



Doncaster Avenue Student Accommodation Modification 3

Temporary Accommodation Changes
State Significant Development Modification Assessment
(SSD 9649 MOD 3)

August 2021

Published by the NSW Department of Planning, Industry and Environment

dpie.nsw.gov.au

Title: Doncaster Avenue Student Accommodation

Subtitle: State Significant Development Application Assessment (SSD 9649 MOD 3)

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Glossary

Abbreviation	Definition
Council	Randwick City Council
Department	Department of Planning, Industry and Environment
EIS	Environmental Impact Statement
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
LEP	Local Environmental Plan
Minister	Minister for Planning and Public Spaces
RLEP	Randwick Local Environmental Plan 2012
SEARs	Planning Secretary's Environmental Assessment Requirements
Planning Secretary	Secretary of the Department of Planning, Industry and Environment
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development
TEF	Tertiary Education Facility

1 Introduction

1.1 Background

This report provides an assessment of an application seeking to modify the consent for student accommodation development at 4-18 Doncaster Avenue, Kensington (SSD 9649) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*.

The application seeks to modify the approval to temporarily permit ‘recent graduates’ to live in the approved student housing development until the end of 2024.

The application was lodged on 15 April 2021 by Urbis on behalf of Cor Partners (the Applicant). The site is located within the Randwick local government area (LGA).

1.2 The site

The site is located approximately 4.5 kilometres (km) south-east of the Sydney Central Business District (CBD), on the eastern side of Doncaster Avenue and to the south of Alison Road in Kensington (**Figure 1**).

The site contains two semi-detached terraces (10 and 12 Doncaster Avenue) located approximately halfway along the Doncaster Avenue frontage and is otherwise under construction as a Student Housing Development. Construction is expected to be completed by late 2021.



Figure 1 | Aerial view of the site and surroundings – site shown in red outline (Base source: Nearmap)

1.3 Approval history

State Significant Development (SSD 9649)

On 21 May 2020, the Independent Planning Commission granted consent for a student accommodation development comprising excavation of a basement, construction of a 3-storey building and extension and adaptive reuse of the existing terraces (10-12 Doncaster Avenue). The consent provides:

- 259 student accommodation beds within 201 student units
- student amenities, communal open space and landscaping
- 56 car, 55 motorcycle and 178 bicycle parking spaces realignments of concrete stormwater channel and provisions of a substation.

Condition A21 restricts use of the premises to accommodation for students, staff and persons affiliated or connected with a tertiary education facility (TEF) during the semester period.

Condition A22 requires residents accommodated outside the TEF semester periods to either meet the criteria of condition A21 or be attending or affiliated with TEF events or activities.

The approval has been modified on one occasion and one modification is currently under assessment (**Appendix D**).

2 Proposed modification

The modification application seeks to modify the approval for student accommodation, to also permit occupation by recent tertiary graduates until 2024. The Applicant advises the modification would ensure the viability of the development until the return of students from interstate and overseas, following the lifting of Covid 19 travel restrictions.

A link to the modification application is provided at **Appendix A**.

A summary of the proposed changes is provided below in **Table 1**.

Table 1 | Overview of proposed application

Aspect	Proposed Modification
Permit occupation by recent graduates	<ul style="list-style-type: none"> <li data-bbox="451 714 1362 981">• The following additional Term of Approval is proposed: <i>A24. From occupation of the building to December 2024, residents accommodated within the student accommodation facility may include recent graduates of a Tertiary Education Facility. A 'recent graduate' is defined as someone who finished full-time higher education (including postgraduate study) within five years of occupation of the building.</i> <li data-bbox="451 992 1362 1167">• A new appendix is proposed to be added to the approved Operational Plan of Management (OPM) which includes measures in relation to management of the 'recent graduates'. It provides specific information on how recent graduates would be managed in terms of the booking / application process, tenancy arrangements, behaviour, restrictions on visitors, and conflict resolution.
Parking	<ul style="list-style-type: none"> <li data-bbox="451 1216 1362 1283">• References to parking requirements for 'students and staff' to be changed to 'residents' to incorporate the recent graduates.

3 Statutory context

3.1 Scope of modifications

The Department has reviewed the scope of the modification application and considers the application can be characterised as a modification involving minimal environmental impacts as the proposal:

- would not increase the environmental impacts of the project as approved
- is substantially the same development as originally approved as:
 - the proposal does not change the nature of the use as a 'boarding house' under the Randwick Local Environmental Plan 2012 (RLEP) and the State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP)
 - the predominant use of the site as student accommodation will be retained, with a maximum of 20% of beds (52 out of the 259) being occupied by recent graduates on a temporary basis to December 2024 or approximately two years
 - no other changes are proposed to the occupation or use of the building
 - no physical changes are proposed to the approved development.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application. An assessment of the proposed modification application against the requirements of section 4.55(1A) of the EP&A Act is provided in **Appendix B**.

Accordingly, the Department considers that the application should be assessed and determined under section 4.55 (1A) of the EP&A Act rather than requiring a new development application to be lodged.

3.2 Consent authority

The Minister for Planning and Public Spaces is the consent authority for the application under section 4.5(a) of the EP&A Act. However, in accordance with the Minister's delegation, the Team Leader, Key Sites Assessments, may determine this application as:

- a political disclosure statement has not been made
- no public submissions in the nature of objections were received
- Council does not object.

3.3 Mandatory matters for consideration

The following are relevant mandatory matters for consideration:

- section 4.55(1A) of the EP&A Act, including environmental planning instruments or proposed instruments
- EP&A regulation
- likely impacts of the modification application, including environmental impacts on both the natural and built environments, and social and economic impacts

- suitability of the site
- any submissions
- the public interest; and
- the reasons for granting approval for the original application.

The Department has considered all of these matters in its assessment of the proposal. The Department has also given consideration to the relevant matters in **Section 5** and **Appendix B**.

3.4 Objects of the EP&A Act

The Minister or delegate must consider the objects of the EP&A Act when making decisions under the Act. The Department is satisfied the proposed modification is consistent with the objects of the EP&A Act.

4 Engagement

4.1 Department’s engagement

The application was made publicly available on the Department’s website on 20 April 2021 and referred to the Randwick City Council (Council) with a request for comments by 4 May 2021.

4.2 Council Submission

The Department received two submissions from Council. A link to the submissions is provided in **Appendix A**. The key issues in the submissions are summarised in **Table 2**.

Table 2 | Issues raised by Council to the Modification Report and Response to Submissions (RtS)

Council	
Modification Report	<p>Council advised it does not support the proposal as:</p> <ul style="list-style-type: none"> there are discrepancies in the modification application and the Plan of Management which does not provide a definition of ‘graduates’ graduates should be defined by a maximum timeframe from the date of graduation the future use is questionable noting the application inconsistently suggests the premises will be occupied by persons other than students and graduates and therefore it potentially fails a key test of the post consent provisions of the EP&A Act.
RtS	<p>Council advised its outstanding concerns are:</p> <ul style="list-style-type: none"> there could be adverse on-street parking impacts to the surrounding street network (noting graduates are more likely to own vehicles) there is potential for rents to be driven up, given graduates have increased financial capacity. <p>Council advised its concerns would be resolved if</p> <ul style="list-style-type: none"> the total number of rooms let to graduates is limited in line with the Applicant’s stated expectation (20% of beds) the use reverts entirely to student accommodation at the end of 2024, and all tenancies for graduates end by this date. <p>Council also suggested consideration be given to requiring operators to assist displaced tenants to find alternative accommodation.</p>

4.3 Response to submissions

The Department placed a copy of Council’s submission on its website and requested the Applicant provide a response to the issues raised.

On 1 July 2021, the Applicant lodged its RtS, and provided an updated Plan of Management (an Appendix to the approved Operational Plan of Management) which specifically addresses management of ‘Recent Graduates’. The updated Plan of Management defined the term ‘Recent Graduates’ and removed inconsistencies that indicated the premises could be occupied by persons other than students and graduates.

5 Assessment

In assessing the merits of the proposed modification, the Department has considered:

- the modification and associated documents
- the Environmental Impact Statement and conditions of approval for the original application (as modified)
- all submissions received on the proposal and the Applicant’s response to these
- relevant EPIs, policies and guidelines and the requirements of the EP&A Act.

The Department’s assessment is provided in **Table 3**.

Table 3 | Summary of other issues considered

Issue	Findings	Recommendations
<p>Use of the premises by Recent Graduates</p>	<ul style="list-style-type: none"> • Condition A21 restricts use of the premises to accommodation for students and staff of a tertiary education facility (TEF) during the semester period. • The proposal seeks to allow up to 20% of beds to be occupied by recent graduates until December 2024, to ensure the short-term viability of the development, noting the demand for student housing is currently limited because of Covid 19. • Council raised concern about potential car parking and housing affordability impacts and recommends restrictions be imposed limiting the total number of beds occupied by recent graduates and that the use reverts entirely to student accommodation at the end of 2024. • The Department has carefully considered the proposal and the advice provided by Council and is satisfied: <ul style="list-style-type: none"> ○ the use by recent graduates is temporary will ensure the short term viability of the student accommodation in response to the reduced demand created by Covid 19 ○ the proposal is unlikely to impact on affordability as the primary use of the development will remain for student accommodation as only 20% of rooms will be occupied by recent graduates ○ recent graduates will be subject to a minimum 3-month tenancy period to prevent the development being used as short term accommodation ○ the 55 car parking spaces and 55 motorcycle spaces provided on site remain appropriate as: <ul style="list-style-type: none"> ▪ there is no change to the overall population of the site ▪ the site has excellent access to public transport and is within walking distance to restaurants, shops, parks and other recreation facilities 	<ul style="list-style-type: none"> • The Department recommends new condition F27 to allow additional occupation of the premises by ‘recent graduates’ until 2024, restrict the proportion of recent graduates to 20% and require a minimum 3-month tenancy period.

- Council will not issue residential parking permits to occupants to park surrounding streets, in accordance with existing Condition F6.
- The Department recommends conditions to address Council's comments including a maximum of 52 recent graduates (20% of the total population) residing at the premises at any one time, and that all recent graduates must have a tenancy agreement for a minimum of 3 months with an end date no later than 31 December 2024.
- The Department concludes the proposal will not alter the overall character of the approved student accommodation use and would not result in additional impacts beyond the approved development, subject to the recommended conditions.

Management of Recent Graduates

- Condition F1 requires the development to operate in accordance with the approved Operational Plan of Management (OPM).
- The Applicant has prepared a separate Plan of Management (POM) for the management of recent graduates.
- The POM will form an Appendix to the approved OPM and provides specific information on how recent graduates would be managed in terms of, tenancy arrangements, behaviour, restrictions on visitors, and conflict resolution.
- The Department considers the POM will provide adequate management procedures for recent graduates covering booking and pre-arrival, check-in, allocation to studio apartments rather than two-bed or cluster apartments, access to common areas, parking, guest/visitors and general etiquette. However, the Department notes the POM allows for additional occupants of dual occupancy rooms without a tenancy agreement.
- To ensure occupants are restricted to students, persons affiliated or connected with a TEF and recent graduates, the Department recommends the POM be modified to the remove this exception for additional occupants.
- The Department concludes the POM for the temporary occupation by recent graduates, in conjunction with the approved OPM, is appropriate, as it will ensure the operation of the development is managed effectively for staff, students, recent graduates and includes measures to safeguard the amenity of the surrounding residential area.
- The Department recommends condition F1 is amended to include the POM as an appendix for the management of recent graduates.
- The Department recommends new condition E52 requiring the POM be revised to remove the provision relating to additional occupants.

Requested changes to Condition B15

- The Applicant has requested an amendment to Condition B15 which requires documentation to be submitted to the Certifier demonstrating the provision of car parking and bike parking spaces. The Applicant requests the references to parking requirements for 'students and staff' be changed to 'residents' to incorporate the recent graduates.
- The Department considers the amendment is not necessary as the condition only requires provision of the required number of parking spaces and the modification does not affect satisfaction of this condition.
- No amendments or new conditions required.

- Condition F7 allows for the use of the spaces by the 'occupants of the building' and therefore would allow for use of the spaces by any recent graduates occupying the building.
 - The Department concludes that no changes are required to the conditions to permit use of the parking spaces by recent graduates occupying the building.
-

6 Evaluation

The Department has reviewed the proposed modification and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes that the proposal is appropriate as:

- it would provide some flexibility to assist with offsetting the special circumstances of reduced demand for student housing due to Covid 19
- the occupation by recent graduates would be limited in time, nature, and scale to ensure it would continue to operate as substantially the same development as originally approved and would not result in any adverse environmental impacts or adverse impacts for the internal operation of the premises
- it complies with the relevant statutory provisions and the proposal remains consistent with relevant EPIs and the strategic planning context.

The Department concludes the impacts of the proposal are acceptable and can be appropriately mitigated through the implementation of the recommended conditions of consent.

Consequently, the Department considers the modification application is in the public interest and should be approved, subject to the recommended changes to the existing conditions of consent (**Appendix C**).

7 Recommendation

It is recommended that the Team Leader, 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 9649 MOD 1 falls within the scope of section 4.55(1A) of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **modify** the consent SSD 9649
- **signs** the attached approval of the modification (**Appendix C**).

Recommended by:



Candice Pon
Planning Officer
Key Sites Assessments

Recommended by:



David Glasgow
Principal Planner
Key Sites Assessments

8 Determination

The recommendation is **Adopted** by:

Handwritten signature of Amy Watson in black ink.

13 August 2021

Amy Watson

Team Leader

Key Sites Assessments

as delegate of the Minister for Planning and Public Spaces

Appendices

Appendix A – List of referenced documents

The following supporting documents and information to this assessment report can be found on the Major Project’s website as follows:

- SSD 9649 MOD 3 Modification Report, dated 6 April 2021 prepared by Urbis
- Response to Information dated 9 February 2021 prepared by Urbis
- Additional Information 1 July 2021 including ‘Appendix – Recent Graduate Accommodation Management Plan’ dated 29/6/2021
- Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/41701>

Appendix B – Statutory Considerations

A consent authority may modify the consent if it is satisfied the proposed modification application meets the requirements of section 4.55(1A) of the EP&A Act. An assessment of the proposed modification application against the requirements of section 4.55(1A) of the EP&A Act is included in **Table 4**.

Table 4 | Consideration of section 4.55(1A) of the EP&A Act

Section 4.55(1A) Evaluation	Consideration
a) that the proposed modification is of minimal environmental impact, and	<p>Section 5 of this report provides an assessment of the impacts associated with the modification application. The Department is satisfied that the proposed temporary changes to the accommodation arrangements are of minimal environmental impact as:</p> <ul style="list-style-type: none"> • there are no physical changes to the development. • there are no changes to the maximum occupancy of the development and management of the occupants, whether students or recent graduates will generally be the same.
b) that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and	This is considered in detail in Section 3 . The Department is satisfied the proposal would result in substantially the same development.
c) the application has been notified in accordance with the regulations, and	The modification application did not require notification in accordance with the EP&A Regulations with the EP&A Regulations (clause 10 of schedule 1 to the EP&A Act and clause 118 of the EP&A Regulation).
d) any submission made concerning the proposed modification has been considered.	The Department received submissions from Council. The issues raised in the submission have been considered in Sections 4 and 5 of this report.

Under section 4.55(3) of the EP&A Act, the consent authority must consider the matters referred to in section 4.15(1) of relevance to the development. **Table 5** identifies the matters for consideration under section 4.15 of the EP&A Act that apply to the proposed modification.

Table 5 | Consideration of the matters listed under Section 4.15(1) of the EP&A Act

Section 4.15(1) Matters for consideration	The Department's assessment
(a)(i) any environmental planning instrument	The proposed modification is consistent with the relevant Environmental Planning Instruments (EPIs) as addressed below.
(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.
(a)(iiia) any planning agreement	Not applicable.
(a)(iv) the regulations	The application satisfactorily meets the relevant requirements of the <i>Environmental Planning and Assessment Regulation 2000</i> , including the procedures relating to applications (Part 6), the requirements for notification (Part 6, Division 6) and fees (Part 15, Division 1AA).
(b) the likely impacts of that development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	The likely impacts of the proposed modification are acceptable and have been appropriately addressed (refer to Section 5 of this report).
(c) the suitability of the site for the development	The site is suitable for the development as addressed in Section 5 .
(d) any submissions	The Department has considered the submissions received (refer to Sections 4 and 5 of this report).
(e) the public interest	The Department considers the proposed modification to be in the public interest.

Environmental Planning Instruments

The following EPIs are relevant to the application:

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55)
- State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP)
- Draft Housing Diversity SEPP

- Draft State Environmental Planning Policy (Environment) (draft Environment SEPP)
- Randwick Local Environmental Plan 2012 (RLEP 2012)

With the exception of the Draft Housing Diversity SEPP (considered below) which was exhibited after the determination of the application, the Department undertook a comprehensive assessment of the applications against the relevant EPIs in its original assessment. The Department has considered the above EPIs and is satisfied the modifications do not result in any inconsistency with these EPIs.

In particular, 'student accommodation', falls within the definition of a 'boarding house' which is the relevant defined permissible use under RLEP and the provisions of the ARH SEPP which were applied to the assessment of the original application. The proposal does not change the nature of the use from a 'boarding house' and therefore the Department's previous assessment against the applicable planning controls is not affected by the proposed modification.

Draft Housing Diversity SEPP

The Explanation of Intended Effect (EIE) for the Draft Housing Diversity SEPP was exhibited from 29 July to 9 September 2020. A key change is the introduction of new, separately defined housing types, including:

- Build to rent housing
- Co-living
- Student Housing
- Boarding Houses.

If part of the premises was to operate principally to provide non-students with housing, that part of the premises may fall within the definition of 'co-living'. Different planning controls would apply to co-living development as compared to student housing including:

- Car parking requirements
- Room size requirements
- Private open space requirements
- Communal living space and communal open space requirements

If assessed against these requirements, the 'graduate' rooms would not comply with the draft controls for co-living relating to room size (35 m² required as opposed to 10m² for students) or private open space (4 m² required as opposed to 0 m² for students). The proposed 56 parking spaces would comply with overall parking requirements (0 parking required for students and 0.5 spaces required for graduates = 26 spaces total required. 56 spaces proposed).

However, the Department considers the proposal could meet the definition of 'Student Housing' under the draft SEPP, being: *a building that:*

- *provides accommodation and communal facilities **principally** for students enrolled to study at an education establishment during teaching periods; and*
- *may incorporate some fully self-contained dwellings* (emphasis added)

The modified development would still provide accommodation principally for students, noting housing for recent graduates would only be temporary (to December 2024) and would only amount to 20% of all beds within the development. Further, given the temporary nature of the proposed additional use

and given the draft controls have not yet taken effect, the Department does not consider it appropriate to apply the draft controls for co-living to the development.

Appendix C – Notice of modification

- SSD 9649 MOD 3: <https://www.planningportal.nsw.gov.au/major-projects/project/41701>

Appendix D – Summary of modifications

Table 6 | Summary of Modifications

Mod No.	Summary of Modifications	Approval Authority	Type	Status
MOD 1	Modification to the location of the on-site detention tank, alignment of the Sydney Water easement, internal changes within the basement and associated landscape amendments	Department	4.55(1A)	Approved 23 July 2021
MOD 2	Modification to plant, extension of the construction hours on Saturdays, Minor Internal and external alterations	Department	4.55(1A)	Under assessment
MOD 3	Temporary accommodation changes	Department	4.55(1A)	Under assessment (this application)