6**.

Table 1: Key components of the SSD application

Aspect	Description
Demolition	Removal of existing at grade carpark
Built Form	Construction of three buildings with heights of: <ul style="list-style-type: none"> two storeys (RL 9.5 Australian Height Datum (AHD) in the northern portion of the site seven storeys (RL 29.6 AHD to the top of the lift) in the southern portion of the site
Gross Floor Area (GFA)	Total GFA of 16,863 m ² (Floor Space Ratio (FSR) of 2.31:1), comprising: <ul style="list-style-type: none"> 226 m² commercial GFA 16,637 m² residential GFA.
Residential accommodation	A total of 154 residential apartments including 10 terrace style dwellings comprising: <ul style="list-style-type: none"> 48 x 1 bedroom dwellings 60 x 2 bedroom dwellings 40 x 3 bedroom dwellings 6 x 4 bedroom dwellings
Uses	Three commercial/retail tenancies including a kiosk located on the ground floor. Uses will be subject to separate development consent.
Access	Vehicular access via two separate driveways on Honeysuckle Drive. Loading bay on Honeysuckle Drive, adjacent to eastern most vehicle access point.
Car Parking	Two levels of parking in basement and at-grade providing: <ul style="list-style-type: none"> 154 residential car parking spaces 31 visitor car parking spaces 5 commercial car parking spaces 11 motorcycle parking spaces.
Bicycle Parking	222 bicycle parking spaces (including resident storage cages).
Public Domain and Landscaping	<ul style="list-style-type: none"> Green roof treatment proposed for the terrace dwellings Through site link plantings and reinstatement works in the public domain Landscaping to communal rooftop areas.

The SSD application has a Capital Investment Value (CIV) of \$53,046,331 million and is expected to generate 100 construction jobs and 50 operational jobs once fully developed.



Figure 3: Photomontage of proposed design – northern elevation (Source: Applicant's EIS)



Figure 4: Photomontage of proposal looking northwest along Honeysuckle Drive. (Source: Applicant's EIS)

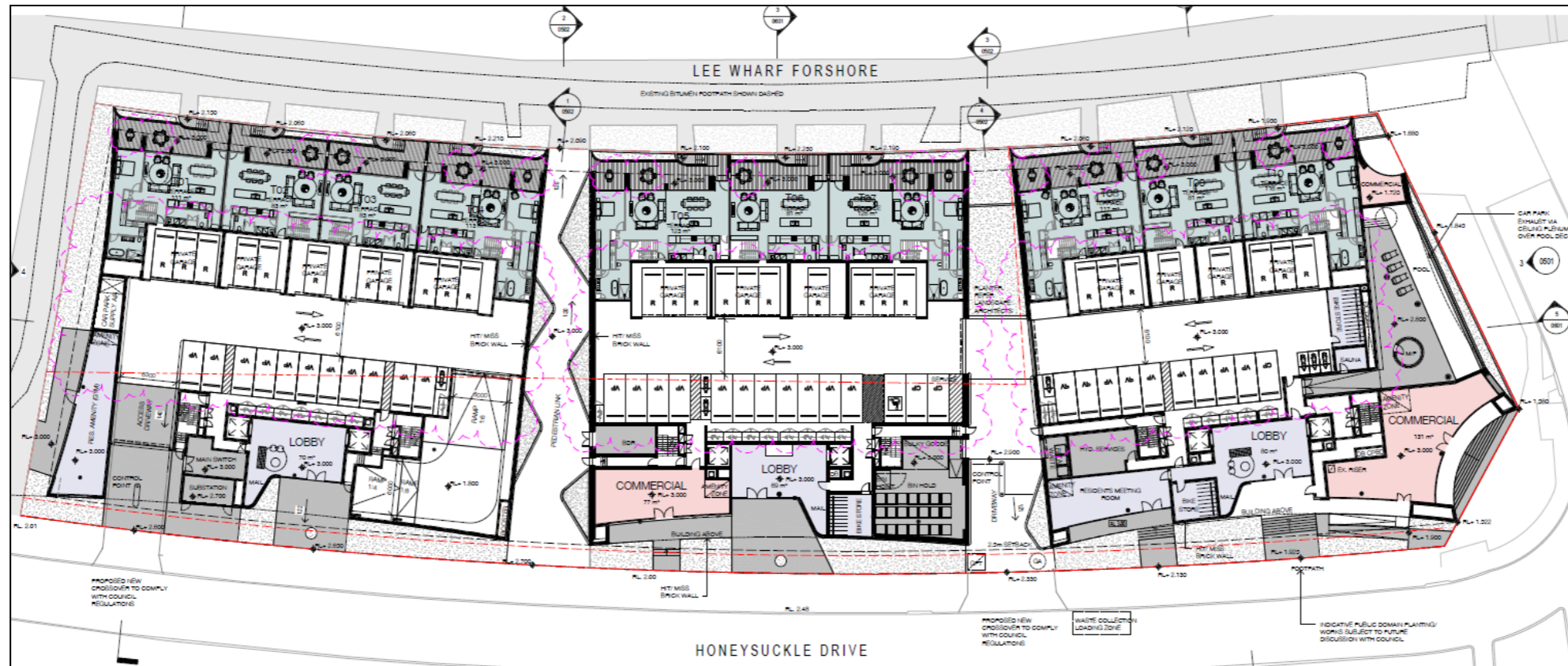


Figure 5: Ground floor plan (Source: Applicant's architectural plans)

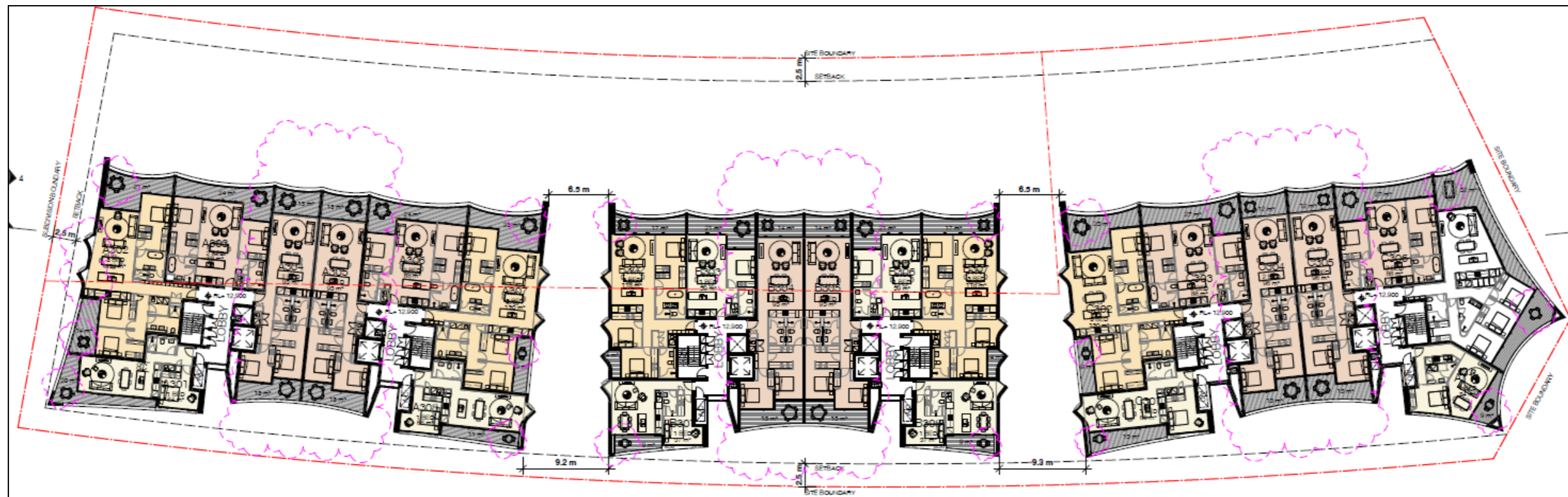


Figure 6: level 3 to 6 floor plan (Source: Applicant's architectural plans)

2.2 Strategic context, project need and justification

Premier's and State's Priorities

The Premier has set 12 Priorities to improve outcomes for the people of NSW. Of the 12 priorities, creating jobs and making housing more affordable are relevant to this application.

While the Premier's target of creating 150,000 new jobs by 2019 across New South Wales has already been met, the proposal will accommodate a further 50 operational jobs once developed.

The proposal once developed will create 154 additional dwellings, providing a mix of unit sizes and types and contributing to the Premier's target of 61,000 housing completions on average per year to 2021.

The NSW Government has also identified 18 State priorities in relation to the economy, infrastructure and housing, social welfare, services and safer communities. The proposal will contribute to building infrastructure by increasing the housing supply in Newcastle.

Hunter Regional Plan 2036

Hunter Regional Plan 2036 sets out the NSW Government's vision for the Hunter, 'to create a leading regional economy in Australia, with a vibrant metropolitan city at the heart' and sets the following regionally focussed goals:

- the leading regional economy in Australia
- a biodiversity rich natural environment
- thriving communities
- greater housing choice and jobs.

The proposed development supports these goals for the Honeysuckle Precinct and wider area by providing:

- economic benefits for local business, generated from new residents and staff and patrons of the retail premises
- additional employment opportunities through construction jobs
- increased supply of housing and greater housing choice within the area
- additional pedestrian activity, active street uses, and increased passive surveillance to contribute to the establishment of a thriving community in the Honeysuckle Precinct

Lower Hunter Regional Strategy

The Lower Hunter Regional Strategy sets out the NSW Government's vision for the Newcastle, Lake Macquarie, Port Stephens, Maitland and Cessnock LGAs until 2031. The Strategy anticipates that the population of the Lower Hunter region will increase by 160,000 by 2031 and this will result in the need for approximately 115,000 new homes and 66,000 new jobs across the region.

The Strategy aims to give people a choice of housing that is affordable, of varied typologies and appropriately located to enable them to live closer to where they work. It encourages balanced growth by stimulating housing growth in both infill and greenfield areas and aims to make the best use of transport and infrastructure. In planning for growth, the Strategy focuses urban renewal in Strategic Centres, areas close to transport hubs and corridors and advocates efficient use of land in infill areas.

The city of Newcastle is designated as the Regional City of the Lower Hunter and forms the main focus for the region. A key priority for the Regional City is to provide capacity for business, professional services, specialised shops, recreation, entertainment and housing.

The proposed development supports the strategic aims of the Strategy by including commercial and residential uses as part of an overall mixed-use development within the Newcastle Regional City. The provision of additional employment and dwellings will encourage walking, cycling and the

use of public transport and make use of existing and future infrastructure due to its close proximity to public transport and entertainment, leisure and other employment opportunities.

Draft Plan for Growing Hunter City 2015

The Draft Plan for Growing Hunter City is a companion to the Hunter Regional Plan and reflects the City's importance to the Hunter and the State. The Plan identifies four goals to guide strategic planning for land use and infrastructure across the whole of the Hunter region:

- grow Australia's next major city
- grow the largest regional economy in Australia
- protect and connect natural environments and,
- support robust regional communities.

The site is located in the area identified as the Inner Newcastle District. The direction for this district is to grow and diversify strategic centres and build on the quality of the inner city lifestyle. The proposed development supports the direction for Inner Newcastle by providing mixed use development that will make a positive contribution to the quality of inner city living, provide greater connectivity, encourage walking and cycling and provide additional housing.

Draft Greater Newcastle Metropolitan Plan 2017

The Department released the Draft Greater Newcastle Metropolitan Plan in December 2017 for public comment until 28 February 2018. The Plan delivers a collaborative framework for a significant part of the Hunter Regional Plan. The Metropolitan Plan sets out strategies and actions that will drive sustainable growth across Cessnock City, Lake Macquarie City, Maitland City, Newcastle City and Port Stephens communities.

The site is in the West End Precinct which is identified for increased commercial and tourist and visitor accommodation floorspace, and is adjacent to the Civic Precinct which is identified as an education and research hub as well as civic and cultural activities.

The proposed development supports the Plan by providing a commercial and residential development and public domain improvements that support the desired role of the West End and Civic Precincts.

Newcastle Urban Regional Strategy 2014

The Newcastle Urban Renewal Strategy 2014 sets out the vision for the renewal of Newcastle City Centre. The Strategy seeks to strengthen the role of Newcastle City Centre, ensure it is a destination for businesses, residents and visitors and to encourage suitable employment opportunities as well as a mix of uses.

The Strategy aims to secure growth in the Honeysuckle Precinct through the redevelopment of large consolidated lots, increased/improved public domain and general expansion of the City Centre.

The proposal supports the aims of the Strategy by redeveloping an existing carpark for mixed use purposes and providing public domain improvements.

3. STATUTORY CONTEXT

3.1 State Significant Development

The proposal is SSD under Section 89C of the *Environmental Planning and Assessment Act 1979* (EP&A Act) as the development has a CIV in excess of \$10 million (\$53,046,331) and is located within the Honeysuckle Precinct, which is identified as a SSD site under clause 2 of Schedule 2 of State Environmental Planning Policy (State and Regional Development) 2011. The Minister for Planning is therefore the consent authority for the proposed development.

3.2 Consent Authority

In accordance with the Minister for Planning's delegation to determine SSD applications, signed on 11 October 2017, the Executive Director, Key Sites and Industry Assessments may determine this application as:

- the relevant Council has not made an objection
- there are less than 25 public submissions in the nature of objection
- a political disclosure statement has not been made.

3.3 Permissibility

The site is zoned B4 – Mixed Use under the Newcastle Local Environmental Plan (LEP) 2012. The proposed residential and retail uses are permitted with consent in the B4 zone.

3.4 Environmental Planning Instruments

Under Section 79C of the EP&A Act, the Secretary's assessment report is required to include a copy of, or reference to, the provisions of any Environmental Planning Instrument (EPI) that substantially govern the project, and that have been taken into account in the assessment of the project. The following EPIs apply to the site:

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy No. 55 - Remediation of Land
- State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Newcastle Local Environmental Plan 2012 (NLEP 2012).

The Department has undertaken a detailed assessment of these EPIs in **Appendix B** and is satisfied the application is consistent with the requirements of the EPIs, with the exception of the variations to the height and FSR development standards in the NLEP 2012. The Department has considered the Applicants clause 4.6 variations to these standards in **Appendix C and D**.

3.5 Objects of the EP&A Act

Decisions made under the EP&A Act must have regard to the objects set out in section 5 of that Act. A response to the Objects of the EP&A Act is provided in **Table 2**.

Table 2: Response to the objects of section 5 of the EP&A Act

Objects of the EP&A Act	Department's Response
(a) <i>to encourage:</i>	
(i) <i>the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment</i>	The proposal does not significantly impact on natural and artificial resources, as it involves the construction and use of a building within an area already identified for urban redevelopment. The proposal will enhance economic and social welfare by providing 154 new homes and employment opportunities with three new commercial/ retail tenancies.
(ii) <i>the promotion and co-ordination of the orderly and economic use and development of land</i>	The proposal represents orderly and economic use of the land, is permitted with consent and the merits of the proposal are considered in Section 5 .
(iii) <i>the protection, provision and co-ordination of communication and utility services</i>	The proposal will connect to and augment (if required) communication and utility services in consultation with service providers.
(iv) <i>the provision of land for public purposes</i>	The proposal provides two through site links, with the western most link providing a publicly accessible pedestrian path through the site.
(v) <i>the provision and co-ordination of community services and facilities</i>	The proposal does not propose any community services and facilities however is near to existing

	services and facilities in the Newcastle CBD which will be available to future residents.
(vi) <i>the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats</i>	The proposal does not impact on native animals and plants given the site is a former carpark that does not contain threatened species and their habitat. The OEH have approved an exemption from the application of the Framework for Biodiversity Assessment and preparation of a Biodiversity Assessment Report (which was compulsory consideration under the NSW Biodiversity Offsets Policy for Major Projects during the transitional period of this policy).
(vii) <i>ecologically sustainable development (ESD)</i>	The proposal includes measures to deliver ESD (Section 3.6).
(viii) <i>the provision and maintenance of affordable housing</i>	The proposal does not provide affordable housing but will contribute to housing supply with a variety of housing types.
(b) <i>to promote the sharing of the responsibility for environmental planning between the different levels of government in the State</i>	The Department publicly exhibited the proposed development as outlined in Section 4.1 , which included consultation with Council and other public authorities and consideration of their responses.
(c) <i>to provide increased opportunity for public involvement and participation in environmental planning and assessment.</i>	The Department publicly exhibited the application as outlined in Section 4.1 , which included notifying adjoining landowners, placing a notice in the press and displaying the application on the Department's website and at Council's office.

3.6 Ecologically Sustainable Development

The EP&A Act adopts the definition of ESD found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- the precautionary principle
- inter-generational equity
- conservation of biological diversity and ecological integrity
- improved valuation, pricing and incentive mechanisms.

The development proposes ESD initiatives and sustainability measures, including:

- compliance with BASIX requirements (for the residential component of the development)
- stormwater management
- measures to reduce water and energy consumption through building design maximising natural light and ventilation.

In addition, the location of the site encourages sustainable transport choices as it is well served by existing and future public transport.

The Department has considered the project in relation to the ESD principles. The Precautionary and Inter-generational Equity Principles have been applied in the decision making process by a thorough assessment of the environmental impacts of the project. Overall, the proposal is consistent with ESD principles and the Department is satisfied the proposed sustainability initiatives will encourage ESD, in accordance with the objects of the EP&A Act.

3.7 Secretary's Environmental Assessment Requirements

On 10 November 2016, the Department notified the Applicant of the Secretary's Environmental Assessment Requirements (SEARs) for the SSD application. The Department is satisfied that the EIS adequately addresses compliance with the SEARs to enable the assessment and determination of the application.

4. CONSULTATION AND SUBMISSIONS

4.1. Exhibition

In accordance with Section 89F of the EP&A Act and Clause 83 of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation), the Department publicly exhibited the EIS from Thursday 6 July until Monday 21 August 2017 (an extended period of 44 days). The application was exhibited on the Department's website, at NSW Service Centres and at the Newcastle City Council office.

The Department placed a public exhibition notice in the Newcastle and Lake Macquarie Star on Wednesday 5 July 2017, and notified landholders and relevant State and local government authorities/ service providers in writing.

The Department received a total of 18 submissions, comprising 12 submissions from public authorities/ service providers and six submissions from the general public including residents, business groups and the manager of the Port of Newcastle. A summary of the issues raised in the submissions is provided in **Sections 4.1.1** and **4.1.2** below and copies of the submissions may be viewed at **Appendix A**.

The Department has considered the comments raised in the public authority and public submissions during the assessment of the application (**Section 5**) and/or by way of recommended conditions in the instrument of consent at **Appendix E**.

4.1.1. Public Authority submissions

Table 3: Summary of public authority submissions to the EIS exhibition

Newcastle City Council (Council)
Council does not object to the proposal, however, it provided comments in relation to: <ul style="list-style-type: none"> • adequacy of the proposed activation of the foreshore • the built form in relation to continuous glazed balconies, quality of pedestrian through site links and landscape design • the need for a conceptual public domain plan for Worth Place Park • Council's Development Control Plan (DCP) in relation to Character Areas, Residential Development, Safety and Security, Social Impact, and Flood Management • Section 94A contributions • flood management and the provision of drainage infrastructure • the width of the crossover for the eastern most driveway • impacts to the existing bus stop along Honeysuckle Drive • contamination • potential acoustic impacts • acid sulfate soil management strategies.
Hunter Development Corporation (HDC)
HDC does not object to the proposal, however, it commented that: <ul style="list-style-type: none"> • the public domain to the north of the site which will remain in public ownership and the tall trees and shade structures that may impact future resident's views over time • future owners would need to acknowledge the adjacent public domain may be used for public events and noise from the working port may affect resident's amenity • future traffic measures will be to Honeysuckle Drive to provide greater access to the site
Port Authority of NSW
The Port Authority does not object to the proposal, however it provided comments in relation to the proximity of the development to 24/7 operational areas of the Port of Newcastle and any required acoustic treatments. The Port Authority also provided recommended conditions, should the application be supported.
Hunter New England Population Health (Health)
Health does not object to the proposal, however, it provided comments in relation to:

<ul style="list-style-type: none"> • potential adverse health effects caused by air quality (dust) and noise pollution issues on the surrounding community during construction • potential soil contamination issues • potential mosquito breeding issues • relevant standards for proposed air conditioning systems • relevant Australian guidelines for the roof water re-use system. <p>Health also provided recommended conditions, should the application be supported.</p>
<p>Department of Primary Industries (DPI)</p> <p>DPI does not object to the proposal, however, it provided comments in relation to:</p> <ul style="list-style-type: none"> • water take requirements under the Water Sharing Plan for the North Coast Coastal Sands Groundwater Sources 2016, both during and post-construction • the provisions of the NSW Aquifer Interference Policy (2012) • details of the proposed groundwater monitoring program • needing further clarification regarding the proposed design of the basement carpark.
<p>Transport for NSW (TfNSW)</p> <p>TfNSW does not object to the proposal, however, it provided comments in relation to:</p> <ul style="list-style-type: none"> • wayfinding strategies and travel access guides to assist with increasing the mode share of walking and cycling • mitigation of any impact to the existing bus zone and subsequent bus operations.
<p>Roads and Maritime Authority (RMS)</p> <p>RMS does not object to the proposal and did not provide any further comments.</p>
<p>Office of Environment and Heritage (OEH)</p> <p>OEH does not object to the proposal, however it provided comments in relation to the requirement for a Biodiversity Assessment Report, unless an exemption has been given.</p>
<p>Subsidence Advisory NSW</p> <p>Subsidence Advisory NSW have granted approval to the proposal under section 15 of the Mine Subsidence Compensation Act 1961.</p>
<p>Heritage Council of NSW</p> <p>The Heritage Council have reviewed the proposal and advise the measures identified in the HIS are appropriate and no additional heritage requirements are required.</p>
<p>Ausgrid</p> <p>Ausgrid does not object to the proposal and advised the proposed development is not expected to have any impacts on Ausgrid operations in the area.</p>
<p>Hunter Water Corporation</p> <p>Hunter Water does not object to the proposal and advised there is sufficient capacity in the water and sewer networks. Standard conditions of consent regarding obtaining a Section 50 Certificate from Hunter Water prior to construction will apply.</p>

4.1.2. Public submissions

The Department received six public submissions (two objections and four providing comments), including:

- one submission from the general public objecting to the proposal, which raised the following:
 - building height not complying with height limits
 - insufficient parking
 - loss of privacy to bedrooms
- two submissions from the general public commenting on the proposal, which raised the following:
 - small retail spaces needed for the northern ground level fronting the foreshore for activation
 - solar water heating BASIX commitments.
- one submission providing comments from the manager of the Port of Newcastle, including:
 - no assessment has been undertaken taking into consideration the proximity of the port or the industrial acoustic environment
 - glazing rating identified for units facing Honeysuckle Drive should be applied for all units.

- two submissions (one objection and one providing comments) from local business groups:
 - Southern Cross Austereo, occupier of the 18 Honeysuckle Drive, objecting to the proposal on the grounds of height and view loss.
 - Graincorp, located in Carrington, a suburb north of the site on the shores of the Hunter River providing comments citing the need to:
 - address current and future amenity impacts
 - verify design standards post construction
 - assess the proposal in the context of its surrounds and the SEPP boundary.

4.2. Response to Submissions

Following the exhibition of the application the Department placed copies of all submissions received on its website and requested the Applicant provide a response to the issues raised in the submissions.

The Applicant provided a Response to Submissions (**Appendix A**) which includes the following refinements to the proposal:

- provision of a 201 m² roof top communal area for each building containing lobby, WC, pergola, landscaping, stair and lift access and screened plant area
- increase in the maximum building height by 3.38 m to 27.28 m as a result of the rooftop communal areas
- additional floor area comprising 38 m² at roof level and 13 m² within Building C
- alteration to glazing line of centrally located apartments
- additional window openings to the western elevation of Building A.

The RtS also included additional information in relation to built form, acoustic impacts, contamination, stormwater and amended submissions in support of the clause 4.6 variations for the height and FSR development standards.

The Department also re-notified surrounding landowners and previous submitters of the revised proposal between **7 December** and **21 December 2017**. The RtS was made publicly available on the Departments website and was referred to the relevant public authorities.

An additional four submissions were received from public authorities and seven submissions from the public. A summary of the issues raised in the submissions is provided at **Table 4** and copies of the submissions may be viewed at **Appendix A**.

Table 4: Summary of public authority submissions to the RtS

Newcastle City Council
<p>Council reiterated its previous comments in relation to:</p> <ul style="list-style-type: none"> • adequacy of the activation of the foreshore and presentation of ground floor dwellings to the north • provision of a concept public domain plan for Worth Park • Council's DCP in relation to Residential Development and Safety and Security • Section 94A development contributions • resolving of relocation of bus stop and parking sign changes before works zone can be approved • noise impact from ground floor commercial uses on residential dwellings above. <p>Council provided a new comment in relation to a lack of lighting detail for the proposed through site links.</p> <p>Council also provided conditions relating to flood management, stormwater, pedestrian network, waste management and management of contaminated water during construction.</p>
Port Authority of NSW
<p>The Port Authority does not object to the proposal however it provided comments in relation to:</p> <ul style="list-style-type: none"> • the original proposed acoustic glazing remains unchanged despite the concerns raised by the Port Authority about impact of 24/7 port operations on the north facing units in the proposal • the supplementary acoustic assessment did not undertake any new noise monitoring and the noise monitoring location on the south side of Honeysuckle Drive characterises road noise, not port

<p>operation noise</p> <ul style="list-style-type: none"> no confidence internal noise levels can be met with the proposed sliding balcony style glazed doors on the northern façade recommends conditions to increase glazing to an acoustic rating of Rw32-35 to achieve compliance with internal design noise levels.
Department of Industry
DPI advised the matters raised in response to the EIS have not been adequately addressed, including quantifying water take requirements under the Water Sharing Plan for the North Coast Coastal Sands Groundwater Sources 2016 and assessing the potential impacts of the proposal against the provisions of the NSW Aquifer Interference Policy.
Office of Environment and Heritage
The OEH provided an exemption from the Framework for Biodiversity Assessment and preparation of a Biodiversity Assessment Report and is satisfied all Aboriginal heritage assessment components have been adequately addressed. (The assessment of biodiversity impacts was compulsory under the NSW Biodiversity Offsets Policy for Major Projects during the transitional period of this policy).

Seven public submissions were received, with six objecting to the proposal on the grounds of:

- the building exceeding the maximum building height
- loss of views as a result of the building exceeding the maximum building height
- loss of value of adjoining properties as a result of view loss from the building height
- noise from use of the rooftop communal areas to adjoining residential properties
- wind in the area will render the rooftop areas unusable
- significant view corridors should be created between each building
- notification of community consultation was not received.

One submission provided comment about BASIX commitments and a glazing schedule.

The applicant provided supplementary information to address DPI's comments in relation to quantifying water take requirements and assessing the potential impacts of the proposal against the provisions of the NSW Aquifer Interference Policy. The Department referred this information to DPI which advised all regulatory matters have been adequately addressed and recommended a condition requiring the preparation of a groundwater management and monitoring plan.

5. ASSESSMENT

5.1 Section 79C(1) matters for consideration

Table 5 identifies the matters for consideration under section 79C of the EP&A Act that apply to SSD in accordance with section 89H of the EP&A Act. The table represents a summary for which additional information and consideration is provided for in **Section 5** (key and other issues) and relevant appendices or other sections of this report and EIS, referenced in the table. The EIS has been prepared by the Applicant to consider these matters and also those required to be considered in the SEARs, section 78(8) of the EP&A Act and Schedule 2 of the EP&A Regulation.

Table 5: Section 79C(1) Matters for Consideration

Section 79C(1) Evaluation	Consideration
(a)(i) any environmental planning instrument	Satisfactorily complies. The Department's consideration of the relevant EPs is provided in Appendix B of this report.
(a)(ii) any proposed instrument	Not applicable.
(a)(iii) any development control plan	Under clause 11 of the SRD SEPP, development control plans (DCPs) do not apply to SSD. Notwithstanding, consideration has been given to relevant DCPs at Appendix B .
(a)(iiia) any planning agreement	Not applicable.

Section 79C(1) Evaluation	Consideration
(a)(iv) the regulations	The application satisfactorily meets the relevant requirements of the EP&A Regulation, including the procedures relating to applications (Part 6 of the EP&A Regulation), public participation procedures for SSD and Schedule 2 of the EP&A Regulation relating to EIS.
(a)(v) any coastal zone management plan	Not applicable.
(b) the likely impacts of that development	Appropriately mitigated or conditioned - refer to Section 5 of this report.
(c) the suitability of the site for the development	The site is suitable for the development as discussed in Sections 3 and 5 of this report.
(d) any submissions	Consideration has been given to the submissions received during the exhibition period. See Sections 4 and 5 of this report.
(e) the public interest	Refer to Section 5 of this report.
Biodiversity values exempt if: (a) On biodiversity certified land (b) Biobanking Statement exists	Not applicable.

5.2 Key assessment issues

The Department has considered the EIS, the issues raised in submissions and the Applicant's RtS in its assessment of the proposal. The Department considers the key issues associated with the proposal are:

- built form and urban design
- view impacts
- residential amenity

Each of these issues is discussed in the following sections of this report. Other issues were taken into consideration during the assessment of the application and are discussed at **Section 5.5**.

5.3 Built form and urban design

The development comprises three two to seven storey mixed use buildings (refer to **Figures 3** and **4**).

The Department considers that the following aspects are the key assessment issues in determining the appropriateness of the proposed building in this location:

- design excellence
- building height
- density

5.3.1. Design excellence

Clause 7.5 of Newcastle LEP states that development consent must not be granted for the proposal unless the consent authority is satisfied that the development exhibits design excellence.

The NLEP 2012 also sets out a number of considerations in relation to design excellence including:

- a high standard of architectural design appropriate to the building type and location
- improving the quality and amenity of the public domain
- impact on view corridors
- built form, heritage, the environment, ecologically sustainable development, access and the public domain.

There is no requirement for a design competition or any other formal design excellence strategy under the NLEP 2012. The Department notes the proposal was presented to a Design Review

Panel (DRP) appointed by the HDC which assessed the design integrity and environmental features of the proposed development including how they present a visual difference to existing nearby outcomes. The DRP concluded the Doma Group proposal had a high quality design, the commercial areas related well to Honeysuckle Drive and Worth Place and the residential terraces on the north side were positively received by the Panel.

In addition, the Department received advice from the Government Architect NSW who is satisfied with the design excellence process and supports the proposal.

The Department has considered the proposal against the requirements of clause 7.5 of the NLEP 2012 and concludes the proposal exhibits design excellence as it:

- displays a high standard of architectural design with quality external materials including tiles and face brick with the scallop design reflecting the maritime location
- replaces a carpark with a mixed use building with a two storey human scale to the foreshore and a strong street wall to Honeysuckle Drive, which will encourage activation and improve the amenity of the public domain
- maintains the Worth Place view corridors identified in NDCP 2012
- has a bulk and massing that steps down in height and scale down to the foreshore, minimising the bulk of the building to the open space and waterfront and is compatible with the scale of surrounding development
- minimises adverse environmental impacts and addresses pedestrian, cycle and vehicular access requirements.

The Department also notes that improving the quality and amenity of the public domain is a key consideration of design excellence. Council raised concern that the provision of residential terraces along the foreshore will not sufficiently activate the public domain. Government Architect NSW also raised the importance of activating the foreshore. The Department has therefore given specific detailed consideration to how the proposal improves and quality and amenity of the public domain below.

Quality and amenity of the public domain

The NLEP 2012 requires the consent authority to have regard to whether the form and external appearance of the development will improve the quality and amenity of the public domain.

The Department notes sites along the Honeysuckle foreshore are zoned mixed use to accommodate a range of retail, business, food and drink, commercial and residential uses. Development to the east of the site is characterised by ground floor commercial uses to Honeysuckle Drive and restaurants to the foreshore with residential uses above. Sites to the west are yet to be developed.

The foreshore area in front of the site is part of a shared pedestrian and cycling path along the southern side of the Hunter River, which links to the Newcastle City Centre, Foreshore Park and Nobbys Beach. The foreshore area directly in front of the site is also in proximity to commercial buildings on the southern side of Honeysuckle Drive, which provide further activation of the public domain.

The proposed development, while not repeating the same pattern, has provided two ground floor commercial tenancies to Honeysuckle Drive (south), a kiosk on the corner of Worth Place and the foreshore and residential terraces to the north facing the foreshore.

Council is concerned that the provision of residential terraces along the foreshore will not sufficiently activate the public domain, with issues raised including sterilisation of the space, privacy problems, undermining safer by design principles and creating a largely blank face to the harbour at street level. Council suggested that additional commercial space be provided to the north and at the ends of the through site links to improve activation of the foreshore and the quality of the through site links. Government Architect NSW supports the landscape treatment to the

space between Building B and C however recommended it be activated as a shared zone for pedestrian and bicycle movements.

The Applicant notes HDC has identified the adjoining site to the west (35 Honeysuckle Drive) for more active uses facing the promenade, active frontages to the street and public spaces and approximately 1500 m² of retail/ dining space. Noting this and the prevalence of dining, retail and commercial offerings on sites to the east and south, the Applicant considers the site has limited ability to provide further commercial uses. Notwithstanding, the Applicant contends the proposed development with commercial/ retail tenancies and through site links in combination with ground floor residential terraces along the foreshore will add to the vitality of the area and activate the public domain within and surrounding the site.

The Department notes the foreshore area is well activated to the east, with the established Lee Wharf retail and dining precinct. Further, the proposal for 35 Honeysuckle Drive immediately to the west incorporates a mixed use development incorporating commercial/ retail uses and residential apartments.

The Department considers the two storey terraces satisfactorily address the foreshore at a human scale through the stepping of the height from Honeysuckle Drive to the foreshore and minimising the bulk of the building away from the open space and waterfront. The transfer of building bulk from the entire northern foreshore frontage to central and western portions of the site results in a significantly improved quality of public domain.

The Department does not consider this design approach as a limit to foreshore activation but rather the built form has created a positive design response to the site that achieves design excellence and will improve the quality and amenity of the public domain. The Department has also considered Council's specific concerns and Government Architect NSW concerns about blank walls, privacy and safety and considers the proposal achieves an appropriate level of activation of the public domain. In particular:

- the proposed kiosk tenancy located on the north-east corner of the site adjacent to the foreshore (**Figure 5**). The kiosk will attract people to the area and contribute to the existing activation to the east at Lee Wharf
- direct access to the foreshore from each terrace will encourage activation, casual surveillance and avoid sterilisation of the public domain
- part solid/ part open balustrades and landscaping will provide privacy for occupants without presenting as a blank wall and will enhance the public domain
- window openings from habitable rooms to the through site links and all elevations of the three buildings will provide casual surveillance of the public domain
- landscaping of the space between Building B and C provides attractive communal amenity within the site and the public domain. The Department supports the Government Architect NSW recommendation for a shared zone, but considers introducing pedestrian and bicycle movements would be a safety hazard in this instance.

The Department has considered the contribution the proposal will make to the activation of the public domain and concludes that the surrounding area is well activated and the proposed development, including the residential terraces and commercial tenancies, will support and enhance the public domain. The Department supports the overall design of the development, which is considered to achieve a high standard of design that will positively contribute to the quality and amenity of the public domain and the wider Honeysuckle Precinct.

5.3.2. Building height

Clause 4.3(2) of NLEP 2012 provides that buildings are not to exceed the maximum building height specified in NLEP. The maximum building height for the subject site is (**Figure 7**):

- 14 m along the majority of the northern frontage to Worth Place Park West
- 24 m along the southern frontage and wrapping around the eastern side boundary to Worth Place.

The proposal seeks approval for buildings ranging from 7.4m along the north of the site to a maximum of 27.78m in the south of the site. While some portions of the building exceed the height controls (by 1.91 m to 12.11 m), other portions of the building are between 6.6 m and 16.6 m below the height controls, as demonstrated in **Figure 8 and Table 6**.

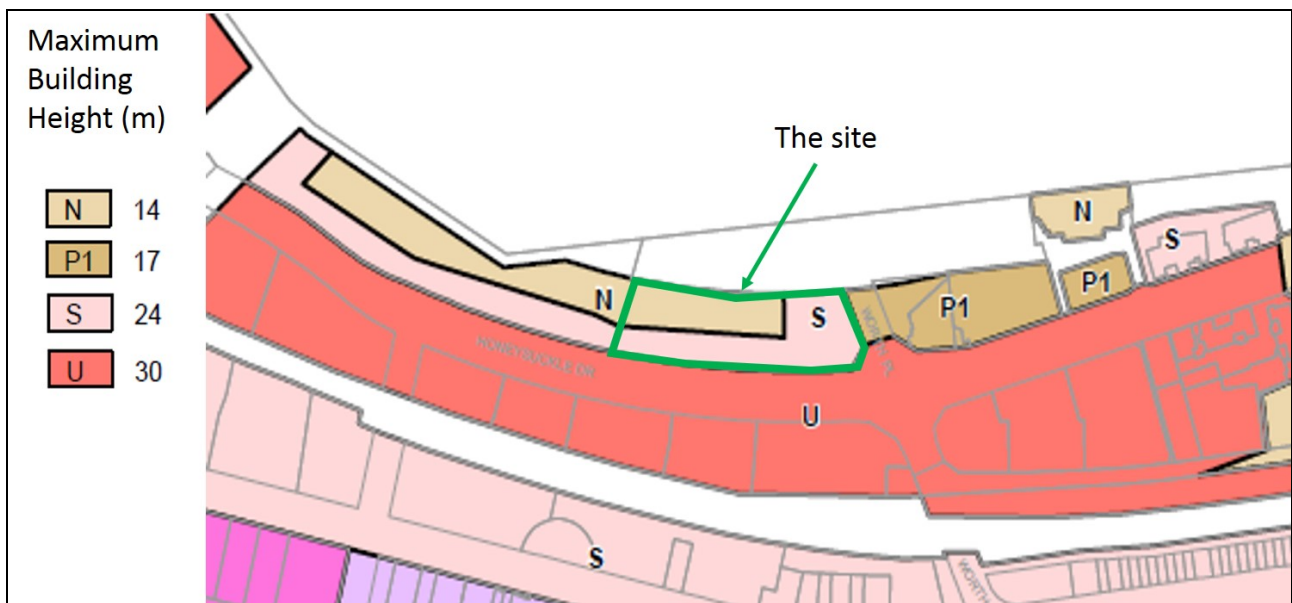


Figure 7: Extract from Height of Buildings Map – NLEP 2012 (Source: Applicant's EIS)

Table 6: Proposed heights for the development

Proposed Building	Control	Proposed height	Compliance	Variation	% Varied
Building A (west)	14 m	Terraces 7.4 m	Yes		
		Communal open space pergola 26.11 m	No	12.11 m	86%
Building B (central)	24 m	Apartment roof 22.5 m	Yes		
		Communal open space lift 26.98 m	No	2.98 m	12%
	14 m	Terraces 7.4 m	Yes		
Building C (east)	24 m	Communal open space pergola 25.58 m	No	11.58 m	82%
		Apartment roof 22.5 m	Yes		
	24 m	Communal open space lift 25.91 m	No	1.91 m	8%
Building C (east)	24 m	Terraces 7.4 m	Yes		
		Apartment roof 23 m	Yes		
		Communal open space lift 27.78 m	No	3.78 m	15%

The Department has considered the two key areas of non compliance, being the:

- portions of Building A and B up to 26.11 m in the part of the site identified for a maximum height of 14 m
- the rooftop elements of Building A, B and C which exceed the control by between 1.91 and 3.78 m.

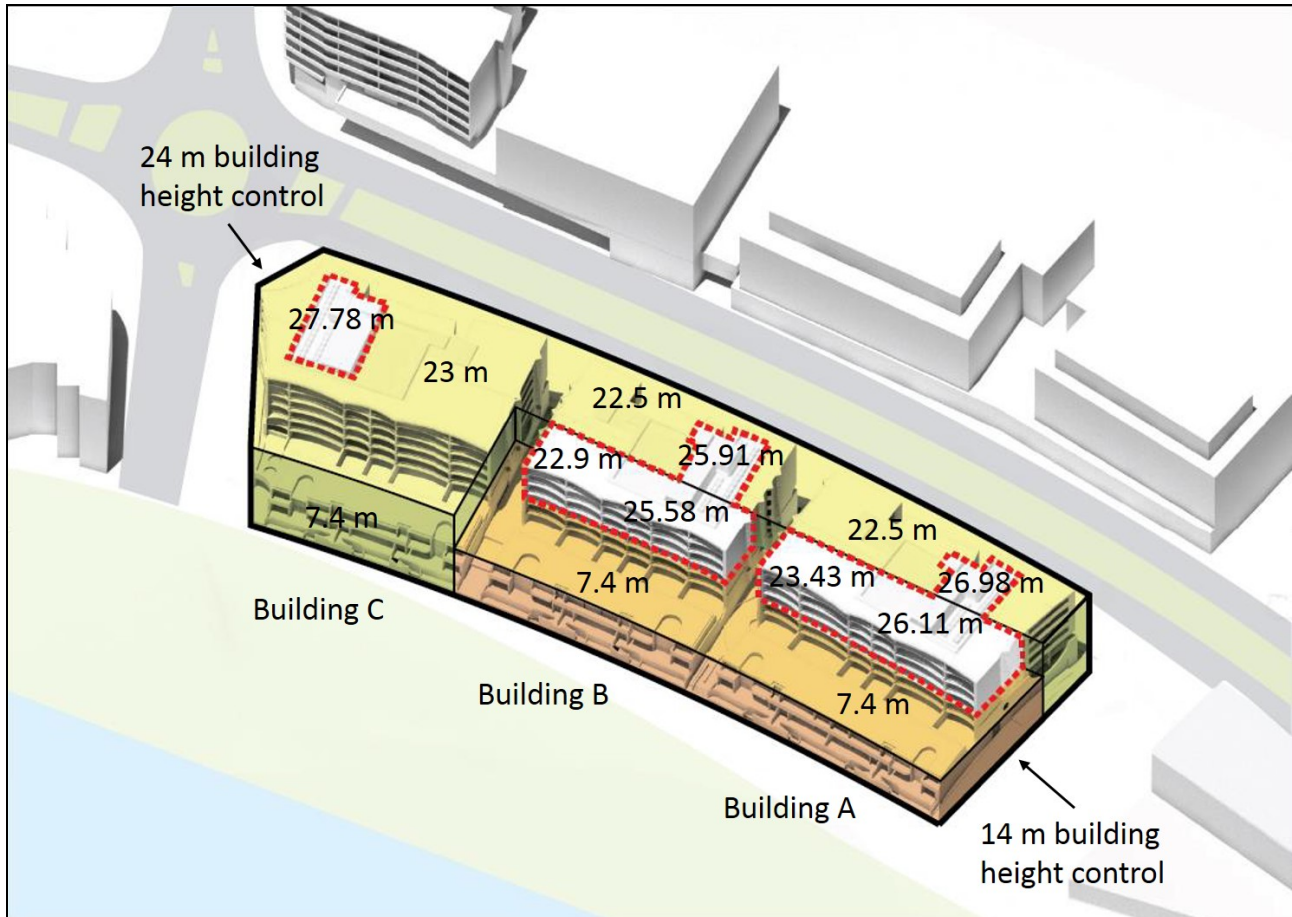


Figure 8: Proposed built form with non-compliance with the 14 m and 24 m building height controls outlined in red and building heights for areas of the building in black (Source: Applicant's RtS)

Portions of Building A and B

The northern part of the seven storey portions of Building A and B have heights of 26.11 m and 25.58 m respectively. They exceed the maximum height of 14 m by between 11.59 m (82%) and 12.11 m (86%) in the central and western parts of the site. The greater variation relates to the uppermost height of the pergola associated with the rooftop communal areas on both Buildings A and B.

The Applicant has submitted a request under Clause 4.6 of NLEP to justify the exceedance of the building height development standard with the following reasons:

- the variation is located within the central portion of the site and facilitates the built form transition across the site
- the proposal achieves a greater level of residential amenity under SEPP 65
- the non compliance does not contribute to adverse environmental impacts in terms of visual impacts, privacy or view loss.

The Department has considered the Applicant's request under clause 4.6 (**Appendix C**) and is satisfied the proposal is consistent with the objectives of the development standard and zone, enables a transition in built form from Honeysuckle Drive to the foreshore and achieves a greater level of residential amenity than a complying development.

The Department has considered the impacts of the variation to the 14 m building height portion of the site and is satisfied that:

- the variation does not result in additional overshadowing south of the site as the proposed height is consistent with the building height along Honeysuckle Drive
- the variation will not result in any view loss impacts to the south noting the 24 m maximum building height permissible under NLEP along the southern side of the site (as discussed in **Section 5.4.2**).

The Department acknowledges that in isolation the proposed variation is proportionately significant, however the Department is satisfied that the proposed variation of the height control is appropriate when viewing the proposed building height as a transitional element of the building in the context of the varied height controls applying to the site.

The Department has also considered the advice provided by the Government Architect NSW and Council's Urban Design Consultative Group (UDCG). Both the Government Architect NSW and UDCG support the proposed built form with the UDCG noting the proposed height distribution over the site achieves a better urban design outcome than the planning guidelines suggest.

The Department agrees the redistribution of height over the site provides an improved urban design outcome, including a uniform height and scale to the entire northern foreshore frontage. In addition, the variation of the 14 m building height control is in effect offset by a significantly lower built form in the south-east portion of the site, which would otherwise be able to be built to 24 m in line with the LEP maximum height limit. The transfer of building height from the northern frontage to the central and western portions of the site results in a two storey built form along the foreshore that is relatable at a human scale.

The Department therefore accepts the Applicant's justification and concludes that it is unnecessary to require compliance with the building height control in this instance.

Rooftop elements of Building A, B and C

The communal rooftop elements (lift, lobby, stair and pergola) of Building A, B and C exceed the 24 m building height control by between 1.91 m (8%) and 3.78 m (15%).

The Applicant has submitted a request under Clause 4.6 of NLEP to justify the exceedance of the building height development standard as the non compliance does not result in additional development potential but creates communal open space at roof level to improve the overall amenity of the building.

The Department has considered this request (**Appendix C**). While the Department supports the additional rooftop structures which provide access to valuable rooftop communal open space for future residents, the Department notes (as discussed in **Section 5.4.2**) that any additional height above the 24 m height limit has the potential to further impact views.

The Department notes the communal rooftop area on Building C (with structures up to a maximum height of 27.78 m) is the tallest of the three proposed buildings and is located immediately to north of 10 Worth Place, a residential building. These structures would cause a loss of views from north facing apartments on the upper two floors of 10 Worth Place, which would otherwise be retained if the proposal complied with the 24 m height limit. The Department has considered this carefully in **Section 5.4.2** and **Appendix C** and concludes the variation to the height standard is unreasonable and therefore recommends the deletion of the communal area and associated structures on Building C. This will have a direct and positive impact on the retention of views from 10 Worth Place.

The Department notes the communal rooftop areas on Buildings A and B are located opposite commercial buildings, where the impact to views as a result of the variation to the building height is lesser and considered reasonable (as discussed in **Section 5.4.2**). The Department also

concludes the communal rooftop areas, including associated structures, are consistent with the built form objectives for the site in the context of the Honeysuckle Precinct and will not have any adverse impacts in terms of overshadowing to neighbouring properties or the public domain.

The Department is therefore of the view that it is unnecessary for the proposal to comply with the maximum height development standard as it relates to Building A and B. The Department considers requiring compliance with the height development standard would have a detrimental impact on the amenity provided by the building for future residents.

On this basis, the Department supports the proposed building form and height, subject to a condition requiring removal of the communal open space and associated lift, stair and rooftop amenities on Building C.

5.3.3 Density/ FSR

Clause 4.4(2) of NLEP 2012 provides that buildings are not to exceed the FSR specified in NLEP. The maximum FSR for the subject site is **(Figure 9)**:

- 2:1, along the northern frontage to Worth Place Park West
- 2.5:1, along the southern frontage and wrapping around the eastern side boundary to Worth Place.

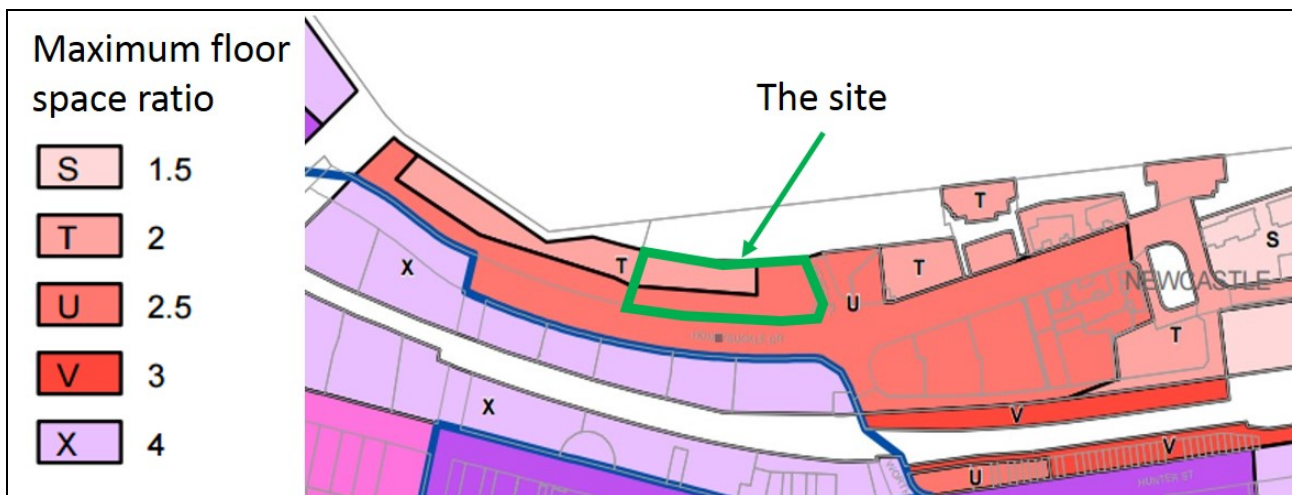


Figure 9: Floor space ratio map (Source: Applicants EIS)

The proposal seeks a total GFA of 16,863 m², which equates to an FSR of 2.31:1 across the entire site.

Overall this exceeds the maximum GFA permitted across the site by 43 m² (2%), however the Applicant is seeking to redistribute GFA across the site resulting in a variation to the 2.5:1 portion of the site, offset by a substantially lower floor space than would otherwise be allowed in the 2.0:1 portion of the site, as demonstrated in **Table 7** and **Figure 10**.

Table 7: Proposed FSR for the development

Control	Permissible GFA	Proposed	Proposed GFA	Compliance	Variation	% varied
2:1	5,640 m ²	1.6:1	4,707 m ²	Yes	N/A	N/A
2.5:1	11,180 m ²	2.7:1	12,156 m ²	No	976 m ²	8.7 %
Total	16,820 m ²	2.31:1	16,863 m ²	No	43 m ²	2%

The Applicant has submitted a request under Clause 4.6 of NLEP to justify the proposed variation to of the floor space ratio development standard. The Department has considered this request (**Appendix D**) and is satisfied the proposal is consistent with the objectives of the development standard and zone, the proposed density provides a built form that responds to the existing and desired future character of the area and a high level of amenity for future residents. The recommendation to remove one communal rooftop area on Building C (as discussed in **Section 5.3.2**) will result in the combined site GFA reduced by approximately 12 m² and the combined site FSR variation to 1.8%.

The Department has considered the impacts of redistribution of floor space across the site and the minor overall exceedance across the site and concludes the proposal is acceptable in terms of:

- built form and design, as discussed in **Section 5.3.1** and **5.3.2**
- view impacts, as discussed in **Section 5.4.2**

The Department concludes that the proposed redistribution of floor space, in conjunction with the redistribution of height, results in a better urban design outcome. On this basis the Department is of the view that it is unnecessary for the proposal to comply with the FSR development standard in this instance.

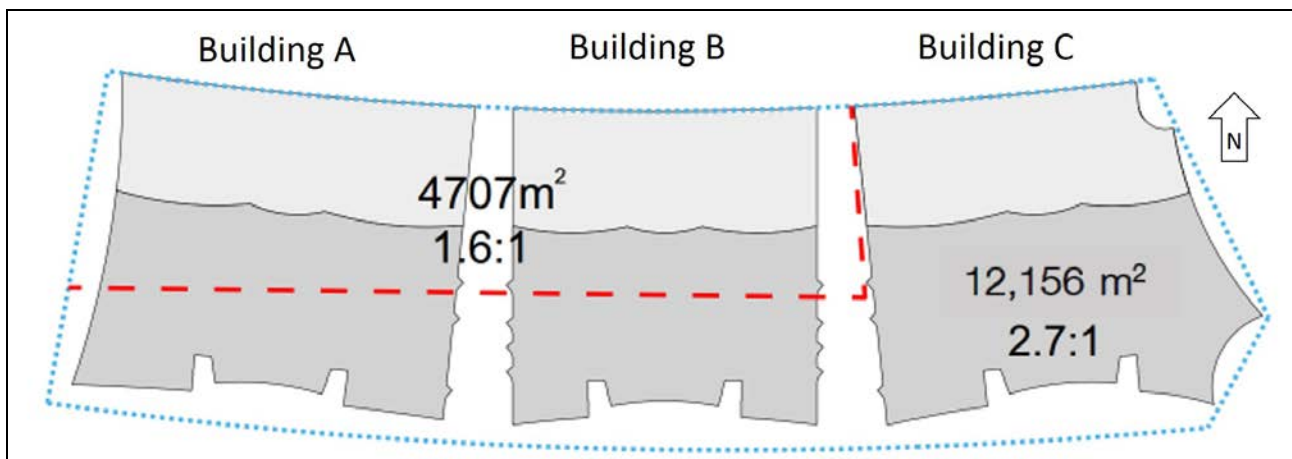


Figure 10: Proposed GFA and FSR (Source: Applicant's exception to development standard)

5.4 View Impacts

Concern was raised by a business occupying 18 Honeysuckle Drive and residents of 10 Worth Place about the loss of private views of the Hunter River as a result of the building exceeding the maximum building height (**Figure 2**).

The Applicant has provided an assessment of the potential view loss caused by the proposed development which identifies that views from 18 Honeysuckle Drive and 10 Worth Place will be obstructed by both a compliant and the proposed built form. The Applicant has provided view studies of a compliant scheme and the proposed scheme as viewed from uppermost level (level seven) within 18 Honeysuckle Drive (**Figure 12**) and levels six and nine within 10 Worth Place (**Figure 13**).

The Department notes the LEP envisages a development with a maximum height of 24 m across the entire southern frontage of the site (**Figure 7**) which would obstruct views from the residential and commercial buildings to the south. However, noting the proposal seeks to vary the maximum height and FSR development standards applying to the site, the Department has carefully considered the impact of these proposed variations.

To ascertain whether the proposed view sharing impacts are reasonable, the Department has followed a four-step assessment in accordance with the principles established by *Tenacity Consulting Vs Warringah [2004] NSWLEC 140*. The steps/principles adopted in the decision are:

1. assess what views are affected and the qualitative value of those views
2. consider from what part of the property the views are obtained
3. assess the extent of the impact (from 'negligible' to 'devastating')
4. assess the reasonableness of the proposal that is causing the impact.

Steps 1 to 3 - 10 Worth Place

10 Worth Place is a 10 storey residential building containing 71 apartments, 43 of these apartments have a northerly aspect with views north, east and west of the Hunter River and district views of the Hunter (**Figures 11**). These views are valuable as they are whole views encompassing water and land interface. The views are obtained from north facing balconies, living rooms and bedrooms .

The proposed development will obstruct all views from residential level seven and below of 10 Worth Place, with some view retained from north-east located apartments down the existing view corridor of Worth Place. The view impact to level seven and below is considered severe.

The uppermost two levels (levels eight and nine) will retain views toward the water over the proposed development but these views will be interrupted by the lift/ stair/ pergola of Building C (**Figure 13**). The retained view includes the Hunter River and northern foreshore, views east along Hunter River to the ocean and views of Throsby Creek to the west. District views to the north, east and west are also retained. Views from the eastern most corner apartments will be retained uninterrupted along Worth Place to the Hunter River. The communal rooftop areas on Buildings A and B only affect a small portion of the district land views to the west and do not affect views of high significance. The view impact to levels eight and nine is considered moderate.

Steps 1 to 3 - 18 Honeysuckle Drive

18 Honeysuckle Drive is nine storey commercial building containing five levels of office accommodation (the uppermost five levels of the building). The views are to the north, east and west of the Hunter River as well as district views of Newcastle (**Figure 11**). The views are obtained from the northern glazing of each commercial level that runs the full length of the building. These views are valuable as they are whole views encompassing water and land interface.

The proposed development will obstruct the views from level six and below. A view corridor remains between the through site link between Building B and C, and along the Worth Place view corridor, permitting some views of the Hunter River and foreshore (**Figure 12**). Level 7 of the building retains some view of land/ horizon interface over the proposed development. The view impact is considered severe.

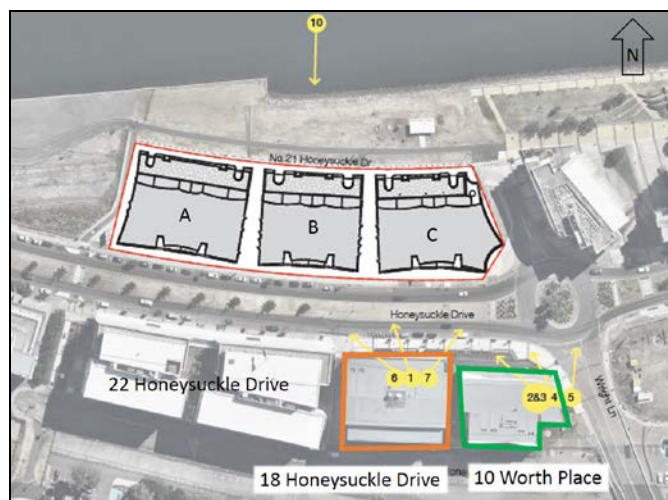
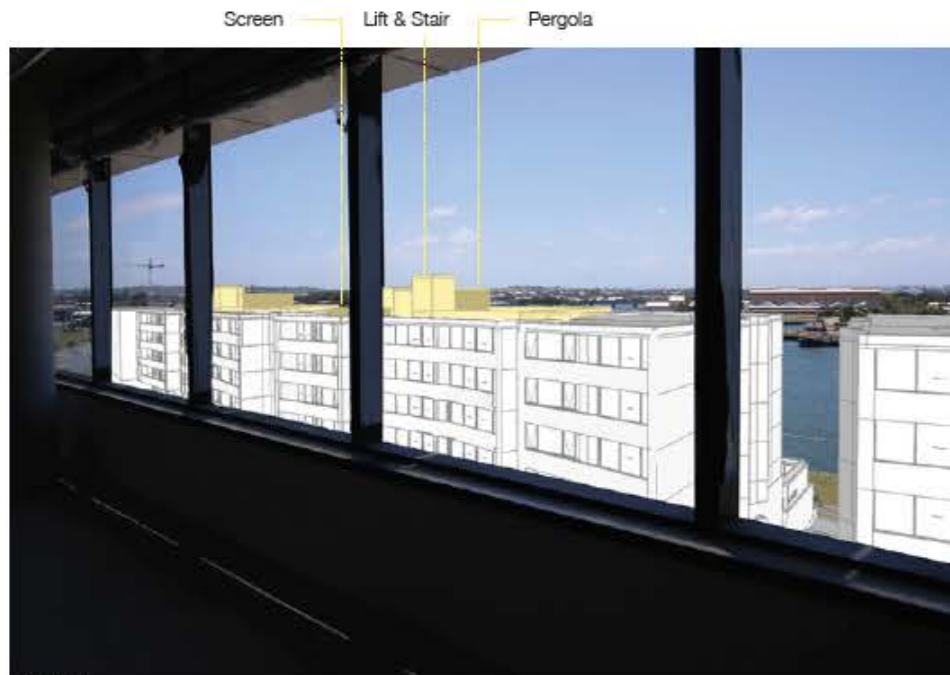


Figure 11: Location of view study photos (Source: Applicants Revised Built Form Analysis)

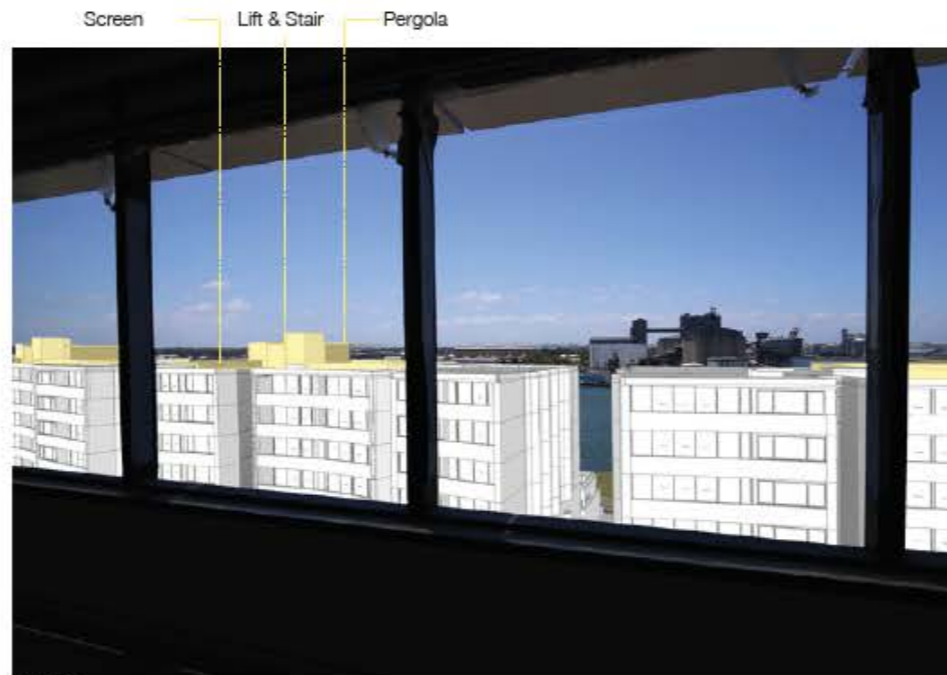
Compliant Scheme



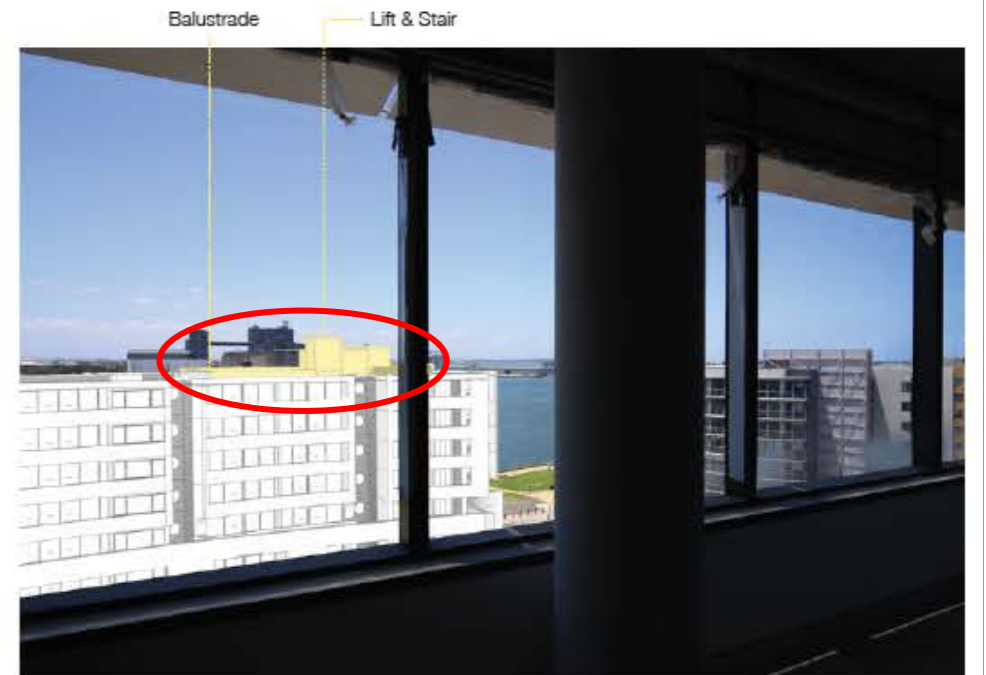
Proposed Scheme - Roof Top Terrace/Plant Addition



View 6
18 Honeysuckle Drive - Commercial Level 7



View 1
18 Honeysuckle Drive - Commercial Level 7



View 7
18 Honeysuckle Drive - Commercial Level 7

Figure 12: Comparison of views from level 7 (uppermost level), 18 Honeysuckle Drive of an indicative compliant development and the proposed development with roof top communal areas. Rooftop communal area proposed to be removed by way of condition circled in red. (Source: Applicants RtS)

Compliant Scheme



Proposed Scheme - Roof Top Terrace/Plant Addition

Screen Lift & Stair Pergola



Lift & Stair Pergola



View 2
18 Honeysuckle Drive - Residential Level 9

View 4
18 Honeysuckle Drive - Residential Level 9

View 5
18 Honeysuckle Drive - Residential Level 9

Figure 13: Comparison of views from level 9 (uppermost level), 10 Worth Place (residential), of an indicative compliant development and the proposed development with roof top communal areas. Rooftop communal area proposed to be removed by way of condition circled in red (Source: Applicants Rts)

Step 4 – the reasonableness of the proposal

The fourth step of the Tenacity planning principle is to assess the reasonableness of the proposal that is causing the impact.

The Applicant contends that despite the variation to the building height, the proposal is reasonable as views to the foreshore are maintained between the proposed building gaps, as well as along the existing view corridor of Worth Place, and the view impacts are consistent with impacts that would be expected from the building height applying to the site. The Applicant also considers the rooftop structures have been positioned to ensure views of Hunter River are consistent with a compliant scheme and the original proposal.

The Department notes the views currently enjoyed across the development site are a result of the undeveloped site containing an at grade carpark. The building form up to the 24 m height limit, which includes all elements except the rooftop communal areas, is considered reasonable and an expected development for the site. While the Department acknowledges the adverse impact on views from residential apartments within 10 Worth Place and commercial floor space within 18 Honeysuckle Drive, the preservation of these views would unreasonably limit the development potential of the site and would in effect sterilise the site from future redevelopment.

The Department considers the increase in height within the part of the site affected by the 14 m height limit is reasonable, noting the expectation for views from sites to the south over the 14 m height limit would be lost by the 24 m height allowed across the entire southern frontage. As such the Department is satisfied the proposal does not unduly impact views as a result of the non-compliance within the 14 m height limit.

Notwithstanding, the Department has carefully considered the impact of the three rooftop communal areas which include lift, stair access, lobby and pergola structures, which extend 1.93 m to 3.28 m above the 24 m building height limit.

The rooftop areas atop Building A and B (western and central building) are situated in front of 22 Honeysuckle Drive (commercial) and are to the west of 10 Worth Place. The view studies provided by the Applicant indicate that the Building A and B rooftop communal areas have limited impact on views from apartments in 10 Worth Place, given the distance and the location of the Hunter River, resulting in any view obscured being of land and sky rather than water. From 18 Honeysuckle Drive the roof top area atop Building A and B obscure only a small portion of land and sky and this is considered to have a minimal impact to this commercial building.

However, the Building C communal rooftop area will obscure water views (adjacent to Thorsby Creek and around the Port) from apartments on the uppermost levels (levels eight and nine). As noted in the Tenacity principle, even a moderate impact because of a noncompliance with a development standard can be unreasonable. The Department considers that further interruption of views by the Building C communal rooftop area, although small, will exacerbate the view loss already experienced, affecting the amenity of these units and is unreasonable.

The Department considers that communal rooftop areas can be provided for the proposed development on Buildings A and B, without causing the same level of impact as the rooftop area on Building C. As such, the Department recommends a condition requiring the removal of the rooftop communal area from Building C. This condition will have a direct benefit to improving view sharing to the residential apartments on the upper two levels of 10 Worth Place.

5.5 Residential amenity

The Department has assessed the amenity impacts of the proposal against State Environmental Planning Policy 65 – Residential Apartment Development (SEPP 65) and the accompanying Apartment Design Guide (ADG).

The Department has undertaken a detailed assessment of the proposal against the ADG in **Appendix B** and concludes the development provides a high level of amenity in accordance with the aims and objectives of the guides. However, there are some departures from the ADG guidelines in relation to:

- communal open space
- one bedroom private open space and storage
- building separation
- deep soil zones
- noise

The Department has therefore considered these aspects of the proposal in more detail below.

Communal open space

The ADG recommends that residential apartment developments are provided with communal open spaces, equivalent to 25% of the overall site area. In this case, the proposal would require 1,824 m².

The proposal provides a total of 923 m² of residential communal space for the 154 apartments, inclusive of three rooftop areas on each building as well as a gym, communal meeting room and pool, all located on the ground floor. This equates to 12.5% of the site, only half of the space recommended by the ADG. The Department also notes the recommended condition to delete one of the rooftop areas on top of Building C will reduce the overall quantum of communal open space to 722 m² (or 10% of the site area).

While this is substantially less than recommended by the ADG, the Department notes the ADG provides guidance for sites which are unable to provide 25% of the site area as communal open space including in dense urban areas. In these cases, the development should provide communal spaces elsewhere such as a landscaped roof top terrace, provide larger balconies or increased private open space and demonstrate good proximity to public open space and facilities.

The Department considers the extent of the communal open space provision is acceptable as:

- balconies and private terraces are provided to each apartment, with all two, three and four bedroom apartments exceeding ADG size guidelines, by 11 m² to 31 m²
- the rooftop communal area on Buildings A and B will provide high quality useable landscaped communal space for the development, in addition to the ground floor communal areas
- the site has direct frontage to Worth Place Park and Hunter River foreshore area which is to be revitalised as a significant public open space and leisure/ entertainment precinct.
- the development is located within the Newcastle City Centre and covers a large portion of the site, yet the proposal provides a reasonable number of apartments (154) for such a large site, generally consistent with the density envisaged for the site in the NLEP 2012.

To ensure all residents of the development have equitable access to the communal open space and facilities, the Department recommends a condition that the communal areas on Building A and B, as well as the pool in Building C and resident room in Building A, are available for all residents.

One bedroom apartment private open space

The ADG recommends minimum private open space (POS) areas and depths to enhance the amenity and indoor/ outdoor lifestyle for residents. The proposal provides POS to all apartments in the form of balconies or terraces. The POS of the two, three and four bedroom apartments meet the recommended minimum area and depth for balconies/ terraces. However, the POS of the 36 south facing one bedroom apartments fronting Honeysuckle Drive range from 0.6 m (minimum) to 2.4 m (maximum) in depth, which in part is less than recommended by the ADG (2 m). Each balcony however exceeds the minimum area of 8 m² recommended by the ADG (by one to 12 m²).

The Applicant has provided indicative furniture layouts demonstrating the functionality of the one bedroom balconies. The balconies with the reduced area and depth are all shown to be able to accommodate a table and 2-4 chairs as desired in the ADG design criteria.

On this basis, and noting that the balconies all exceed the recommended minimum area in the ADG, the Department considers the proposal will provide useable POS that will contribute to the amenity and lifestyle of the residents.

Storage

The ADG recommends one bedroom apartments are provided with 6m³ of storage, with 50% of the storage within the apartment and the other 50% within an external area (eg basement). The development proposes 4.6 m³ to 5.7 m³ of storage for the one bedroom apartments, predominantly within the basement rather than within the apartments, as outlined in **Table 8**.

Table 8: Internal and external storage for one bedroom apartment types

one bedroom unit type	Internal storage	External storage	Total
Type 01	1.8m ³	3.9m ³	5.7m ³
Type 02	1.8m ³	3.9m ³	5.7m ³
Type 03	1.8m ³	3.9m ³	5.7m ³
Type 04	1.6m ³	3.9m ³	5.5m ³
Type 05	0.7m ³	3.9m ³	4.6m ³

In response to concerns raised by the Department, the Applicant has advised that further additional storage for the one bedroom apartments can be provided in the basement storage area.

The Department notes that all the one bedroom apartments have an internal area greater than the minimum 50 m² recommended in the ADG and as such have capacity to provide further internal storage. Storage is important component of apartment design and contributes to the amenity of an apartment. The Department therefore recommends a condition requiring additional storage to be provided within each of the one bedroom apartments, to provide a total of 6 m³ for all one bedroom apartments. This will require between 0.3 m³ and 1.4 m³ additional storage provided internally to the one bedroom apartments.

While this will not strictly meet the ADG recommended guidelines, the Department considers the increased storage within each one bedroom unit in addition to external storage in the basement, will provide sufficient space for the storage needs of future residents, consistent with the objectives of the ADG guidelines.

Building separation

The ADG recommends that separation is provided between windows and balconies within a site and to neighbouring sites to achieve reasonable levels of privacy. The ADG guidelines recommend minimum separation distances between habitable rooms and balconies for a building up to 12 m (4 storeys) of 6 – 12 m and up to 25 m (5 - 8 storeys) of 9 - 18 m.

The proposal provides a 2.5 m setback to the north (level 1 and above), south and west boundaries and a nil setback to the east boundary (**Figure 14**) which is in accordance with the NDCP 2012 site setback controls.

The Department notes that appropriate separation is provided to neighbouring sites to the north, east and south consistent with the ADG.

However, the proposal does not provide the 6 to 9 m setback which would be required to provide a total of 12 to 18 m between the site and the future mixed-use development on the neighbouring site to the west (35 Honeysuckle Drive). Notwithstanding, the Department considers the open space between the site and 35 Honeysuckle Drive is adequate for appropriate separation distances to be provided and the Department is satisfied the location of balconies and windows in the western elevation of Building A can achieve adequate levels of privacy despite the future redevelopment of this vacant site.

In addition, the internal separation between Buildings A, B and C (varying between 4.5m to 9.2 m) does not meet the recommended separation of 9 to 18 m outlined in the ADG (**Figure 14**).

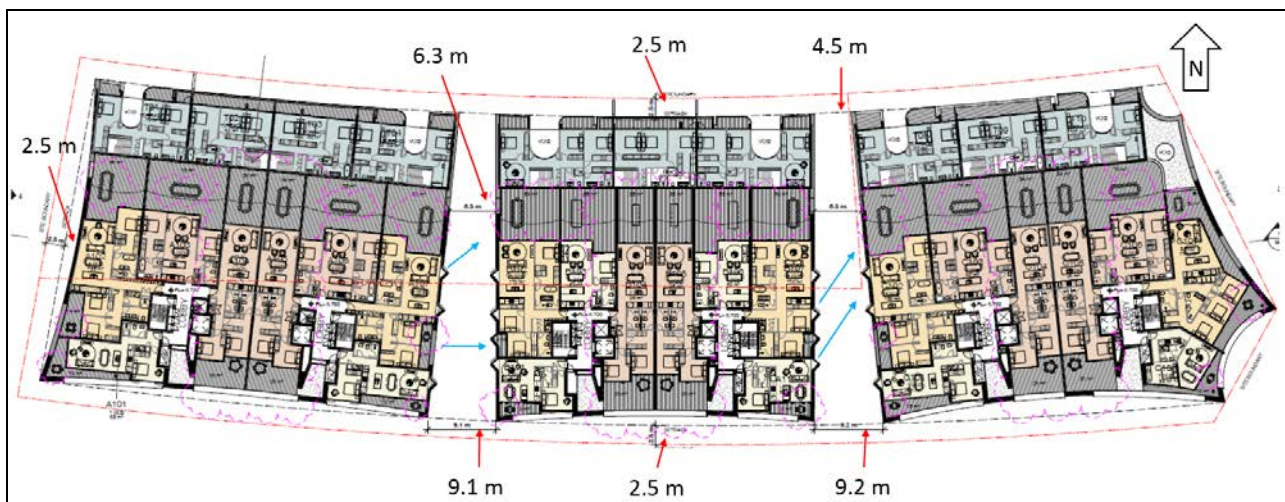


Figure 14: Level 1 floor plan showing building separation distances (in black) and window / balcony placement and orientation (blue arrows) (Source: Applicant's architectural plans)

However, the Department notes the habitable windows in the eastern and western elevations facing the through site links, from ground to level six, are orientated to the north and screens provided to prevent undue overlooking between habitable rooms and balconies (**Figure 15**). For the two storey terraces fronting the foreshore, windows openings to the through site links have been limited and where provided are lowlight/ highlight and offset to achieve privacy. The building separation increases in distance as the building height increases.

The Department is therefore satisfied that these measures will maintain suitable levels of privacy, while also providing casual surveillance of the public domain.



Figure 15: Photomontage of western through site link. (Source: Applicant's EIS)

Deep soil zones

The ADG recommends that deep soil zones should be provided, equivalent to 7% of the overall site area. However, the site provides only 419 m² (5.7%) deep soil area.

The Department notes the ADG considers that variation to the deep soil zone requirement is possible where a site is located within an urban centre, the ground floor is predominately non-residential and alternative planting is provided.

The Department considers that the proposal is acceptable in this regard as:

- the development is in a dense urban area and it is typical for buildings in such locations to occupy the majority of the site
- the site currently has no deep soil planted areas, so the proposal provides opportunity for additional deep soil
- soft landscaping is provided in the through site links, green roofs and the communal rooftop area
- the hydrological impacts of the proposed site coverage will be mitigated by existing and proposed stormwater infrastructure.

Noise

The ADG provides design guidance for properties located near busy roads and noisy environments that can have impacts on residential amenity. The ADG provides design solutions to improve quality of life in affected apartments by minimising potential noise impacts.

The Port of Newcastle and Port Authority of NSW raised concern regarding the potential for the 24/7 port operations and working harbour noise to impact residential amenity within the development.

The Port of Newcastle has advised a vacant site in Carrington, located 500 m north west of the subject site is to be developed for a major marine ship repair and maintenance facility. Noise from the port operations include noise from vessels and tugboats, cargo loading and unloading and land operations for storage and distribution. These activities are carried out in open air and the noise sources are not able to be eliminated or easily mitigated by engineering or design solutions

Council raised concerns about the acoustic assessment and the acoustic impacts of commercial properties should be considered prior to determination of this application. Council also recommended conditions to address this concern.

HDC also provided comments that future owners need to acknowledge the adjacent public domain may be used for public events and noise from the working port which may affect resident's amenity.

The Applicant has provided an updated Acoustic Assessment which has considered existing traffic noise, noise from Newcastle Port, existing industrial noise sources (mechanical and plant) and noise from proposed mechanical plant impacting on the proposed development. The report recommends:

- units facing Honeysuckle Drive provided with glazing with a required acoustic rating of Rw 32-35
- units facing north, east and west provided with glazing with a required acoustic rating of Rw 28
- acoustic assessment of mechanical services equipment to be carried out at the detailed design stage.

The Department notes the main source of road noise that may impact the proposed development is from Honeysuckle Drive. The Department supports the use of Rw32 and Rw35 rated glazing for all units facing Honeysuckle Drive as an appropriate treatment to achieve required noise levels.

However, the Department also considers the information provided by the Port of Newcastle and the future maintenance facility in Carrington should be taken into account for the amenity of residents of the proposed development. In this regard, while noise measurements may not currently indicate a higher level of glazing is required for north facing apartments, the future port intensification may result in increased port noise impacting the proposed development.

As a conservative measure, the Department considers it appropriate to require the same level of acoustic glazing (Rw32 and Rw35) recommended for south facing apartments along Honeysuckle Drive for all apartments on the external edges of the development, to minimise any potential future noise impacts affecting the quality of life in the apartments. The Department recommends a new condition requiring the use of Rw32 and Rw35 glazing, to all north facade glazing as well as glazing on the west elevation of Building A and east elevation of Building C, to provide acoustic protection for apartments.

The proposed development contains three commercial tenancies. The future uses of the commercial tenancies are unknown, as are the details of the proposed mechanical plant. The Applicant has recommended a detailed assessment of mechanical plant at the detailed design phase, supervision of construction/ installation of plant and compliance testing following installation. The development must also provide separation of residential space from commercial space as per Part F5 of the BCA. The Department is satisfied that this approach will manage noise impacts from ground floor commercial tenancies to residential apartments above, subject to conditions.

The Department is satisfied that the proposed development is capable of complying with the relevant acoustic criteria and the ADG guidelines, subject to conditions as recommended.

A full assessment of the proposal against the ADG guidelines is provided at **Appendix B**.

5.6 Other Issues

Residential waste management

The waste management plan for the proposed development details how residential waste will be disposed of. This includes two waste chutes for each apartment building, with access from the residential lobbies on levels 1-6, directing general waste to six waste storage rooms in the basement (Figure 16).

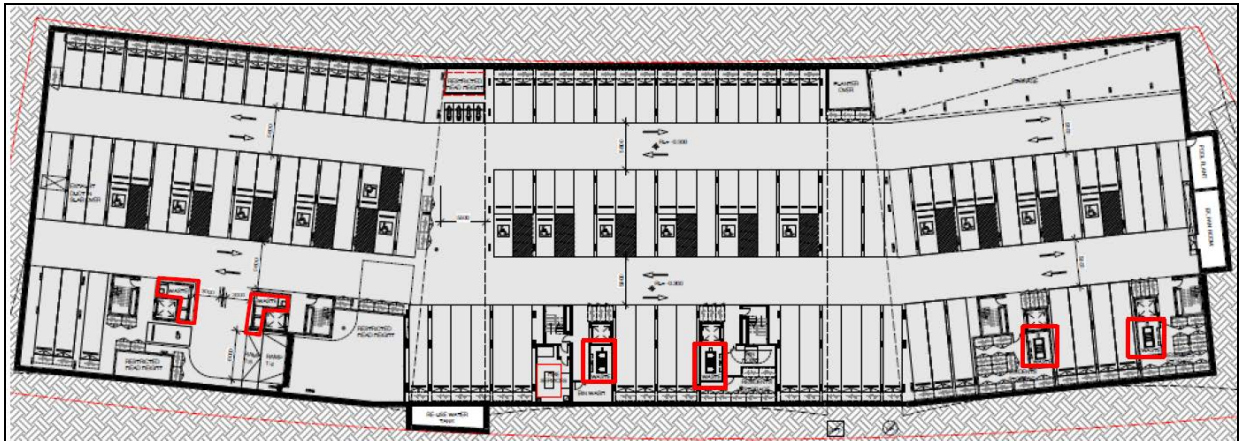


Figure 16: Basement level residential waste rooms (outlined in red) (Source: Waste management Plan)

Recycling is to be disposed of in the communal waste room, centrally located on the ground floor of Building B (Figure 17). Access to the communal waste room is via a roller door on the eastern side of the ground floor of Building B, accessed from the driveway.

Residents of the terraces will also have to carry all their waste and recycling to the communal waste room in Building B.

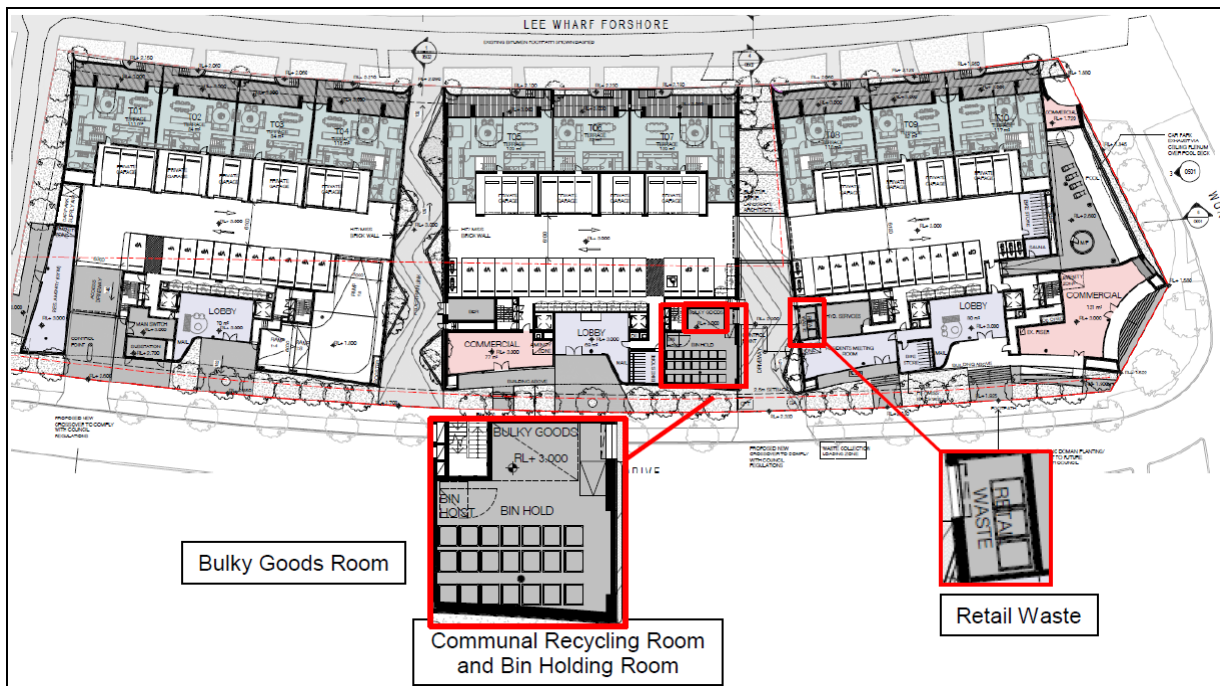


Figure 17: Ground floor communal waste room (outlined in red) (Source: Waste management Plan)

The Department notes the location of the waste room is not easily accessed for residents of both the terraces and apartments, will require residents to carry waste and recycling a considerable distance and through the public domain and is not safe. The Department is concerned that this will likely discourage recycling by future residents.

To address this and maximise access to useable recycling storage areas, the Department recommends a condition be imposed on the consent requiring the waste and recycling facilities be redesigned to provide:

- recycling bins in the basement level residential waste storage rooms for each building. This will require the building manager/ caretaker to monitor the recycling bins and transport recycling bins to the communal waste room on the ground floor via the bin hoist on a regular basis
- a waste chute opening on the ground floor of each building for the disposal of the terraces general waste.

Parking

Concern was raised in a public submission that the proposed development does not provide sufficient parking.

The proposal is consistent with the parking requirements of the Newcastle DCP 2012 providing 190 car parking spaces including 154 spaces for residents, 31 spaces for visitors and 5 spaces for commercial uses. 12 motorcycle spaces are also provided and bicycle storage on the ground floor and basement level.

The Department notes the concern raised in the public submission, however notes the proposal is consistent with the requirements of Newcastle DCP and also in close proximity to public transport including the light rail (currently under construction), Newcastle train interchange and bus routes servicing the city. In addition, on street parking along Honeysuckle Drive is time limited and metered which will act to discourage any overflow parking as a result of the proposal.

On this basis, the Department is satisfied the proposed 190 car parking spaces is appropriate for the site and strikes a balance between meeting car parking demands and encouraging public transport use.

Access Arrangements

Vehicle access to the site is provided via separate access driveways on Honeysuckle Drive which allow for left in and left out traffic only, as shown in **Figure 18**. Both access driveways will allow for two-way movements. The internal design of the car park allows vehicles to manoeuvre within the car park and exit in a forward direction.

A loading zone is proposed on Honeysuckle Drive close to the bin storage area for waste collection to occur on street (**Figure 18**). The Applicant advises the loading zone is proposed to operate at set times with waste collection typically occurring early in the morning outside of peak hour and estimates three collections per week.

The Applicant's proposed loading zone location is currently a bus zone on Honeysuckle Drive. Transport for NSW advises that any impact to the existing bus zone on Honeysuckle Drive and subsequent bus operations, should be mitigated in consultation with Newcastle Transport and Newcastle City Council. Council have also advised consultation is required with relevant stakeholders regarding the proposed loading zone, and if the bus stop is to be relocated the approval of the Newcastle City Traffic Committee will be required. The Department has considered the location of the proposed loading zone and subject to consultation with Newcastle City Council, is satisfied with the location and method of waste collection.

The Applicant advises servicing of the proposed commercial tenancies is likely to be carried out by small commercial vehicles such as a small van. The proposed development provides a service vehicle car space within Building B at ground floor level. Larger service vehicles cannot be accommodated within the basement. The Department considers that excluding waste

management, servicing requirements are expected to be relatively low and the proposed service vehicle access is satisfactory.

Council has also recommended that the width of the crossover at the eastern (secondary) driveway be reduced to a maximum of 6 m. The Department is satisfied the 6 m width will permit satisfactory access for vehicles entering and exiting the site without unduly impacting street parking and has recommended a condition accordingly.

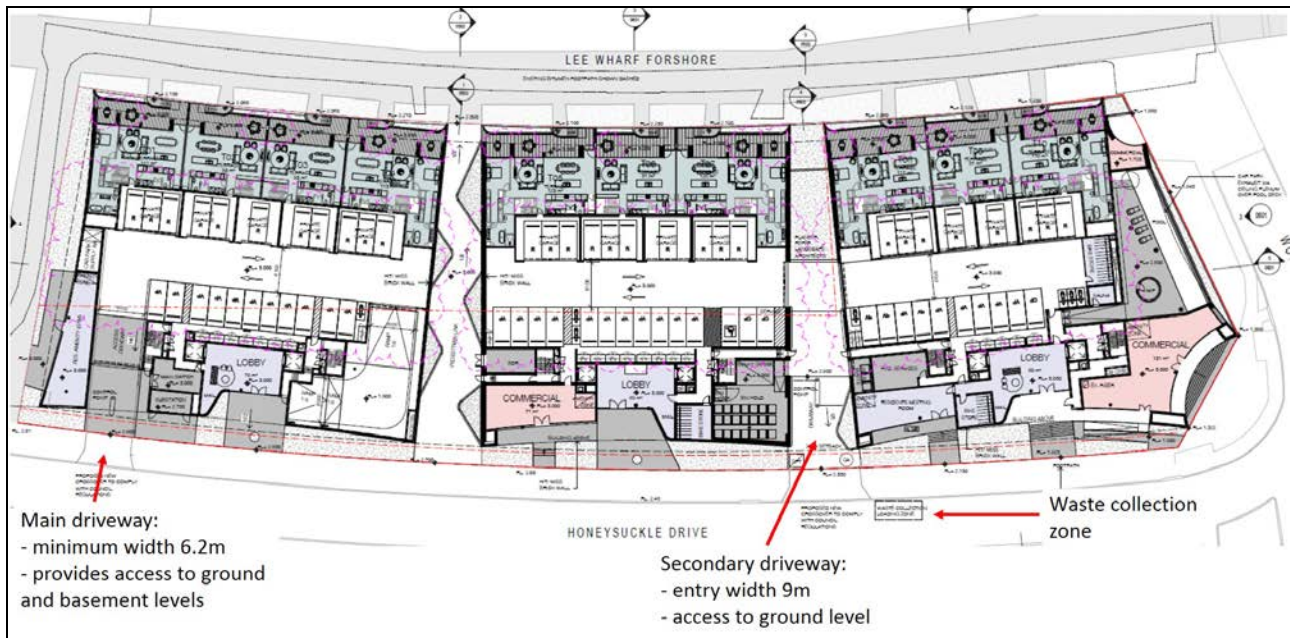


Figure 18: Access arrangements (Source: Architectural plans)

Through site link path width

A pedestrian path is provided in the through site link between Building A and B from Honeysuckle Drive to the foreshore. The width of the through site link varies from 9 m at the south to 4.5 m at the north, with path widths varying (2 m to 7 m) in between the landscaped beds.

The Department notes the foreshore end of the through site link narrows at one point to approximately 2 m wide due to a triangular shaped landscaped bed that protrudes into the pedestrian pathway. The landscaped beds add valuable landscaping and amenity within the link, however the Department considers that the 2 m path width has the potential to result in conflict between users, such as pedestrians and cyclists. The Department therefore recommends a condition, that the landscaped bed be decreased in size to provide a minimum 3 m path width at this point, to improve access for users.

Biodiversity

OEH identified that the biodiversity impacts of the project are to be assessed under the NSW Biodiversity Offsets Policy for Major Projects and the underlying tool, the Framework for Biodiversity Assessment (FBA). When this Policy was introduced in October 2014 a transitional implementation period applied, which required compulsory application of the Policy for all new major projects, requiring all new major projects to assess the biodiversity impacts in accordance with the Policy. The Policy however identified that where application or use of the FBA resulted in inappropriate outcomes the consent authority may vary the application of the policy.

The Applicant requested from OEH an exemption from the application of the FBA on 9 November 2017. The OEH agreed with the Applicant that the site has been highly modified being a sealed carpark, and granted an exemption from the FBA requirements on 14 December 2017.

The Department is satisfied that the proposal is consistent with the *Threatened Species Conservation Act 1995 (TSC Act)*. It is noted that although the *Biodiversity Conservation Act 2016* recently replaced the TSC Act, as the SEARs were issued before 25 August 2017, the proposal continues to be assessed under the TSC Act.

Dewatering

The SEARs for the proposal include the requirements to quantify water take requirements under the Water Sharing Plan for the North Coast Coastal Sands Groundwater Sources 2016 and to provide details of any ground water dewatering.

The Department of Primary Industries have advised all regulatory matters have been adequately addressed and recommended a condition requiring the preparation of a groundwater management and monitoring plan. The Department has recommended an appropriate condition.

6. CONCLUSION

The Department has reviewed the EIS, RtS and assessed the merits of the proposal, taking into consideration advice from the public authorities, including Council. Issues raised in public submissions have been considered and all environmental issues associated with the proposal have been thoroughly addressed.

The Department considers the proposal will positively contribute to the desired character of the locality and renewal of the site will contribute to the wider reinvigoration of the Honeysuckle Precinct. The proposal will provide significant public benefits through:

- providing 154 residential apartments within the Newcastle City Centre, with excellent access to public transport
- providing 16,637 m² residential and 226 m² commercial floor space, which will form an extension of and support established uses within the Honeysuckle Precinct
- contribution to employment growth by generating an estimated 100 construction jobs and 50 operational jobs
- providing for a new building with a high standard of architectural design and appearance that will complement the existing and desired future urban character of the locality
- contributing to a new public domain around the site with integrated landscaping and public links from Honeysuckle Drive to the foreshore.

Subject to recommended conditions, the Department considers the proposal to be in the public interest and recommends the application be approved.

7. RECOMMENDATION

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

- a) **considers** the recommendations of this report; and
- b) **approves** the SSD application (SSD 8019), under section 89E of the EP&A Act, having considered matters in accordance with (a) above; and
- c) **signs** the attached development consent at **Appendix E**.

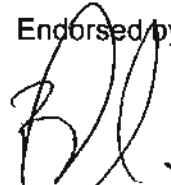
Prepared by: Emily Dickson
Key Sites Assessments

Endorsed by:



Amy Watson
Team Leader
Key Sites Assessments

Endorsed by:



Ben Lusher
Director
Key Sites Assessments

DECISION

Approved by:

Anthea Sargeant
Executive Director
Key Sites and Industry Assessment

APPENDIX A ENVIRONMENTAL IMPACT STATEMENT / SUBMISSIONS / RESPONSE TO SUBMISSIONS

See the Department's website at: <http://majorprojects.planning.nsw.gov.au>

APPENDIX B CONSIDERATION OF EPIs / SEPPs

ENVIRONMENTAL PLANNING INSTRUMENTS

To satisfy the requirements of Section 79C(a)(i) and Section 79C(a)(ii) of the EP&A Act, this report includes references to the provisions of the EPIs that govern the carrying out of the project and have been taken into consideration in the environmental assessment of the project.

Controls considered as part of the assessment of the proposal are:

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy No. 55- Remediation of Land
- State Environmental Planning Policy No. 65- Design Quality of Residential Flat Development and accompanying Apartment Design Guide;
- State Environmental Planning Policy No. 71- Coastal Protection
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

COMPLIANCE WITH CONTROLS

State Environmental Planning Policy (State and Regional Development) 2011

Relevant Sections	Consideration and Comments	Complies
3 Aims of Policy The aims of this Policy are as follows: (a) to identify development that is State significant development,	The proposed development is identified as SSD.	Yes
8 Declaration of State significant development: section 89C (1) Development is declared to be State significant development for the purposes of the Act if: (a) the development on the land concerned is, by the operation of an environmental planning instrument, not permissible without development consent under Part 4 of the Act, and (b) the development is specified in Schedule 1 or 2.	The proposed development is permissible with development consent. The site is specified in Schedule 2.	Yes

State Environmental Planning Policy No. 55 - Remediation of Land

Several onsite contamination investigations and associated reports have previously been undertaken at the site, in 2005 and 2007.

The Remediation and Validation Report, prepared in 2005, identified that the upper level of fill at the site (uppermost 0.5 m) was contaminated, and on this basis, soil remedial works were undertaken which comprised the excavation of the upper 0.3 m to 0.7 m of impacted material in the north west corner of the site. Following the completion of the remediation works, it was concluded that the site was suitable for medium density residential development.

The Site Audit Report and Site Audit Statement, prepared in 2005, identified that the site was suitable for residential and commercial use, noting minimal opportunity for soil access.

The Material Classification Report, undertaken in 2007, was based on limited testing and therefore an updated waste material classification and groundwater quality assessment was undertaken in 2017. The Waste Classification Report notes that soils present within the site are generally suitable to remain on-site, subject to the conditions presented in the Site Audit Statement and Report, being minimal soil access and no beneficial use of groundwater.

Council considers that as the site audit statements documents are over 10 years old, the site auditor should confirm that the site audit statement is still valid. As part of the RtS, the Applicant provided an addendum report that confirms the conclusions and recommendations of the 2005 site audit report and site audit statement are valid.

The Department considers this information to be satisfactory and that the proposed development is suitable for the site.

State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development and Apartment Design Guide

The proposal has been reviewed against the aims and objectives of the State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65) and accompanying Apartment Design Guide (ADG). An assessment of the proposal against the objectives of SEPP 65, the accompanying ADG is provided below and included in **Section 5.4** of this report.

Relevant Sections	Consideration and Comments	Consistent?
2 Aims of Policy This policy aims to improve the design quality of residential apartment development in New South Wales.	<ul style="list-style-type: none"> This is considered in detail below. 	Yes
28 Determination of development applications A consent authority must consider: (a) the advice (if any) obtained from the design review panel; (b) the design quality of the development when evaluated in accordance with the design quality principles; and (c) the Apartment Design Guide.	<ul style="list-style-type: none"> The proposal does not trigger a design competition or review by a design review panel. The proposal is evaluated in accordance with the design quality principles and the Apartment Design Guide below. 	Yes
Schedule 1 Design quality principles		
1: Context and neighbourhood character	<ul style="list-style-type: none"> The proposal is well integrated with the existing context and desired future character of the Honeysuckle Precinct and provides an appropriate built form at the corner of Honeysuckle Drive and Worth Place. The proposal will not have any detrimental impacts on the amenity of existing and future adjoining development. 	Yes
2: Built form and scale	<ul style="list-style-type: none"> The proposal is consistent with the general scale of the surrounding locality and the desired future character for the site as set out in the height and floor space ratio controls in <i>Newcastle LEP 2012</i>. A variation to the building height and FSR controls is sought. 	No, refer to Section 5.3
3: Density	<ul style="list-style-type: none"> The building is considered to be of an appropriate density and scale consistent with the Newcastle LEP 2012, the site and surrounding context. The proposed density, despite seeking a variation to FSR controls, achieves a high level of residential amenity and is supported by the desired Honeysuckle Precinct character and provision of future infrastructure including the light rail service. 	No, refer to Section 5.3.3
4: Sustainability	<ul style="list-style-type: none"> The proposal provides for the implementation of mitigation measures for avoiding, reusing, recycling and managing waste during construction and operational phases of the development The proposal encourages sustainable transport choices, including use of public transport, walking and cycling. 74% of apartments achieve natural ventilation to reduce heating and cooling costs. The proposal includes energy efficient lighting, external shading devices to reduce solar gain and low maintenance, long lifecycle, recyclable and reusable materials to achieve a positive environmental outcome. 	Yes
5: Landscape	<ul style="list-style-type: none"> A 2.5m setback to the north, south and west boundaries allows for the provision of soft landscaping between the public domain and the site. 	Yes

	<ul style="list-style-type: none"> Landscaping is provided across the site including in the two through site links, around all boundaries of the site at the ground level, at the communal rooftop areas and green roofs are provided to the residential terraces that face the foreshore. 	
6: Amenity	<ul style="list-style-type: none"> The proposal provides a high level of amenity for future residents, as considered against the ADG below. The proposed apartments will achieve satisfactory levels of solar access to living areas, natural ventilation and privacy. Non-compliances are discussed in Section 5.4. 	Yes
7: Safety	<ul style="list-style-type: none"> The proposal provides passive surveillance through balconies, terraces and windows that front the public domain and overlook the through site links. The principle building entrances have secure access with intercom and swipe card entry. 	Yes
8: Housing diversity and social interaction	<ul style="list-style-type: none"> The proposal provides a mix of apartment sizes to meet a range of housing needs in close proximity to public transport and employment opportunities. Communal open space, including a gym, pool and rooftop terraces on Buildings A and B will provide opportunities for social interaction. The mix of apartment sizes provides housing choice for different demographics, living needs and household budgets. 	Yes
9: Aesthetics	<ul style="list-style-type: none"> The proposed building design and materials are considered to fit well within the site and the buildings relate well to each other. The proposed palette of materials is drawn from the natural environment to integrate the building into its location. 	Yes

The Department's assessment against the objectives of the ADG are summarised below:

Objectives	Design response	Consistent?
Part 3: Siting		
3A Site analysis		
Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.	<ul style="list-style-type: none"> The proposal is informed by a site analysis plan, identifying opportunities and constraints of the site conditions and surrounding context. 	Yes
3B Orientation		
Building types and layouts respond to the streetscape and site while optimising solar access within the development.	<ul style="list-style-type: none"> The building is designed to define and address the street layout and foreshore. Direct ground level access is provided to the terraces fronting the foreshore to activate the public domain. The entry to each building provides an address to Honeysuckle Drive. A minimum of 2 hours solar access is provided to 80% of units in accordance with ADG requirements. Communal open space is provided on the rooftop which will optimise solar access. 	Yes
Overshadowing of neighbouring properties is minimised	<ul style="list-style-type: none"> The building is designed to minimise overshadowing of neighbouring properties. 	Yes

during mid winter.	<ul style="list-style-type: none"> North facing apartments at 10 Worth Place are unaffected by shadow from the proposed development. 	
3C Public domain interface		
Transition between private and public domain is achieved without compromising safety and security.	<ul style="list-style-type: none"> Passive surveillance is available from balconies and windows which overlook the public domain, the through site links and private areas. The terraces fronting the foreshore have direct private ground level access. Each building has a clear entrance with large lobby areas for casual interaction and clearly delineates the public and private domain. 	Yes
Amenity of the public domain is retained and enhanced.	<ul style="list-style-type: none"> The ground floor contains 3 commercial tenancies to activate the public domain, including at the intersection of Honeysuckle Drive and Worth Place. The design positively addresses the foreshore park with direct access to the terraces and low landscaped planter beds to delineate between the public and private areas. A kiosk is provided in the north-east corner to provide some commercial activity to the foreshore. Planting is provided around all building edges with integrated landscaping. 	Yes
3D Communal and public open space		
<p>An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping</p> <ul style="list-style-type: none"> Communal open space has a minimum area equal to 25% of the site Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid winter) 	<ul style="list-style-type: none"> Communal open space for the residential component of the buildings totals 722 m² and comprises rooftop areas on Building A and B, a gym, communal meeting room and pool on the ground floor. This is 10% of the site area. The site also provides two through site links that contribute to the public domain and the site has direct access to the foreshore parkland, which compensates for the communal areas not meeting the minimum requirements. The rooftop communal areas receive direct sunlight between 9 am and 3 pm on 21 June and the pool area receives direct sunlight from 9 am to 2 pm on 21 June. 	Partial. Refer to section 5.4.1
Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting	<ul style="list-style-type: none"> Communal open space allows for passive recreation, including communal seating, landscaping and shade structures. The communal space is well laid out to maximise amenity. It benefits from mid-winter solar access throughout the day. Shade structures have been provided on the rooftop areas for summer use. 	Yes
Communal open space is designed to maximise safety	<ul style="list-style-type: none"> The pool, meeting room and gym communal spaces have frontage to the public domain, which will provide passive surveillance. The design of rooftop structures like lifts and stairs promote visibility across the space and minimise hiding spots. 	Yes
Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood	<ul style="list-style-type: none"> The site provides two through site links with public access from Honeysuckle Drive to the foreshore. 	Yes
3E Deep soil zones		
Deep soil zones are to meet the following minimum requirements: 7% deep soil zone and a minimum	<ul style="list-style-type: none"> The development covers the majority of the site and 419 m² (5.7%) deep soil area is provided, although does not meet the minimum dimension of 6 m. 	No, refer to section 5.4.1

<p>dimension of 6m</p>	<ul style="list-style-type: none"> An area of approximately 360 m² of soil zone is proposed in landscaped planter beds, in the through site links and green roofs, comprising around 4.9% of the total site area. This is common and acceptable for an urban site that currently has a completely impervious surface at ground level (carpark). 													
<p>3F Visual privacy</p>														
<p>Separation distances from building to boundary:</p> <table border="1" data-bbox="152 421 810 612"> <thead> <tr> <th>Height</th> <th>Habitable rooms</th> <th>Non-habitable rooms</th> </tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td> <td>6 m</td> <td>3 m</td> </tr> <tr> <td>Up to 25m (5-8 storeys)</td> <td>9 m</td> <td>4.5 m</td> </tr> <tr> <td>Over 25m (9+ storeys)</td> <td>12 m</td> <td>6 m</td> </tr> </tbody> </table> <p>Separation distances between buildings on the same site should combine required building separations depending on the type of room.</p>	Height	Habitable rooms	Non-habitable rooms	Up to 12m (4 storeys)	6 m	3 m	Up to 25m (5-8 storeys)	9 m	4.5 m	Over 25m (9+ storeys)	12 m	6 m	<ul style="list-style-type: none"> The development covers the entire site and separation distances to side and rear boundaries do not meet the minimum recommended in the ADG. However the site is separated from neighbouring sites by roads and open which provides adequate separation. The development comprises three buildings with building separation between each new building 9.3 m at the greatest and 4.5 m at the narrowest point. To address this, openings within the eastern and western laneway elevations are orientated to face north to remove direct line of sight between habitable rooms. 	<p>No, refer to Section 5.4.1</p>
Height	Habitable rooms	Non-habitable rooms												
Up to 12m (4 storeys)	6 m	3 m												
Up to 25m (5-8 storeys)	9 m	4.5 m												
Over 25m (9+ storeys)	12 m	6 m												
<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>	<ul style="list-style-type: none"> Direct overlooking between residential apartments is avoided by using angled windows. Separation distances between buildings on adjoining sites including to the south across Honeysuckle Drive, to the east across Worth Place and to future development to the west at 35 Honeysuckle Drive are adequate to provide privacy. 	<p>Yes</p>												
<p>3G Pedestrian access and entries</p>														
<p>Building entries and pedestrian access connects to and addresses the public domain</p>	<ul style="list-style-type: none"> Each building has a large lobby with lounge areas that addresses the street. Individual ground floor entries are provided to the terraces that address the foreshore. 	<p>Yes</p>												
<p>Access, entries and pathways are accessible and easy to identify</p>	<ul style="list-style-type: none"> The communal residential entrances are all accessed from Honeysuckle Drive and are large, easily identifiable and accessible with ramped access provided. 	<p>Yes</p>												
<p>Large sites provide pedestrian links for access to streets and connection to destinations</p>	<ul style="list-style-type: none"> Two through site links are proposed to connect Honeysuckle Drive with the foreshore. The links have clear sightlines, are overlooked by habitable rooms and will be well lit. 	<p>Yes</p>												
<p>3H Vehicle access</p>														
<p>Vehicle access points are to be designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.</p>	<ul style="list-style-type: none"> Vehicle access is via two new driveways from Honeysuckle Drive. The two driveways are separated and the location balances the need to provide a safe access point with high quality streetscapes. 	<p>Yes</p>												

3J Bicycle and car parking		
Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas.	<ul style="list-style-type: none"> The RMS guide requires a minimum of 116 residential car parking spaces and 22 visitor spaces. The Newcastle DCP requires 190 spaces. The application proposes 154 residential parking spaces, including 16 adaptable spaces, with one space to be allocated per dwelling, as requested by Newcastle Council. 31 visitor spaces and 5 commercial spaces are provided, providing a total of 190 off street parking spaces. 	Yes
Parking and facilities are provided for other modes of transport.	<ul style="list-style-type: none"> The development provides 222 bicycle spaces, including 154 resident storage cages and 68 lockable spaces on the ground floor. The Newcastle DCP requires a total of 173 bicycle spaces. 	Yes
Car park design and access is safe and secure	<ul style="list-style-type: none"> The car park will have secure entry and there are no 'hidden corners' of the car park. 	Yes
Visual and environmental impacts of underground car parking are minimised	<ul style="list-style-type: none"> The proposed car parking appears well organised with a logical and efficient structural grid. The basement car park does protrude above existing ground level due to habitable flood level requirements, however terraced landscaping is provided to minimise the visibility of the basement structure. 	Yes
Visual and environmental impacts of on-grade car parking are minimised.	<ul style="list-style-type: none"> On grade car parking is not proposed. 	NA
Visual and environmental impacts of above ground enclosed car parking are minimised.	<ul style="list-style-type: none"> Enclosed above ground car parking is proposed. The parking areas are screened from public views, with lobby and commercial uses to the south and the foreshore terraces to the north 	Yes
Positive street address and active frontages should be provided at ground level.	<ul style="list-style-type: none"> The car parking entries are located within the building and surrounded by active street frontages. 	
Part 4: Building		
4A: Solar and daylight access		
To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space: <ul style="list-style-type: none"> At least 70% of apartments' living rooms and private open spaces receive a minimum of 2 hours direct sunlight between 9 am-3 pm in mid-winter A maximum of 15% of apartments receive no direct sunlight between 9 am-3 pm in midwinter 	<ul style="list-style-type: none"> 124 of 154 apartments (80%) have living rooms and private open space that receive a minimum of two hours direct sunlight between 9 am and 3 pm in mid-winter 8 apartments receive no solar access between 9 am and 3 pm in mid winter (5%) 22 apartments receive 15 minutes of solar access between 9 am and 3 pm in mid-winter 	Yes Yes
Daylight access is maximised where sunlight is limited	<ul style="list-style-type: none"> The proposal meets and exceeds the solar access benchmark as the site has direct northern frontage to Hunter River. 	Yes
Design incorporates shading and glare control,	<ul style="list-style-type: none"> The apartments are provided with covered balconies to provide shading from 	Yes

<p>particularly for warmer months</p>	<p>summer sun but permit winter sun to penetrate living areas.</p> <ul style="list-style-type: none"> Shading devise such as awnings are provided to windows on the eastern and western elevations 											
<p>4B Natural ventilation</p>												
<p>All habitable rooms are naturally ventilated</p>	<ul style="list-style-type: none"> All habitable rooms are naturally ventilated. 	<p>Yes</p>										
<p>The layout and design of single aspect apartments maximises natural ventilation.</p>	<ul style="list-style-type: none"> The apartments that do not achieve natural cross ventilation are orientated north with good solar access and have limited depths. The design is a result of a built form that maximises natural ventilation for the site too as many apartments as possible. 	<p>Yes</p>										
<p>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents:</p> <ul style="list-style-type: none"> at least 60% of apartments are naturally cross ventilated in the first nine storeys (apartments 10 storeys or greater are deemed to be cross ventilated) Overall depth of a cross-over or cross-through apartment does not exceed 18 m, measured from glass to glass 	<ul style="list-style-type: none"> 113 of the 154 apartments are naturally cross ventilated (73%). No apartments exceed 18 m in depth. The deepest apartment is 17.5 m. 	<p>Yes</p>										
<p>4C Ceiling heights</p>												
<p>Ceiling height achieves sufficient natural ventilation and daylight access. Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table border="1" data-bbox="152 927 831 1305"> <tr> <td>Habitable rooms</td> <td>2.7 m</td> </tr> <tr> <td>Non-habitable rooms</td> <td>2.4 m</td> </tr> <tr> <td>2 storey apartments</td> <td>2.7 m for main living area floor 2.4 m for second floor, where its area does not exceed 50% of the apartment area</td> </tr> <tr> <td>Attic spaces</td> <td>1.8 m at edge of room with a 30 degree minimum ceiling slope</td> </tr> <tr> <td>If located in mixed use areas</td> <td>3.3 m for ground and first floor to promote future flexibility of use</td> </tr> </table>	Habitable rooms	2.7 m	Non-habitable rooms	2.4 m	2 storey apartments	2.7 m for main living area floor 2.4 m for second floor, where its area does not exceed 50% of the apartment area	Attic spaces	1.8 m at edge of room with a 30 degree minimum ceiling slope	If located in mixed use areas	3.3 m for ground and first floor to promote future flexibility of use	<ul style="list-style-type: none"> The residential areas of the building have a ceiling height of 2.7 m for all habitable rooms. The commercial areas on the ground floor have a ceiling height of 3.3 m. The first floor heights are 2.7 m rather than the 3.3 m specified in the guideline. This is acceptable as the ground floor contains commercial areas and the surrounding area contains a number of commercial buildings. 	<p>Partial</p>
Habitable rooms	2.7 m											
Non-habitable rooms	2.4 m											
2 storey apartments	2.7 m for main living area floor 2.4 m for second floor, where its area does not exceed 50% of the apartment area											
Attic spaces	1.8 m at edge of room with a 30 degree minimum ceiling slope											
If located in mixed use areas	3.3 m for ground and first floor to promote future flexibility of use											
<p>Ceiling height increases the sense of space in apartments and provides for well proportioned rooms</p>	<ul style="list-style-type: none"> The ceiling heights comply with the requirements and the design provides for well proportioned rooms. 	<p>Yes</p>										
<p>Ceiling heights contribute to the flexibility of building use</p>												

over the life of the building																
4D Apartment size and layout																
<p>The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity.</p> <ul style="list-style-type: none"> • Apartments are required to have the following minimum internal areas: <table border="1" data-bbox="188 400 831 627"> <thead> <tr> <th>Apartment type</th> <th>Minimum internal area</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>35 m²</td> </tr> <tr> <td>1 bedroom</td> <td>50 m²</td> </tr> <tr> <td>2 bedroom</td> <td>70 m²</td> </tr> <tr> <td>3 bedroom</td> <td>90 m²</td> </tr> <tr> <td>Additional bathrooms</td> <td>+5 m² per bathroom</td> </tr> <tr> <td>Additional bedrooms</td> <td>+12 m² per bedroom</td> </tr> </tbody> </table> <ul style="list-style-type: none"> • Every habitable room must have a window in an external wall with a total glass area of not less than 10% of the floor area. Daylight and air may not be borrowed from other rooms. 	Apartment type	Minimum internal area	Studio	35 m ²	1 bedroom	50 m ²	2 bedroom	70 m ²	3 bedroom	90 m ²	Additional bathrooms	+5 m ² per bathroom	Additional bedrooms	+12 m ² per bedroom	<ul style="list-style-type: none"> • All apartments comply with the minimum internal area. • Habitable rooms have a window on an external wall or a door / window onto the balcony and windows exceed the 10% requirement. 	Yes
Apartment type	Minimum internal area															
Studio	35 m ²															
1 bedroom	50 m ²															
2 bedroom	70 m ²															
3 bedroom	90 m ²															
Additional bathrooms	+5 m ² per bathroom															
Additional bedrooms	+12 m ² per bedroom															
<p>Environmental performance of the apartment is maximised:</p> <ul style="list-style-type: none"> • Habitable room depths are limited to a maximum of 2.5 x the ceiling height (6.75 m) • In open plan layouts the maximum habitable room depth is 8 m from a window 	<ul style="list-style-type: none"> • Bedrooms comply with the maximum depth of 6.75 m as the proposed depths range from between 3m and 6.32 m. • In the open plan unit layouts, 12 x 1 bed apartments and 24 x 2 bed apartments exceed the maximum room depth of 8m with a depth of 9 m. The Department notes that these apartments exceed the minimum internal size, with the 1 bed apartments (59 m²) and 2 bed apartments (89 m²) significantly larger than the minimum size in the guidelines. Reducing the depth would result in smaller apartments and provide little amenity benefit. • All habitable rooms are located on the external face of the buildings to maximise access to sunlight and ventilation. • The proposal achieves the minimum apartment size, solar access and natural ventilation recommendations outlined in the ADG and as such, the minor non-compliance is acceptable in this instance. 	Considered acceptable														
<p>Apartment layouts are designed to accommodate a variety of household activities and needs:</p> <ul style="list-style-type: none"> • Master bedrooms have a minimum area of 10 m² and other bedrooms have 9 m² (excluding wardrobe space) • Bedrooms have a minimum dimension of 3 m (excluding wardrobe space) • Living rooms or combined living / dining rooms have a 	<ul style="list-style-type: none"> • Master bedrooms are 10m² and other bedrooms 9 m² as recommended by the guidelines. • Bedrooms have minimum dimensions of 3 m. • Combined living / dining rooms have minimum dimensions of 4 m. • The width of the 12 cross through apartments is 4.8 m internally. • All cross-through units are at least 4 m wide. 	Yes														

<p>minimum width of 3.6 m for studio and 1 bed apartments and 4 m for 2 and 3 bed apartments</p> <ul style="list-style-type: none"> The width of cross-over or cross-through apartments are at least 4 m internally to avoid deep narrow apartment layouts 																	
4E Private open space and balconies																	
<p>Apartments provide appropriately sized principal private open space and balconies to enhance residential amenity:</p> <table border="1" data-bbox="188 456 831 647"> <thead> <tr> <th>Dwelling type</th> <th>Minimum area</th> <th>Minimum depth</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4 m²</td> <td>-</td> </tr> <tr> <td>1 bedroom</td> <td>8 m²</td> <td>2 m</td> </tr> <tr> <td>2 bedroom</td> <td>10 m²</td> <td>2 m</td> </tr> <tr> <td>3+ bedroom</td> <td>12 m²</td> <td>2.4 m</td> </tr> </tbody> </table> <p>Minimum depth to count towards area is 1 m.</p> <p>Private open space on the ground level has a minimum area of 15 m² and a minimum depth of 3 m</p>	Dwelling type	Minimum area	Minimum depth	Studio	4 m ²	-	1 bedroom	8 m ²	2 m	2 bedroom	10 m ²	2 m	3+ bedroom	12 m ²	2.4 m	<ul style="list-style-type: none"> All apartments provide open space in the form of balconies or private courtyards. The one bedroom units range in area from 9 m² to 20 m² with depths ranging from 0.6 m (minimum) to 2.4 m (maximum). The variation to minimum area and depth relates to the one bedroom units that face Honeysuckle Drive. Indicative furniture layouts have been provided showing how the 1 bedroom unit balconies can be used. The 1 bed apartments exceed the minimum internal area requirement of 50 m² and the development provides communal open space at the roof top, in addition to the public open space on the foreshore. 	<p>No, refer to Section 5.4.1</p>
Dwelling type	Minimum area	Minimum depth															
Studio	4 m ²	-															
1 bedroom	8 m ²	2 m															
2 bedroom	10 m ²	2 m															
3+ bedroom	12 m ²	2.4 m															
<p>Primary private open space and balconies are appropriately located to enhance liveability for residents.</p>	<ul style="list-style-type: none"> Primary private open space areas are located adjacent to the living space and face predominantly north. 36 units have primary balconies that face south to Honeysuckle Drive. Secondary balconies are provided to some bedrooms. 	<p>Yes</p>															
<p>Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building.</p>	<ul style="list-style-type: none"> The private open space is well designed and is integrated with the building architecture. The design of the balconies that face north incorporates a perforated metal upstand with metal rod balustrades which complements the sculpted design of the building. 	<p>Yes</p>															
<p>Private open space and balcony design maximises safety.</p>	<ul style="list-style-type: none"> Private open space provides passive surveillance from all elevations of the public domain, including the through site links. The balustrade design provides safety and privacy. 	<p>Yes</p>															
4F Common circulation and spaces																	
<p>Common circulation spaces achieve good amenity and properly service the number of apartments:</p> <ul style="list-style-type: none"> Maximum number of apartments off a circulation core is eight (or no more than 12 apartments). For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40. <p>Common circulation spaces promote safety and provide</p>	<ul style="list-style-type: none"> The maximum number of apartments off a circulation core is four. Corridors will receive natural light and ventilation. 	<p>Yes</p>															

for social interaction between residents.												
4G Storage												
<p>Adequate, well designed storage is provided in each apartment. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table border="1" data-bbox="188 368 792 560"> <thead> <tr> <th>Dwelling type</th> <th>Storage size volume</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4 m³</td> </tr> <tr> <td>1 bedroom</td> <td>6 m³</td> </tr> <tr> <td>2 bedroom</td> <td>8 m³</td> </tr> <tr> <td>3+ bedroom</td> <td>10 m³</td> </tr> </tbody> </table> <p>With at least 50% located within the apartment.</p>	Dwelling type	Storage size volume	Studio	4 m ³	1 bedroom	6 m ³	2 bedroom	8 m ³	3+ bedroom	10 m ³	<ul style="list-style-type: none"> Storage areas provided for the two, three and four bedroom apartments meet the guidelines, with storage areas located internally and in storage areas in the basement. Storage for the one bedroom apartments ranges from 4.6 m³ to 5.7 m³. The Applicant has advised in the response to submissions documentation that additional storage for the 1 bedroom apartments can be made available in the basement. However, the current provision of internal storage is well below the 50% requirement. It is recommended that additional storage is required to be provided within the one bedroom units. 	Partial, refer to section 5.4.1
Dwelling type	Storage size volume											
Studio	4 m ³											
1 bedroom	6 m ³											
2 bedroom	8 m ³											
3+ bedroom	10 m ³											
Additional storage is conveniently located, accessible and nominated for individual apartments.	<ul style="list-style-type: none"> Additional storage areas in the basement are conveniently located and accessible for individual apartments. 	Yes										
4H Acoustic privacy												
<p>Noise transfer is minimised through the siting of buildings and building layout</p> <p>Noise impacts are mitigated within apartments through layout and acoustic treatments</p>	<ul style="list-style-type: none"> Each floor in the three buildings have the same layout, similar uses (e.g. bedrooms, living rooms) generally located on top of each other. An Acoustic report has been provided which details materials to mitigate noise impacts. 	Yes, refer to section 5.5										
4J Noise and pollution												
Design solutions can help to improve quality of life in affected apartments (major roads, hostile and noisy environments) by minimising potential noise and pollution impacts	<ul style="list-style-type: none"> The Applicants Acoustic Report recommends glazing with a higher acoustic level for south facing apartments The Department considers future port noise may adversely impact north facing apartments and a new condition recommends a glazing with a higher acoustic level for all apartments in the development. 	Yes, refer to section 5.5										
4K Apartment mix												
<p>A range of apartment types and sizes is provided to cater for different household types now and into the future.</p> <p>The apartment mix is distributed to suitable locations within the building.</p>	<ul style="list-style-type: none"> A variety of apartment sizes and types suitable for the housing needs of the area are accommodated and appropriately located within the building The apartments are logically located within the building. 	Yes										
4L Ground floor apartments												
<p>Street frontage activity is maximised where ground floor apartments are located.</p> <p>Design of ground floor apartments delivers amenity and</p>	<ul style="list-style-type: none"> The ground floor apartments have been designed to address the foreshore with direct access. The ground floor apartments have raised terraces and planter beds to provide amenity and safety for residents. 	Yes										

safety for residents.		
4M Facades		
Building facades provide visual interest along the street while respecting the character of the local area.	<ul style="list-style-type: none"> The building façade is articulated with a scalloped design and exterior materials including tiles and face brick, bringing visual interest to the street. 	Yes
Building functions are expressed by the façade.	<ul style="list-style-type: none"> The residential and commercial functions of the building are expressed with clear building entries. The building addresses the corner of Honeysuckle Drive and Worth Place. 	Yes
4N Roof design		
Roof treatments are integrated into the building design and positively respond to the street.	<ul style="list-style-type: none"> The roof treatment includes communal rooftop areas including landscaping and pergola. This adds visual interest to the roof form. 	Yes
4O Landscape design		
Landscape design is viable and sustainable. Landscape design contributes to the streetscape and amenity.	<ul style="list-style-type: none"> Landscaping includes a mixture of native and non-native plants and trees. Planting and furniture is provided on the rooftop communal areas. Planting is provided around the site, in the through site links and green roofs above the two storey terraces. Plants have been selected for their hardiness and ability to be maintained. 	Yes
4P Planting on structures		
Appropriate soil profiles are provided. Plant growth is optimised with appropriate selection and maintenance. Planting on structures contributes to the quality and amenity of communal and public open spaces.	<ul style="list-style-type: none"> Appropriate soil profiles are provided for planting on slabs. Selected plants are tolerant for growing in planters and on rooftops. 	Yes
4Q Universal design		
Universal design features are included in apartment design to promote flexible housing for all community members (Developments achieve a benchmark of 20% of the total apartments incorporating the Liveable Housing Guidelines silver level universal design features) A variety of apartments with adaptable designs are provided. Apartment layouts are flexible and accommodate a range of lifestyle needs.	<ul style="list-style-type: none"> All apartments incorporate the Liveable Housing Guidelines silver level universal design features. The proposal provides a total of 16 adaptable dwellings. 	Yes

4S Mixed use		
Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement.	<ul style="list-style-type: none"> The development provides three commercial tenancies, addressing Honeysuckle Drive and the foreshore. Active frontages are provided to the foreshore with direct access to the ground floor terraces. 	Partial, refer to section 5.4.3
Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents.	<ul style="list-style-type: none"> Residential circulation areas are clearly defined and access to communal open space is provided. 	Yes
4T Awning and signage		
Awnings are well located and complement and integrate with the building design.	<ul style="list-style-type: none"> Awnings are not provided. This is consistent with the surrounding built forms. 	Yes
4U Energy efficiency		
<p>Development incorporates passive environmental design.</p> <p>Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer.</p> <p>Adequate natural ventilation minimises the need for mechanical ventilation.</p>	<ul style="list-style-type: none"> The development meets BASIX water, thermal and energy efficiency targets. Buildings and apartments have been orientated to maximise solar access and achieve natural ventilation. 	Yes
4V Water management and conservation		
<p>Potable water use is minimised.</p> <p>Urban stormwater is treated on site before being discharged to receiving waters.</p> <p>Flood management systems are integrated into site design.</p>	<ul style="list-style-type: none"> Water efficient fittings and appliances will be installed. A Stormwater Management Strategy has been prepared which considers the water sensitive design initiatives such as rainwater tanks, harvested roof areas and management of overflow. A Flood Impact Assessment has been carried out. 	Yes

4W Waste management		
<p>Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents.</p> <p>Domestic waste is minimised by providing safe and convenient source separation and recycling.</p>	<ul style="list-style-type: none"> • Waste storage is provided at ground floor and basement level with waste chutes proposed. • The EIS included a Waste Management Plan which detailed separate waste and recycling containers will be provided for residential use, retail use and bulky goods. • Ease of access and safety to the communal waste room is not acceptable. A new condition is recommended to provide recycling bins in the existing basement waste areas. • 	<p>Partial. Refer section 5.5</p>
4X Building maintenance		
<p>Building design detail provides protection from weathering.</p> <p>Systems and access enable ease of maintenance.</p> <p>Material selection reduces ongoing maintenance costs.</p>	<ul style="list-style-type: none"> • The building has been appropriately designed to allow ease of maintenance. • The materials are robust. 	<p>Yes</p>

Development within the coastal zone (clause 5.5 of Newcastle LEP 2012)

Clause 1.9 of Newcastle LEP 2012 provides that SEPP 71 Coastal Protection does not apply to land in the Newcastle City Centre, which the subject site is located within. Clause 5.5 of NLEP includes considerations for development within the coastal zone, including the following:

- existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to maintaining existing public access, improving access where possible and identifying opportunities for new public access
- the suitability of development given its type, location and design and its relationship with the surrounding area including its bulk, scale, size and overall built form
- the type of proposed development and any associated land uses or activities including compatibility with any land based and water based coastal activities
- the impact that the development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore
- the scenic qualities of the coast, and means to protect and improve these qualities
- how biodiversity and ecosystems including native coastal vegetation, existing wildlife corridors, rock platforms, water quality and native fauna and flora and their habitats can be conserved
- the cumulative impacts of the proposed development and other developments on the coastal catchment
- the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards
- likely impacts of development on the water quality of coastal waterbodies.

The proposed development is consistent with Clause 5.5 of the NLEP 2012.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

BASIX encourages sustainable residential development across NSW by setting targets that measure the efficiency of buildings in relation to water and energy use and thermal comfort. BASIX requires all new dwellings meet sustainability targets of a 20% reduction in energy use (building size dependent) and a 40% reduction in potable water.

There has been a commitment that BASIX commitments are complied with. The resulting BASIX scores for the building are:

144 Apartments

Energy – 21 (target 20)

Water – 43 (target 40)

Thermal Comfort – Pass

10 Terraces

Energy – 44 (target 40)

Water – 40 (target 40)

Thermal Comfort - Pass

The BASIX Certificate ensures the proposal meets the required targets and accordingly satisfies the aims of the BASIX SEPP. A condition requiring as much has also been imposed.

OTHER POLICIES

In accordance with Clause 11 of the SRD SEPP, DCPs do not apply to SSD. Notwithstanding, the objectives of relevant plans and policies that govern the carrying out of the project are appropriate for consideration in this assessment.

Newcastle Development Control Plan 2012

An assessment of the proposal against the controls within the Newcastle DCP 2012 is set out in the table below.

Section	Provisions	Compliance
Section 3 - Land Use Specific provisions		
3.01 Subdivision	<ul style="list-style-type: none"> relates to all development containing subdivision 	<ul style="list-style-type: none"> Subdivision to create proposed Lot 2 in a subdivision of Lot 2000 in DP1145678 was approved by Council in December 2016.
3.0 3 Residential Development	<ul style="list-style-type: none"> residential flat buildings to comply with SEPP 65 and the ADG principal controls relating to frontage widths, setbacks and landscaped area controls relating to siting the development, amenity, configuration and the environment 	<ul style="list-style-type: none"> The development has been designed in accordance with SEPP 65 and the Apartment Design Guide (ADG). The development achieves the objectives of this section as residential development in proximity to services and transport is provided which respects the amenity and character of the surrounding area.
3.10 Commercial Development	<ul style="list-style-type: none"> ground floor retail uses provide multiple pedestrian accesses along the street frontage solid walls or covered glass for lengths greater than 3m are to be avoided 	<ul style="list-style-type: none"> glazed commercial tenancies are provided facing Honeysuckle Drive and Worth Place multiple entry points are provided to each building
Section 4.0 Risk Minimisation		
4.01 Flood Management	<ul style="list-style-type: none"> the subject site is flood prone land and as such a flood impact assessment is required 	<ul style="list-style-type: none"> A flood impact assessment has been prepared and the proposed development has been designed in accordance with Council's flood requirements.
4.03 Mine Subsidence	<ul style="list-style-type: none"> the subject site is identified within a mine subsidence area 	<ul style="list-style-type: none"> Consultation with the Mine Subsidence Board has occurred and approval has been provided.
4.04 Safety and Security	<ul style="list-style-type: none"> encourage a built environment that provides safe and activated places 	<ul style="list-style-type: none"> The proposal has been assessed against the Crime Prevention Through Environmental Design (CPTED) framework. The proposal is consistent with the key principles of CPTED
4.05 Social Impact	<ul style="list-style-type: none"> consider both positive and negative social impacts in achieving socially sustainable development 	<ul style="list-style-type: none"> A Plan of Management outlines the ongoing management of the site and associated social impacts.
Section 5.0 Environmental Protection		
5.01 Soil management	<ul style="list-style-type: none"> to prevent the environment against soil erosion and loss of soil from construction 	<ul style="list-style-type: none"> An Erosion and Sediment Control Plan has been prepared.
5.02 Land Contamination	<ul style="list-style-type: none"> consideration of land contamination in accordance with SEPP 55 	<ul style="list-style-type: none"> Contamination investigations have been carried out, which determined the site was suitable for residential use with minimal opportunity for soil access.
5.03 Tree Management	<ul style="list-style-type: none"> to consider existing trees on site and promote tree growth 	<ul style="list-style-type: none"> The site contains no trees. A Landscape Plan has been prepared that details a comprehensive landscape strategy for the site.
5.04 Aboriginal Heritage/ 5.05 Heritage Items/ 5.06 Archaeological Management/ 5.07 Heritage Conservation Areas	<ul style="list-style-type: none"> provisions to ensure consideration of heritage items and Aboriginal heritage as part of proposed development 	<ul style="list-style-type: none"> A Heritage Impact Assessment has been prepared. The site is not identified as a heritage item or as containing any recorded Aboriginal archaeological sites.

Section	Provisions	Compliance
6.0 Locality Provisions		
6.02.02 Locality Specific Provisions	<ul style="list-style-type: none"> In the Honeysuckle Precinct development is to provide building address to encourage activity, pedestrian and cycleway movement and improve safety Heritage items and settings are protected 	<ul style="list-style-type: none"> The building addresses the foreshore and Honeysuckle Drive with commercial tenancies, through site links and direct ground floor access to foreshore terraces to encourage activity.
A1 Street wall heights	<ul style="list-style-type: none"> Street wall height of 16m Corner sites may be emphasised with additional height 	<ul style="list-style-type: none"> A street wall height of 23.5m to Honeysuckle Drive The DCP identifies as acceptable additional height for corner sites if it maintains the desired future character of the locality The proposed street wall heights respond to adjacent development in Honeysuckle Drive
A2 Building setbacks	<ul style="list-style-type: none"> 2.5m setback to north, south and west site boundaries Nil setback to east boundary 	<ul style="list-style-type: none"> The building is setback 2.5m from the north, south and west boundaries.
A3 Building separation	<ul style="list-style-type: none"> sites that accommodate more than one building have separation for adequate daylight, ventilation, outlook, view sharing and privacy 	<ul style="list-style-type: none"> Separation of 4.5m to 9m between each building is provided Blade walls and angled windows will provide for daylight, ventilation, outlook and privacy. Refer to section 5.4
A4 Building depth and bulk	<ul style="list-style-type: none"> building depth and floor plate to relate to desired urban form 	<ul style="list-style-type: none"> The proposed building depth and floor plates are consistent with the existing and adjacent development in Honeysuckle Precinct.
A5 Building exteriors	<ul style="list-style-type: none"> high quality design with robust materials and finishes with positive contributions to streetscape and public domain 	<ul style="list-style-type: none"> Proposed external materials consist of tiles and face bricks The articulation of the building with the scallop design will make a positive contribution to the streetscape and public domain.
A6 Heritage buildings	<ul style="list-style-type: none"> Development is to conserve and enhance the cultural significance of heritage items 	<ul style="list-style-type: none"> The site does not contain a heritage item
A7 Awnings	<ul style="list-style-type: none"> Awnings provided for active street frontages 	<ul style="list-style-type: none"> The site is not identified in NDCP as requiring awnings. Weather protection is provided to all building lobby's and the commercial entries.
A8 Design of parking structures	<ul style="list-style-type: none"> At grade or above ground parking structures are well deigned and visual impact is minimised 	<ul style="list-style-type: none"> The development comprises two levels of car parking, at ground floor and basement level. The ground floor parking is screened by commercial tenancies and the foreshore terraces. The basement carpark is designed to provide protection against flooding.
B1 Access network	<ul style="list-style-type: none"> Street prioritise pedestrians, cycling and public transport Through site links are safe and enhanced to promote access 	<ul style="list-style-type: none"> The development features through site links to maintain direct access to the foreshore and the existing network of pedestrian and cycle paths. Refer to section 5.4.3 The site is located close to existing bus

Section	Provisions	Compliance
		stops and the future light rail line.
B2 Views and vistas	<ul style="list-style-type: none"> Public views and sight lines to keep public spaces, the waterfront, heritage items and landmarks are protected Equitable view sharing 	<ul style="list-style-type: none"> The development is designed to maintain the existing view corridor along Worth Place to the foreshore The proposed development has minimal impact on view sharing from adjacent properties, refer section 5.4.2.
B3 Active street frontages	<ul style="list-style-type: none"> Identified activity hubs ground floor uses add to liveliness and vitality of the street 	<ul style="list-style-type: none"> The development includes commercial/ retail tenancies and a kiosk on the ground floor to activate the streetscape. Refer to section 5.4.3.
B4 Addressing the street	<ul style="list-style-type: none"> Buildings positively address streets, footpaths, lanes and other public spaces Ground levels designed to mitigate flood risk 	<ul style="list-style-type: none"> The development will address all street frontages with glazed commercial tenancies, direct entry to residential terraces fronting Worth Place Park. The design features passive surveillance of the street and through site links. As the site is flood prone ramps and stairs are integrated into the design to provide a gradual change in level from the street to the building.
B5 Public artwork	<ul style="list-style-type: none"> Significant development incorporates public artwork 	<ul style="list-style-type: none"> The development is not identified as significant under NCP and no public artwork is proposed.
B6 Sun access to public spaces	<ul style="list-style-type: none"> Reasonable sunlight access is provided to new and existing significant public spaces 	<ul style="list-style-type: none"> The development is located to the south of Worth Place Park and will not adversely affect sun access to public spaces

In light of the assessment detailed in **Section 5** of this report, it is considered that the proposal displays an acceptable level of consistency with the objectives of the Newcastle DCP 2012.

APPENDIX C – EXCEPTION TO THE DEVELOPMENT STANDARD: BUILDING HEIGHT

Clause 4.3(2) of NLEP 2012 provides that buildings are not to exceed the maximum building height specified in NLEP. The maximum building height for the subject site is 14 m and 24 m. The proposed maximum building height in the 14 m height control area is 25.58 m, an exceedance of 11.58 m (the rooftop communal pergola roof at Building B) or a variation of 82%. The proposed maximum building height in the 24 m height control area is 27.78 m, an exceedance of 3.78 m (lift overrun on Building C) or a variation of 15%.

Clause 4.6(2) of the NLEP permits the consent authority to consider a variation to a development standard imposed by an EPI. The aims of Clause 4.6 are to provide an appropriate degree of flexibility in applying certain development standards and to achieve better development outcomes. In consideration of the proposed variation, Clause 4.6 requires the following:

Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

Development consent must not be granted for development that contravenes a development standard unless:

- a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- b) *the concurrence of the Secretary has been obtained.*

The Department has considered the proposed exception to the height of buildings development standard under clause 4.6, applying the tests arising from *Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7* (as summarised by *Gabriel Stefanidis v Randwick City Council [2017] NSWLEC 1307*) and *Bates Smart Pty Ltd v Council of the City of Sydney [2014] NSWLEC 1001*.

1. Is the consent authority satisfied that the proposed development will be consistent with the objectives of the zone?

The objectives of the B4 Mixed Use zone are:

- 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 Department is satisfied that the proposed development is consistent with the objectives of the B4 Mixed Use zone in NLEP, as:

- the proposed development includes residential and commercial land uses in an area identified for mixed uses, supporting the commercial, residential, community and entertainment uses in the Honeysuckle Precinct
- the site is strategically well placed with proximity to existing pedestrian and cycle links, bus stops and the light rail line under construction
- the site supports the Newcastle CBD and Honeysuckle Precinct by providing a mixed use development with residential accommodation in proximity to business, commercial and entertainment uses.

2. Is the consent authority satisfied that the proposed development will be consistent with the objectives of the standard?

The objectives of the height of buildings clause in NLEP are:

- to ensure the scale of development makes a positive contribution towards the desired built form, consistent with the established centres hierarchy
- to allow reasonable daylight access to all developments and the public domain.

The Department is satisfied that the proposed developments contravention of the 14 m standard is consistent with the objectives of the height of buildings standard in NLEP, as:

- the scale of the development to the north complements the foreshore with a lower relatable human scale and will enable the development to make a positive contribution to the public domain
- the seven storey portions of building A and B that exceed the 14 m maximum building height contribute positively to the form of the building presenting to Honeysuckle Drive and the desired scale of the area and are offset by two storey building elements in the portion of the site along the foreshore where 24 m is allowed providing an overall built form which is consistent with the desired built form on this site in the context of the Honeysuckle Precinct
- the development will not result in any significant overshadowing of neighbouring development as the site is located north of Honeysuckle Drive and is separated approximately 45 m from the nearest residential property to the south (10 Worth Place). The foreshore public domain is located directly to the north of the site and is not overshadowed by the proposed development.

The Department notes that the 24 m building height variation is a result of the provision of communal rooftop areas and associated structures to the roof of each of the three proposed buildings.

While the Department supports additional communal open space for the proposed development, the three rooftop areas with lift, stair access and pergolas all exceed the 24 m building height. The surrounding area includes residential and commercial properties as well as public spaces that enjoy views of the Hunter River and foreshore, including the residential building at 10 Worth Place, directly to the south of proposed Building C.

The rooftop areas which exceed 24 m are limited to only a small portion of the overall building, however any structures above 24 m have the potential to directly impact existing views as discussed in Section 5.4.2. While the Department is satisfied that these rooftop areas make a positive contribution to the built form and do not impact on overshadowing, the neighbouring properties or the public domain, the structures on top of Building C do impact on water views from apartments on levels eight and nine of 10 Worth Place. The view loss impact from Building C communal area is considered unreasonable, given the level of view loss already experienced by the height compliant portions of the proposed development.

The Department supports the structures on top of Buildings A and V despite the variation to the building height control as:

- Building A and B are located opposite no.22-24 Honeysuckle Drive, a commercial building and the rooftop communal area is positioned so as to have limited impact on views from the upper floors of the residential building at 10 Worth Place and the commercial levels of 18 Honeysuckle Drive, as shown in the view studies submitted by the applicant
- the variation to the 24 m height control is limited to the communal open space lift/ stair access, pergola structure and plantings. These elements occupy a small area of the roof, are located centrally within the built form and do not result in significant view loss impacts
- the communal roof structures on Building A and B will not be noticeable at pedestrian level and the proposed scale of the building will continue to respond to the desired character of the area
- the communal rooftop area will not result in any additional overshadowing of neighbouring development.
- Rooftop areas will provide valuable communal private open space for the wellbeing of residents

3. Has the consent authority considered a written request that demonstrates compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and they are satisfied that the matters required to be demonstrated have adequately been addressed?

The Applicant's written request seeking to justify the contravention of the Height of Buildings development standard under Clause 4.6(3)(a) of the NLEP, being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, is included in the RtS documentation.

The Applicant demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, having regard to the five tests outlined in *Wehbe v Pittwater Council [2007] NSWLEC 827*. It establishes that compliance with the development standard is unreasonable or unnecessary in the circumstances, as the proposal achieves the objectives of the standard and accordingly justifies the variation to the height of buildings control, meeting the first test outlined in *Wehbe*.

The Department supports the Applicant's conclusions that the proposal achieves the objectives of the standard. Compliance with the development standard is unnecessary in this case as the objectives of the height of building standard are still achieved and unreasonable as no purpose is served by requiring strict compliance., except in the case of the rooftop structures on Building C which cause an unreasonable view loss impact.

Having considered the Applicant's written request, the Department is satisfied that it demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and the matters required to be demonstrated have adequately been addressed.

4. Has the consent authority considered a written request that demonstrates there are sufficient environmental planning grounds to justify contravening the development standard and the matters required to be demonstrated have adequately been addressed?

The Applicant's written request seeking to justify the contravention of the FSR development standard under Clause 4.6(3)(b) of the NLEP, being sufficient environmental planning grounds to justify contravening the development standard, is included in the RtS documentation.

The Applicant's written request justifies contravention of the development standard on the following environmental planning grounds:

- the proposal satisfies the objectives of the B4 Mixed Use zone and the objectives of the standard
- the proposal does not contribute to adverse environmental, social or economic impacts
- the proposal provides a high density apartment building that is appropriate for the sites location and current/future setting within a mixed use zone in the Honeysuckle Precinct
- the proposed development is generally compliant with the controls, or the intent of the controls, contained in the Newcastle Development Control Plan (NDCP) 2012.

The Department supports the Applicant's conclusions that the proposal achieves the objectives of the standard.

Having considered the Applicant's written request, the Department is satisfied that sufficient environmental planning grounds to justify the contravention of the development standard and the matters required to be demonstrated have adequately been addressed. As discussed, the communal rooftop area on Building C is recommended to be removed as the area causes an unreasonable view loss impact.

The Department therefore concludes that the Applicant's written request adequately addresses the matters required to be demonstrated under Clause 4.6 of the NLEP and the proposal will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone.

In supporting the Applicant's request, the Department considers that the development will deliver an overall better planning outcome for the site, for the following reasons:

- the proposal will make a positive contribution to the urban fabric of the Honeysuckle Precinct with a mixed use development that is consistent with the objectives of the zone
- the proposal provides for residential accommodation in a location that is highly accessible by public transport and is well connected to existing pedestrian and cycling links
- the site is in proximity to the Newcastle CBD and will support the growth of this commercial centre.

APPENDIX D – EXCEPTION TO THE DEVELOPMENT STANDARD: FSR

Clause 4.4(2) of NLEP 2012 provides that buildings are not to exceed the floor space ratio (FSR) specified in NLEP. The maximum FSR for the subject site is:

- FSR of 2:1 running along the northern frontage to Worth Place Park West
- FSR of 2.5:1 running along the southern frontage and wrapping around the eastern side boundary to Worth Place.

The development proposes a total gross floor area (GFA) of 16,863 square metres (m²), a FSR of 2.31:1 for the entire site. The combined permissible GFA for the site is 16,820 m² or an FSR of 2.3:1. The proposal exceeds the maximum by 43 m² or a variation of 2%.

The distribution of FSR across the site results in compliance for the 2:1 portion of the site with a proposed FSR of 1.6:1 (4707 m²). However, in the 2.5:1 portion of the site, the distribution of FSR results in a non-compliance with a proposed FSR of 2.7:1 (12,156 m²), being a variation of 976 m² or 8.7%.

Clause 4.6(2) of the NLEP permits the consent authority to consider a variation to a development standard imposed by an EPI. The aims of Clause 4.6 are to provide an appropriate degree of flexibility in applying certain development standards and to achieve better development outcomes. In consideration of the proposed variation, Clause 4.6 requires the following:

Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

Development consent must not be granted for development that contravenes a development standard unless:

- a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- b) the concurrence of the Secretary has been obtained.*

The Department has considered the proposed exception to the FSR development standard under clause 4.6, applying the tests arising from *Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7* (as summarised by *Gabriel Stefanidis v Randwick City Council [2017] NSWLEC 1307*) and *Bates Smart Pty Ltd v Council of the City of Sydney [2014] NSWLEC 1001*.

1. Is the consent authority satisfied that the proposed development will be consistent with the objectives of the zone?

The objectives of the B4 Mixed Use zone are:

- 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 Department is satisfied that the proposed development is consistent with the objectives of the B4 Mixed Use zone in NLEP, as it:

- the proposed development includes residential and commercial land uses in an area identified for mixed uses, supporting the commercial, residential, community and entertainment uses in the Honeysuckle Precinct
- the site is strategically well placed with proximity to existing pedestrian and cycle links, bus stops and the light rail line under construction
- the site supports the Newcastle CBD and Honeysuckle Precinct by providing a mixed use development with residential accommodation in proximity to business, commercial and entertainment uses.

2. Is the consent authority satisfied that the proposed development will be consistent with the objectives of the standard?

The objectives of the FSR clause in NLEP are:

- to provide an appropriate density of development consistent with the established centres hierarchy
- to ensure building density, bulk and scale makes a positive contribution towards the desired built form as identified by the established centres hierarchy.

The Department is satisfied that the proposed development is consistent with the objectives of the floor space ratio standard in NLEP, as:

- the proposed density is consistent with the combined FSR over the entire site
- the proposed density results in a bulk and scale that responds to the existing and desired future character of the area
- the distribution of floor space across the site makes a positive contribution to both the foreshore and Honeysuckle Drive public domain areas and will serve to activate the streetscape
- the proposed floor area distribution across the site provides a greater level of amenity for future occupants of the site.
- the minor variation to the combined FSR over the site is a result of elements associated with the communal rooftop areas (lobby and WC) and altered glazing lines of centrally located apartments. The recommendation to remove one communal rooftop area reduces the GFA by approximately 12 m², which results in a 1.8% variation to the total combined site FSR.

3. Has the consent authority considered a written request that demonstrates compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and they are satisfied that the matters required to be demonstrated have adequately been addressed?

The Applicant's written request seeking to justify the contravention of the floor space ratio development standard under Clause 4.6(3)(a) of the NLEP, being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, is included in the RtS documentation.

The Applicant demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, having regard to the five tests outlined in *Wehbe v Pittwater Council [2007] NSWLEC 827*. It establishes that compliance with the development

standard is unreasonable or unnecessary in the circumstances, as the proposal achieves the objectives of the standard and accordingly justifies the variation to the FSR control, meeting the first test outlined in *Wehbe*.

The Department supports the Applicant's conclusions that the proposal achieves the objectives of the standard. Compliance with the development standard is unnecessary in this case as the objectives of the FSR standard are still achieved and unreasonable as no purpose is served by requiring strict compliance.

Having considered the Applicant's written request, the Department is satisfied that it demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and the matters required to be demonstrated have adequately been addressed.

4. Has the consent authority considered a written request that demonstrates there are sufficient environmental planning grounds to justify contravening the development standard and the matters required to be demonstrated have adequately been addressed?

The Applicant's written request seeking to justify the contravention of the FSR development standard under Clause 4.6(3)(b) of the NLEP, being sufficient environmental planning grounds to justify contravening the development standard, is included in the RtS documentation.

The Applicant's written request justifies contravention of the development standard on the following environmental planning grounds:

- the proposal satisfies the objectives of the B4 Mixed Use Development zone and the objectives of the standard
- non-compliance with the standard does not contribute to adverse environmental, social or economic impacts or additional intensity of development on the site
- the proposal provides a high density mixed use development that is appropriate for the sites location in both the current and future setting
- the proposed variation enables a more appropriate transition from the scale of the neighbouring development site to the south (18, 22, and 24 Honeysuckle Drive)
- the amended proposal does not give rise to unacceptable impacts associated with an increased maximum FSR, including greater intensity of development, traffic generation, bulk and scale or adverse view loss as the total yield across the site is consistent with the underlying planned density

The Department supports the Applicant's conclusions that the proposal achieves the objectives of the standard.

Having considered the Applicant's written request, the Department is satisfied that sufficient environmental planning grounds to justify the contravention of the development standard and the matters required to be demonstrated have adequately been addressed.

The Department therefore concludes that the Applicant's written request adequately addresses the matters required to be demonstrated under Clause 4.6 of the NLEP and the proposal will be in the public interest because it is consistent with the objectives of the FSR standard and the objectives for development within the zone.

APPENDIX E RECOMMENDED CONDITIONS OF CONSENT
