



Pemulwuy Precinct 3

*State Significant
Development
Modification Assessment
(SSD 8135 MOD 1)*



August 2019

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Cover photo

Perspective view looking east along Caroline Street towards the development (Source: DPIE Assessment Report for SSD 8135)

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Glossary

Abbreviation	Definition
Consent	Development Consent
Council	City of Sydney
Department	Department of Planning and Environment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
LEP	Local Environmental Plan
Minister	Minister for Planning and Public Spaces
RtS	Response to Submissions
SEPP	State Environmental Planning Policy
SRD SEPP	<i>State Environmental Planning Policy (State and Regional Development) 2011</i>
SSD	State Significant Development



1. Introduction

1.1 Preamble

This report provides an assessment of an application to modify the State significant development (SSD) consent (SSD 8135) for construction of a 3 to 24-storey student accommodation building within Pemulwuy Precinct 3 providing 596 student beds, amenities, open space, landscaping and public domain works, bicycle parking, loading dock and services.

The modification application seeks approval for corrections to minor errors and misdescriptions.

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

1.2 The site

The subject site is identified as Pemulwuy Precinct 3 which is located within the south-east of the Precinct. It is bound by Eveleigh Street to the west, Lawson Street and Redfern Station to the south, the railway corridor to the east and existing 2-storey terrace housing to the north (**Figures 1 and 2**).

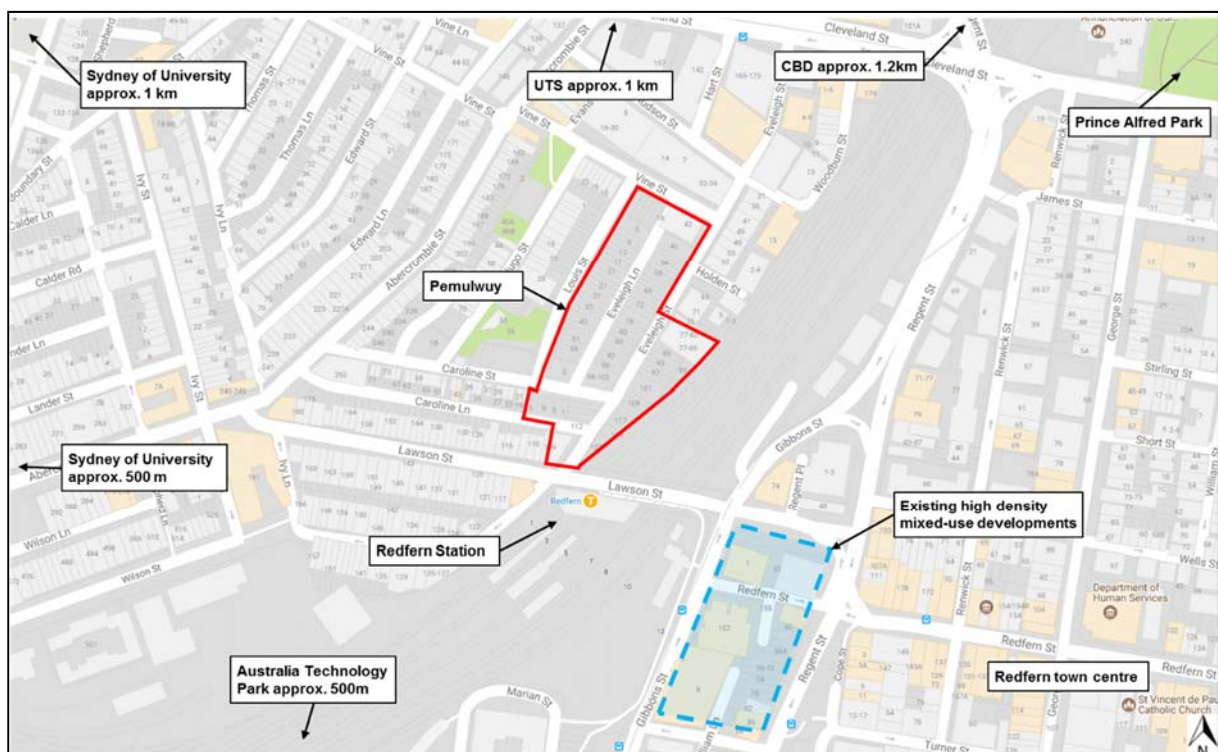


Figure 1 | The Pemulwuy Precinct site location (outlined in red) (Base source: Nearmap)

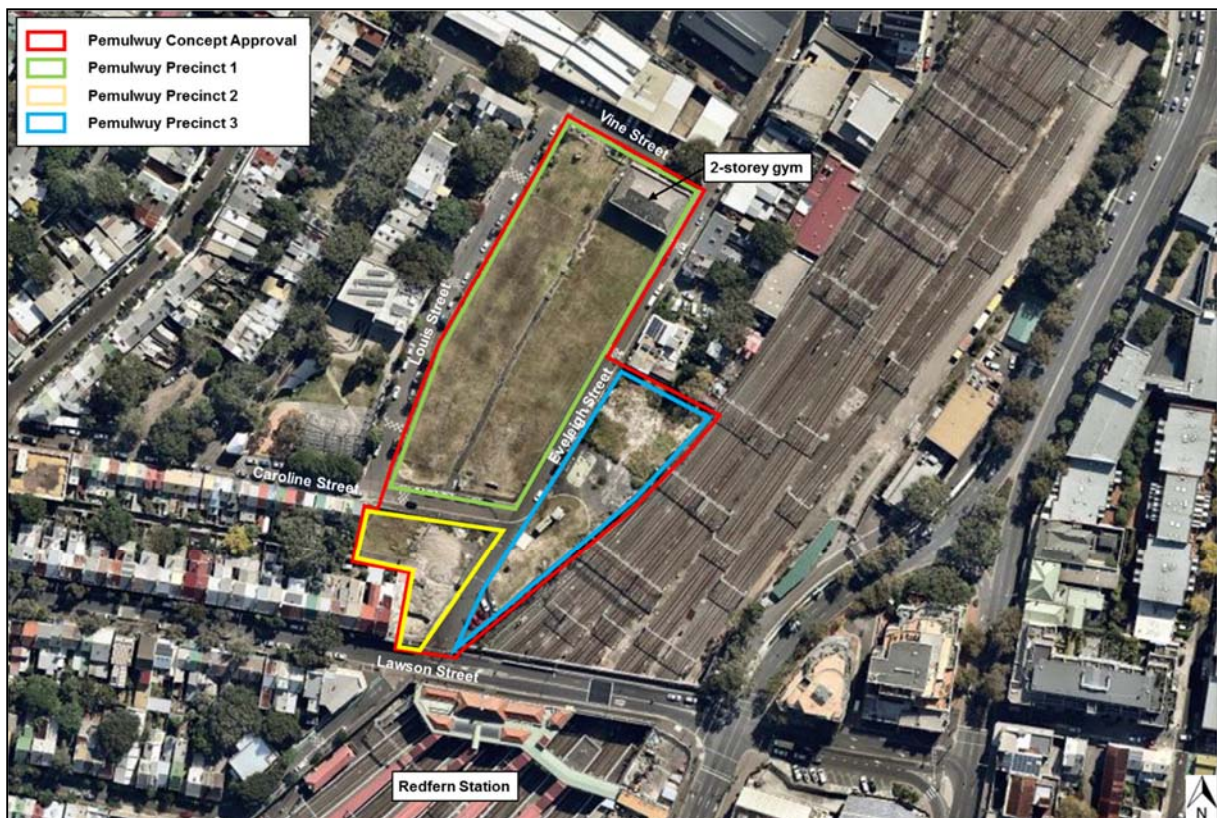


Figure 2 | Aerial view of the site showing the site, the three Pemulwuy Precinct boundaries and the surrounding site context (Base source: Nearmap)

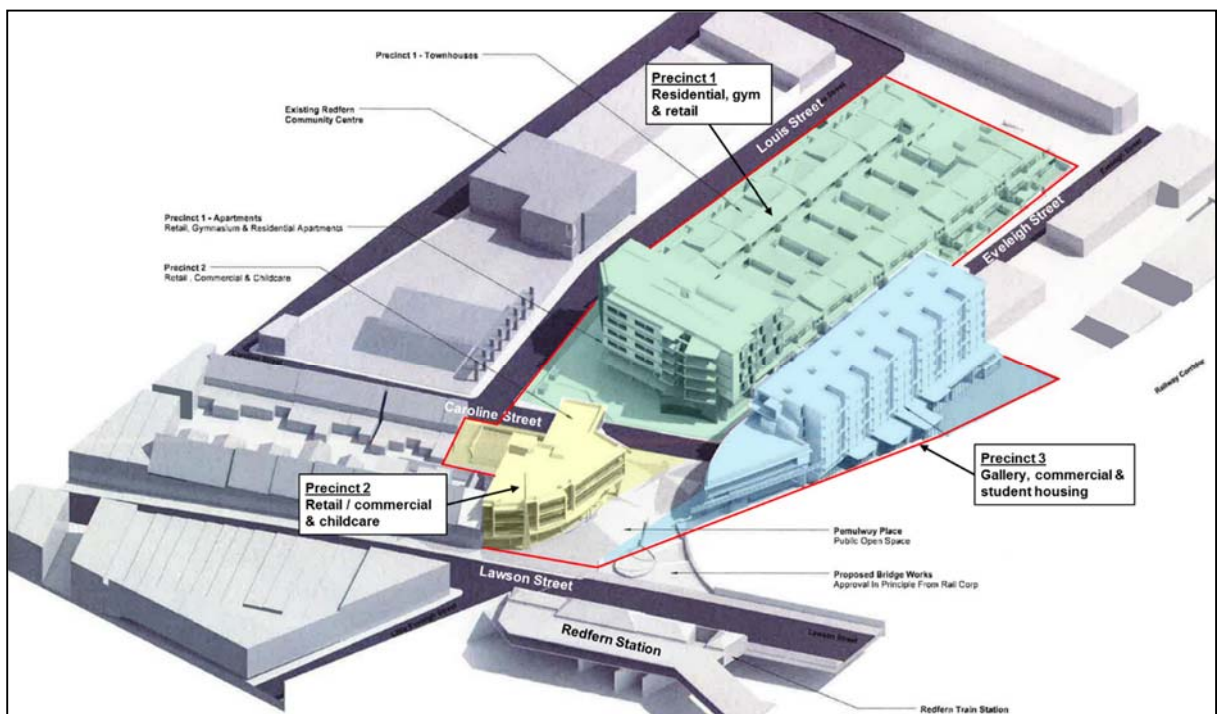


Figure 3 | Aerial view of the concept and project approval (Base source: MP 11_0093)

1.3 Approval History

On 4 March 2019 development consent was granted by the Independent Planning Commission (the IPC) for the construction of a 3 to 24-storey student accommodation building within Pemulwuy Precinct 3 providing 596 student beds, amenities, open space, landscaping and public domain works, bicycle parking, loading dock and services (SSD 8135) (**Figure 3**).

The development consent includes the following conditions relevant to the application:

- Condition A2 which identifies approved plans
- Condition A10 which restricts the maximum number of beds and student occupants to 593
- Condition E20 which restricts the maximum height of individual components of buildings.



2. *Proposed Modification*

On 18 June 2019, the Applicant lodged a modification application under Section 4.55(1) of the EP&A Act to correct minor errors and misdescriptions in the following conditions:

- Condition A2 – amend the approved table of plans to the correct drawing revisions (from Revision U to Revision V) and correct the materials and finishes plan reference number.
- Condition A10 – amend the maximum number of beds from 593 to 596 to reflect the description in the notice of determination
- Condition E20 - revise the maximum RL for the 22-storey component from RL 90.48 to RL 92.28.



3. *Strategic Context*

The Department considered that the original application complied with the strategic planning context for the site in its original assessment. The Department has considered the proposed changes against the strategic planning context and is satisfied that the proposal remains consistent with the strategic planning context. The nature of the proposal, comprising corrections to minor errors or misdescriptions does not alter the Department's view regarding compliance with strategic planning context.



4. Statutory Context

4.1 Scope of Modifications

Section 4.55(1) of the EP&A Act allows the consent authority to modify a development consent to correct minor errors and misdescriptions.

The matters for consideration under section 4.55(1) of the EP&A Act that apply to the modification of the consent (SSD 8135 MOD 1) have been considered in **Table 1**.

Table 3 | Section 4.55(1) Modifications involving minor error, misdescription or miscalculation

Section 4.55(1) Evaluation	Consideration
A consent authority may, on application being made by the Applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify a development consent granted by it to correct a minor error, misdescription or miscalculation.	The Department is satisfied the proposed modification constitutes an administrative modification within the scope of Section 4.55(1), as it seeks to correct minor errors and misdescriptions in the development consent.

4.2 Consent Authority

The Minister for Planning and Public Spaces is the consent authority for the application under section 4.5(a) of the EP&A Act. However, under the Minister's delegation dated 11 October 2017, the Director, Key Sites Assessments, may determine the application as:

- the relevant local council has not made an objection
- a political disclosure statement has not been made
- there are no public submissions in the nature of objection.



5. Engagement

The Department made the modification application and report available on its website from 16 July 2019. As the modification is administrative in nature, the Department did not formally seek submissions on the application but forwarded the application to City of Sydney Council.

Council responded and identified that they had no comments on the proposed modification.



6. Assessment

The Department has considered the proposed modifications and supporting information provided by the Applicant in accordance with the relevant requirements of the EP&A Act, as set out below.

Condition A2 – Plans and documentation

The modification seeks to amend Condition A2 to address misdescriptions of several plans that should read as Version V but were identified as Version U on the consent.

The proposed changes are acceptable, as they relate to a misdescription and ensure the condition correctly references the correct stamped approved plans as supported by the IPC.

Condition A10 – Plans and documentation

The modification seeks to amend Condition A10 to increase the maximum number of beds from 593 to 596.

The proposed change is acceptable, as it relates to a misdescription in the condition and ensures the condition correctly reflects the Notice of Determination description (of 596 beds). The Department also notes the original assessment report and IPC Statement of Reasons for SSD 8135 consistently identify 596 student beds.

Condition E20 – GFA and Height Certification

The modification seeks to amend Condition E20 to correctly reflect a maximum RL of 92.28 for the 22-storey component.

The Applicant identified that the approved RL 90.48 relates to the level at the top of the roof slab of the 22-storey building, whereas the correct measurement should be to the top of the 1.8 m balustrade which is at RL 92.28.

The Department considers the proposed change is acceptable and reflects the height as identified on plan DA-250-010.



7. *Evaluation*

The Department considers the proposed modification is acceptable as it only seeks to correct minor errors and misdescriptions to the development consent. The proposed modification has no environmental impacts and the development is substantially the same as the approved development.

Consequently, it is recommended that the modification be approved subject to the recommended conditions.



8. Recommendation

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

- **considers** the findings and recommendations of this report;
- **determines** that the application (SSD 8135 MOD 1) falls within the scope of section 4.55(1) of the EP&A Act;
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for approving the modification application
- **modify** the consent SSD 8135; and
- **signs** the attached approval of the modification (**Appendix B**).

Recommended by:

Marcus Jennejohn

Senior Planning Officer

Key Sites Assessments



9. *Determination*

The recommendation is **adopted by:**

David McNamara

Director

Key Sites Assessments



Appendices

Appendix A – List of Documents

- SSD 8135, being the project approval for the development of Pemulwuy Precinct 3, granted by the Independent Planning Commission on 4 March 2019, together with submissions raised, Applicant's response to submissions, Department's assessment and Commission's assessment report (SSD 8135)
- Modification Report and accompanying documentation
<https://www.planningportal.nsw.gov.au/major-projects/project/13941>

Appendix B – Modification of Development Consent

<https://www.planningportal.nsw.gov.au/major-projects/project/13941>

Appendix C – Consolidated Consent

<https://www.planningportal.nsw.gov.au/major-projects/project/13941>