



Source: Bates Smart Architects Pty Ltd

# 6-8 John Street and 13B Church Avenue, Mascot

Statement of Environmental Effects – Section 4.55(2) Modification

On behalf of  
*Iglu No. 211 Pty Ltd*  
December 2020 (Amended 16 February 2021)



## Project Director

INSERT SIGNATURE UPON FINALISATION

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December 2020 (*Revised February 2021*)

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\* This document is for discussion purposes only unless signed and dated by the persons identified. This document has been reviewed by the Project Director.

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**Appendix 1.** Updated Architectural Plans;

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# 1 Introduction

This Statement of Environmental Effects (SEE) has been prepared by Mecone NSW Pty Ltd on behalf of IGLU No.211 Pty Ltd (Iglu) to support a Section 4.55(2) modification to the Bayside Council (the Council). The application seeks alterations and additions to Development Consent (**DA-2019/385**), relative to the site at 6-8 John Street and 13B Church Avenue, Mascot (the site) (Lots 2/DP 547700, 8/DP 939729 and 9/DP 939729). DA-2019-385 was approved for the;

*'Demolition of existing structures and construction of a building for student accommodation ranging between seven (7) to twelve (12) storeys in height, and including four hundred and thirty five (435) bedrooms and associated landscaping'.*

This SEE includes an assessment of the proposed modification in terms of the matters for consideration as listed under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act) and should be read in conjunction with information annexed to this report and outlined in the Table of Contents.

Specifically, this SEE:

- a. Describes the site and local context;
- b. Identifies the proposed works;
- c. Identifies and addresses all relevant planning controls and policies;
- d. Identifies and addresses all potential environmental impacts of the proposal;
- e. Provides potential measures for minimising or managing the potential environmental impacts; and
- f. Demonstrates that the modification meets the test of "substantially the same development" under Section 4.55 of the EP&A Act.

The proposed modification is being sought under Section 4.55 (2) of the Act. The application proposes to modify Deferred Development Consent (DA-2019/385), approved by the *Sydney Eastern Planning Panel* on the 16 September 2020. The proposed modifications include;

- Minor amendments to **Condition 1** 'Approved Plans and Supporting Documentation' to reflect the proposed physical modifications as outlined in Section 2.2 below;
- Deletion of **Condition 44** in response to the proposed retention of the L10 rooftop on the northern core as communal open space (multi-functional active recreation space);
- Minor internal reconfigurations to the lower ground and upper ground levels to improve amenity and circulation of the communal area;
- Minor amendments to the through site link and stair and primary entry access; and
- Minor increase to height of fire stair/lift overrun height on southern and northern core.

A detailed description of the proposed modification is outlined in **Section 2**, a planning assessment is provided in **Section 3** and an environmental assessment is provided in **Section 4**.

## 1.1 Proponent and Project Team

The Development Application and 4.55(2) Modification Report have been prepared on behalf of the applicant, *Iglu*. The expert consultant team is listed in **Table 1** below.

Table 1. Project Team	
Item	Consultant
Urban Planning Assessment	<i>Mecone NSW Pty Ltd</i>
Architects	<i>Bates Smart Architects Pty Ltd</i>

## 1.2 Development History – D-2019/385

Development Consent DA-2019/385 was approved, by the *Sydney Eastern City Planning Panel* on the 16th September 2020, for the demolition of the three existing structures and construction of an architecturally designed building for student accommodation (boarding house), ranging between 7 to 12 storeys in height, and including 435 bedrooms and associated landscaping. In summary the development comprised the following:

- 435 beds in total with each studio boarding room or 6-bed cluster provided with ensuite and kitchenette facilities. The accommodation is arranged as follows;
  - 213 x studio boarding rooms (includes 18 rooms available for the key disability groups); and
  - 37 x 6-bed cluster boarding rooms (222 beds in total).
  - Upper ground level spaces including admin and reception with lounge and café which leads onto a communal terrace and communal spaces with meeting rooms;
  - Lower ground level spaces including laundry room, gym, library, media room, meeting room, bike storage space, covered outdoor BBQ area waste room;
  - Expansive landscaped internal sunken courtyard with deep soil landscaped space;
  - Two (2) communal rooftop terraces with landscaping and amenities; and
  - The total cost of works for the development is \$59,697,000.





**Figure 1.** Perspective view from John street looking North East  
Source: Bates Smart Architects

## 1.3 The Site

## 1.4 Site Location and context

The site is located at 6-8 John Street and 13B Church Avenue Mascot, and legally identified as Lot 2 DP 547700, Lot 8 DP 939729 and Lot 9 DP 939729. It is generally rectilinear in shape and approximately 3,161m<sup>2</sup> in size. The site exhibits a 34m frontage to John Street on the southern boundary and also includes a 5.5m wide battle-axe driveway (forming part of an easement) to Church Avenue. This driveway off Church Avenue runs along the western boundary and provides access for service vehicles and cars to both the rear of the subject site and to the existing adjoining 8-storey residential flat buildings located at 10-14 John Street.

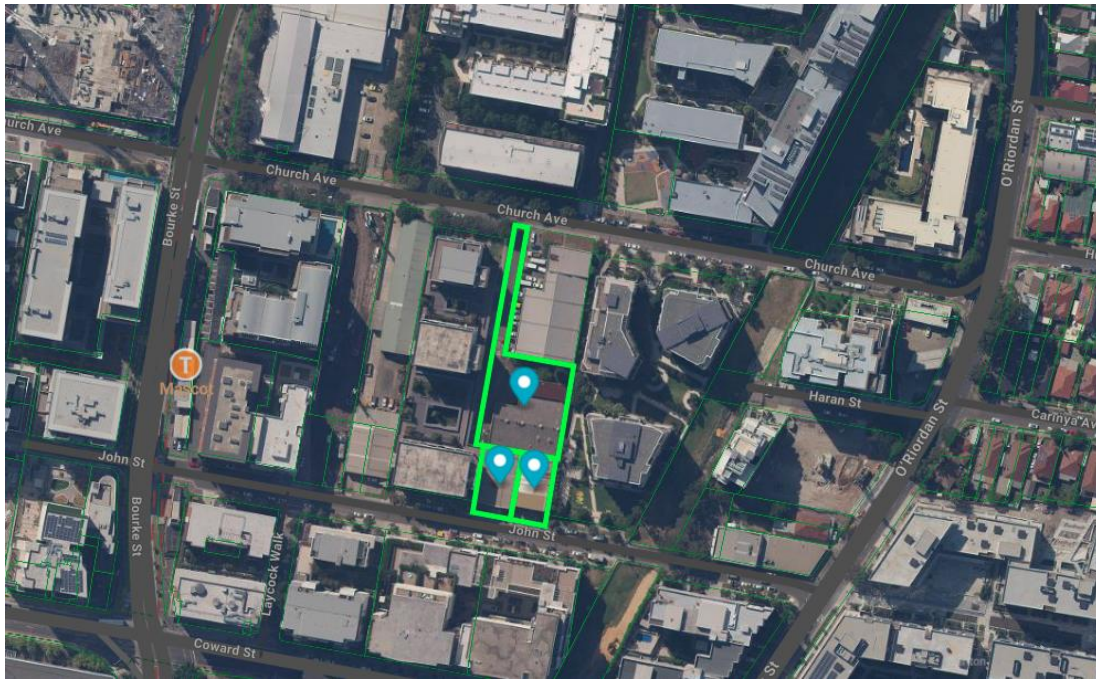
The topography of the site appears to be generally flat with a slight 1.4m fall from east to west and a 3.1-3.5m fall along the length of the site north to south. It is presently developed with three existing premises, comprising of a 1.5 to 2 storey red brick warehouse (13B Church Street), a 2 to 3 storey red brick light industrial building (6 John Street) and a part 1, part 2 storey brown brick industrial warehouse (8 John Street). Demolition of the existing buildings on site are being undertaken via Complying Development Certificate (CDC).

The surrounding area is characterised by a mix of uses including residential developments. John Street exhibits a street wall height of 6-8 storeys comprising of residential development and Church Avenue exhibits scales of development ranging from 6-13 storeys. An 8-storey residential flat building is located directly to the east. Immediately beyond is a linear park which extends up to Gardeners Road. The northern boundary is shared with an existing 1-2 storey industrial building.

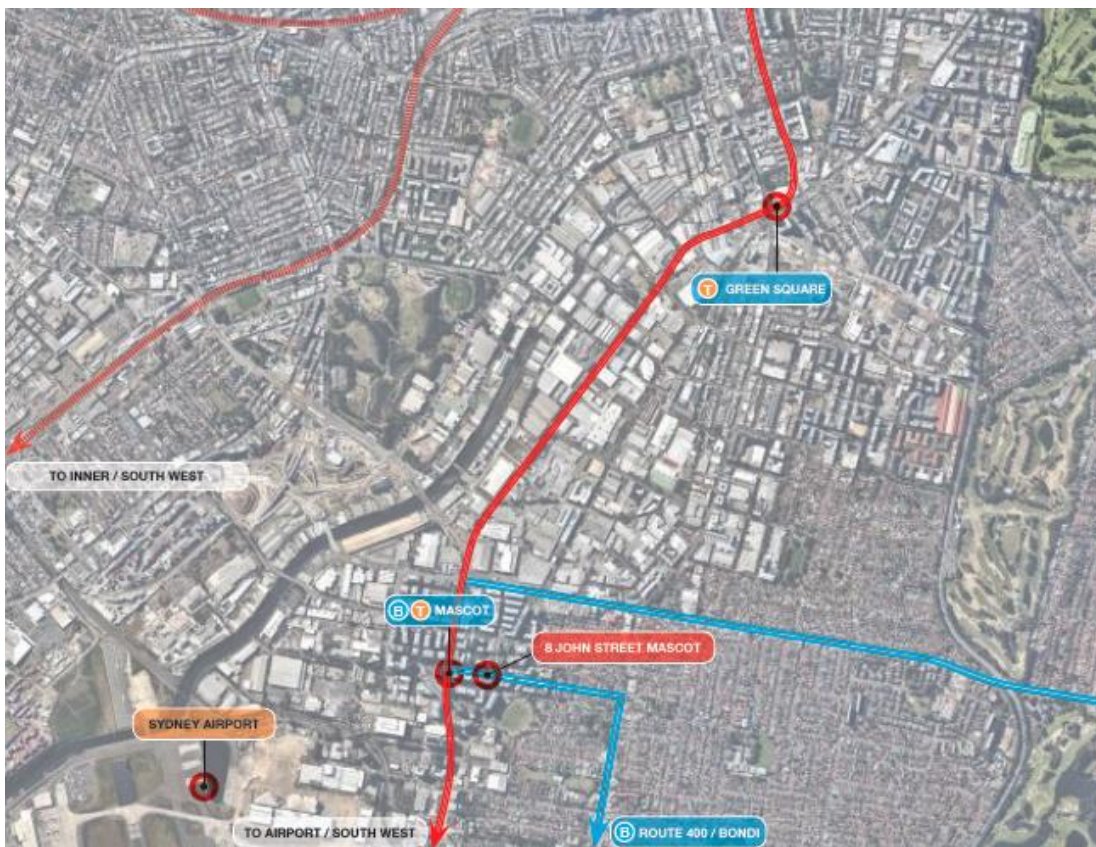
The site is located in close proximity to both Mascot Town Centre and 150m east of the Mascot Station Transport Interchange. It is also located approximately 1.2km north of the Sydney Airport Domestic Terminal and approximately 2km south west of Green Square Town Centre (refer to **Figure 2** below). The site is within a short bus, train or cycle ride of leading educational institutions such as the Sydney University, University of Technology Sydney, and the Sydney CBD. Mascot is all also well serviced by Sydney buses which accommodate journeys to the eastern suburbs and beaches.

**Figure 2** and **Figure 3** below identify the site's location in a local and site-specific context.





**Figure 2.** Subject Site  
Source: Mecone MOSAIC



**Figure 3.** Site Context  
Source: Bates Smart Architecture

## 1.5 Site Description

**Table 2** provides the legal description, and a brief summary of the site and surrounding context.

Table 2. Site Description	
Item	Description
Legal Description:	<p>Lot 2 DP 547700</p> <p>Lot 8 DP 939729</p> <p>Lot 9 DP 939729</p>
Total Area	Approximately 3,161m <sup>2</sup>
Topography	The site appears to be generally flat with a slight slope from south to north and from east to west.
Street Frontage	The site has a 34 metre frontage to John Street and a 5.5 metre frontage to Church Avenue.
Previous uses	<p>There are three (3) buildings currently on site;</p> <ul style="list-style-type: none"> <li>• 13B Church Avenue – 1.5 to 2 storey red brick warehouse;</li> <li>• 6 John Street – 2 to 3 storey red brick light industrial building, currently housing business replacement windscreen business; and</li> <li>• 8 John Street – Part 1, part 2 storey brown brick industrial warehouse.</li> </ul> <p><i>The demolition of the existing buildings on site was undertaken via CDC.</i></p>
Immediate surrounding development	<p>Both to the east and west of the site are 6 to 8 storey mixed use residential development. These developments generally have an active street front on Church Avenue and uses in these include restaurants, cafes and local services.</p> <p>Further west is land zoned SP2 – Infrastructure Sewerage, which is managed by Sydney Water.</p> <p>To the immediate north of the site at 13A Church Avenue is another two storey red brick warehouse.</p>
Public Transport	<p>The site is located approximately 150m from Mascot train station.</p> <p>The site is serviced by a number of bus routes, with bus stops located on Bourke Road and Coward Streets. Routes include:</p> <ul style="list-style-type: none"> <li>• 305 - Redfern to Mascot Stamford Hotel</li> <li>• 307 - Port botany to Mascot railway Station</li> <li>• 400 - Bondi Junction to Sydney Airport</li> <li>• 418 - Kingsford to Burwood via Mascot, Sydenham and Dulwich Hill.</li> </ul>

## 2 The Proposal

### 2.1 Administrative Modifications

The proposed modification to the approved Development Consent DA-2019/385, are being sought under Section 4.55(2) of the Act.

The *Sydney Eastern Planning Panel* approved the original development application DA-2019-385 subject to conditions in relation to the proposed development at 6-8 John Street and 13B Church Avenue, Mascot. The proposed administrative modifications include:

- Minor amendments to **Condition 1** 'Approved Plans and Supporting Documentation' to reflect the proposed physical modifications as outlined in Section 3.2 below;
- Deletion of **Condition 44** in response to the proposed retention of the L10 rooftop on the northern core as communal open space (multi-functional active recreation space);

These proposed modifications to the Conditions of Consent are being sought under Section 4.55(2) of the Act. The supporting documentation attached to this SEE are considered to satisfy the conditions and reflect the advised amendments, with the changes to Conditions and plans to form part of the development consent moving forward.

Prior to the lodgement of the Section 4.55(2) Modification Application, an informal meeting with Council officers was held to discuss the proposed modifications and receive any guidance and feedback from Council. Council's feedback and recommendations have been incorporated into this subsequent application.

It is proposed to modify the conditions of consent as follows (new in **bold/italic**, deletions in ~~strike through~~);

#### Condition 1

The development is to be carried in accordance with the following plans and endorsed with Council's stamp, except where amended by other conditions of this consent. Reference documentation is also listed.

Drawing No.	Author	Date Received
DA01.001 – Site Plan – Rev A	Bates Smart	Dated 22 October 2019; Received 28 April 2020
DA03.0G1 – Lower Ground Floor Plan (Church Avenue) – Rev <del>B</del> <b>D</b>		Dated <del>31 March 2020</del> <b>4 December 2020;</b>
DA03.0G2 – Upper Ground Floor Plan (John Street) – Rev <del>B</del> <b>D</b>		Dated <del>31 March 2020</del> <b>4 December 2020;</b>
DA03.0G3 – Upper Ground Floor Mezzanine Plan – Rev <del>B</del> <b>D</b>		Dated <del>31 March 2020</del> <b>4 December 2020;</b>
DA03.001 – Typical Low Floor Plan (L01-L06) – Rev <del>B</del> <b>D</b>		Dated <del>31 March 2020</del> <b>4 December 2020;</b>
DA03.007 – Level 07 Plan - Rev <del>B</del> <b>D</b>		Dated <del>31 March 2020</del> <b>4 December 2020;</b>
DA03.008 – Level 08-09 Plan –		Dated <del>31 March 2020</del>

Drawing No.	Author	Date Received
Rev B <b>D</b>		<b>4 December 2020;</b>
DA03.010 – Level 10 Plan – Rev C <b>E</b>		Dated 27 July 2020 <b>3 February 2021;</b>
DA03.011 – Level 11 Plan – Rev B <b>D</b>		Dated 31 March 2020 <b>4 December 2020;</b>
DA03.012 – Roof Plan – Rev B <b>D</b>		Dated 28 April 2020 <b>4 December 2020;</b>
DA07.001 – John Street Elevation – Rev B <b>D</b>		Dated 28 April 2020; <b>4 December 2020;</b>
DA07.002 - West Elevation – Rev B <b>E</b>		Dated 28 April 2020 <b>3 February 2021;</b>
DA07.003 -Church Avenue Elevation (Boundary 13A Church Avenue) – Rev B <b>D</b>		Dated 28 April 2020 <b>4 December 2020;</b>
DA07.004 – East Elevation – Rev B <b>D</b>		Dated 28 April 2020 <b>4 December 2020;</b>
DA08.001 – Section AA - Rev C <b>D</b>		Dated 27 July 2020; <b>4 December 2020;</b>
DA08.002 – Section BB – Rev B <b>D</b>		Dated 28 April 2020 <b>4 December 2020;</b>
DA08.003 – Section CC – Rev B <b>D</b>		Dated 28 April 2020 <b>4 December 2020;</b>
DA08.004 - Section DD – Rev B <b>D</b>		Dated 28 April 2020 <b>4 December 2020;</b>
DA08.005 – Section EE – Rev A <b>D</b>		Dated 27 July 2020 <b>4 December 2020;</b>
DA09.000+ GFA Diagrams – Rev B <b>D</b>		Dated 31 March 2020; <b>26 November 2020;</b>
DA11.000 – External Finishes – Rev A		Dated 19 September 2020;
DA-201 – Signage Details 1		Received 28 April 2020
DA-202 – Signage Details 2		Received 28 April 2020
Landscape Plans – Rev C <b>J</b>	RPS Group	Dated 31 July 2020 <b>10 December 2020;</b>

#### Condition 44

~~Prior to the issue of the Construction Certificate, the proposed rooftop basketball court shall be deleted. The rooftop shall remain as communal open space. Details of the rooftop are to be submitted to Council for review and approval prior to the issue of the Construction Certificate.~~



## 2.2 Physical Modifications

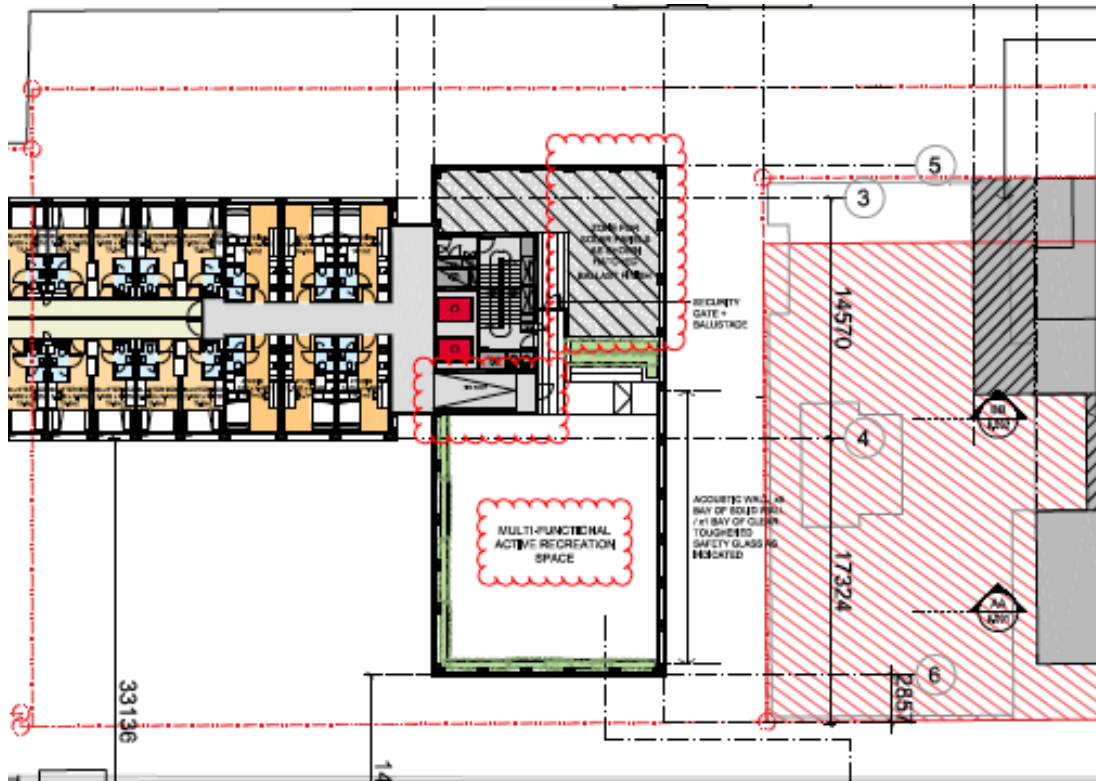
### 2.2.1 Deletion of basketball court and replacement with communal open space

Condition 44 provisions the deletion of the basketball court prior to the issue of a construction certificate with the rooftop to remain as a communal open space. The applicant seeks to meet the requirements of the condition by maintaining the rooftop as communal open space to be used for light active recreation and subsequently delete the condition to reflect this. Whilst the basketball court has been deleted as required by the Condition 44, it is considered that the resultant communal open space should still be focused on creating opportunities for outdoor exercise on the following grounds:

- There is a need for a communal recreation space within the development due to the lack of alternative opportunities in the immediate vicinity of the site. The types of exercise envisaged may include CrossFit, personal workouts, boxing, pilates, yoga etc;
- Outdoor active communal spaces are always important, but even more so for accommodation without private balconies. They provide for both the physical and mental health and wellbeing of the students, especially during the current and ongoing pandemic;
- The original DA was supported by Acoustic Reports prepared by *Acoustic Logic*. At the meeting with Council on Tuesday, 10 March 2020, Council advised that the current proposed location on the northern tower is considered the most appropriate for minimising the impacts on neighbours and that they would not want to see the active recreation space taken out of the proposal as it was acknowledged that there is a lack of such space in the area;
- Consistent with Condition 67, photovoltaic cells will continue to be integrated on the rooftops. The solar panel zone will be separated from the level 10 communal space via a security balustrade and gate;
- Additional measures are proposed to be installed to mitigate and manage noise generated by uses on the terrace. These comprise the installation of a solid sound barrier wall on the northern façade of the recreation space (only) and will be comprised of five (5) bays of solid wall and one (1) bay of clear toughened safety glass. The overall height of the proposed development will remain unchanged from the approved plans. As detailed in the Acoustic Report as lodged with the original DA, acoustic noise travels in a line of sight and upward. Any impact to the neighbouring residences above the roof of the northern tower (potentially at 13A Church Avenue) have been mitigated by the installation of the acoustic barrier (while noting that all other neighbouring residences are below the level of the northern rooftop);
- Additional clarification was included in the original DA around what the terrace comprised and how it would be managed. Consistent with Condition 145(c), the communal open space rooftop area (Northern Building) will be off-limits between 6pm and 9am, 7 days a week; and
- From a business perspective, the inclusion of an open recreation space offers a building with important amenity point of difference for students that would otherwise occur in the surrounding public domain.

Therefore, this modification seeks to delete the basketball court and replace it with a communal open space providing for active outdoor exercise.





**Figure 4.** Proposed Level 10 Plan – Retention of rooftop space (extract from DA03.010\_L10)  
Source: Bates Smart

## 2.2.2 Internal reconfigurations

The modifications include the realignment of the internal walls of the lower ground floor service area, and minor internal reconfigurations to the communal area, stair and void. These reconfigurations will not alter the approved GFA and are located within the approved built form/footprint. All side setbacks remain unchanged.

## 2.2.3 Amendment to though site link and stair and amendments to John Street entry

The site through-link public stair and lane entry stair and ramp have been relocated and raised (from RL10.12m to 10.71m) to ensure they do not encroach upon the easement. No proposed paved areas will encroach the easement. The proposed entry has also been slightly modified to provide improved DDA access and improve landscaping in response to Condition 71(b)(i).

## 2.2.4 Minor increase to height of fire stair/lift overrun height on southern and northern core

The proposed works seek to increase the two (2) southern core lift overruns and fire stair transfer height over Levels 07 and L10 with the minor adjustment of the roof terraces for BCA compliance. This will require the increase of the building height of the stair on the southern core from RL45.45m to RL46.60m (increase by 1.15m) and from RL38.35m to 39.85m (increase by 1.5m). A minor adjustment on the northern lift overrun core height from RL47.25m to RL47.35m (0.1m) is also proposed. The additional heights are isolated to the respective lift overrun and fire stairs and will not alter the overall height of the approved development which continues to stand at RL48.35 (parapet – central block) and compliant with the LEP.



## 3 Planning Assessment

Mecone has undertaken an assessment of the amended proposal against the relevant planning and environmental legislation and guidelines to identify potential environmental impacts and mitigation measures. The potential environmental impacts and their mitigation measures are discussed below.

### 3.1 Section 4.55(2) of EP&A Act 1979

The *Environmental Planning and Assessment Act 1979* (the Act) is the key environmental planning legislation in New South Wales. The Act establishes the regime in which the consent authorities address environmental issues for proposed developments. This includes the ability to modify development approval through Section 4.55 of the Act. This SEE also includes an assessment of the proposed works against the matters for consideration listed under Section 4.15 of the EP&A Act and should be read in conjunction with information annexed to this report.

In regard to this proposed modification, Council's consent is sought for a modification under Section 4.55(2) of the Act, which states;

- (2) *Other modifications* A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—
- (a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
  - (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
  - (c) *it has notified the application in accordance with—*
    - (i) *the regulations, if the regulations so require, or*
    - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
  - (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

*Subsections (1) and (1A) do not apply to such a modification.*

An assessment against Section 4.15 of the Act has been undertaken to demonstrate the minor nature of the proposed modification. **Section 5** below provides a summary of the assessment.

#### 3.1.1 Substantially the same development

It is considered that the overall proposed development is substantially the same as the original Approved Development (DA-2019/385). The proposal does not seek to alter the use, density, setbacks or overall height from the approved. Despite the minor

increase in height to the lift overrun and fire stairs on the northern and southern core and enlargement of the bicycle parking space at lower ground level, the building envelope remains substantially the same.

In *Moto Projects (No.2) Pty Ltd v North Sydney Council (1999) 106 LGERA 298 Bignold J* referred to a requirement for the modified development to be substantially the same as the originally approved development and that the requisite finding of fact requires a comparison of the developments. However, Bignold noted the result of the comparison must be a finding that the modified development is 'essentially or materially' the same as the (currently) approved development. Bignold noted;

*"The comparative task does not merely involve a comparison of the physical features or components of the development as currently approved and modified where that comparative exercise is undertaken in some sterile vacuum. Rather, the comparison involves an appreciation, qualitative, as well as quantitative, of the development being compared in their proper contexts (including the circumstances in which the development consent was granted)."*

## Quantitative Assessment

- **Deletion of basketball court and replacement with communal open space:** Condition 44 requires that the basketball court be deleted with the space to remain as a communal rooftop open space for the students. This application seeks to delete the basketball court and to retain the rooftop of the northern building as communal open space for active recreational use. This multi-functional active recreation space will provide an opportunity for students to exercise within the development, rather than utilising surrounding public domain spaces.
- **Internal reconfigurations:** The proposed internal reconfigurations on the lower ground and upper ground will not alter the approved building envelope. All amendments are minor in nature and are intended to improve the internal amenity and circulation of the communal and service areas. The internal modifications result in a reduction of GFA by -181m<sup>2</sup> from the approved and stamped plans (Rev B). The reduction is a result of many small internal modifications with the main contributors being an increase in size to the central void at UG and marginal increase to the core sizes (reducing circulation areas for all levels). Despite this minor change, the overall building footprint does not change.
- **Through-site link amendments:** The proposed amendments to the through-site link public stair as well as the primary entry stair and ramp are sought to mitigate encroachments on easements. These works are minor in nature and will maintain a development that appears visually similar to that as approved.
- **Increase to height of fire stair/lift overruns:** The proposed modifications seek a minor increase the height of the lift overrun and fire stair transfer over Levels 07 and L10 with the adjustment of the roof terraces. The minor additional increase in height is isolated to these areas and will remain below the highest parapet (central core) and therefore remains compliant with the height control under the BBLEP2013. These amendments will be minimally visible from the street and public domain. The building footprint, setbacks and building core heights will otherwise remain unchanged from the approved development.

## Qualitative Assessment

A qualitative assessment demonstrates that the proposed physical and administrative

changes are substantially the same as approved.

The proposal does not seek to alter the use, density, setbacks, overall bulk of the built form or height of cores from that approved under DA-2019/385 and will result in an overall decrease in GFA from the approved development by 181m<sup>2</sup>.

The proposed increase to the height of the lift overruns and fire stair transfer over Levels 07 and L10 are minor in nature, will remain below the highest parapet (central core) and compliant with the height control under the BBLEP2013. The minor additional height in these isolated locations will result in negligible additional overshadowing or view loss impacts compared to the approved. The building form, setbacks and building core heights will otherwise remain unchanged from the approved development.

Overall, based on the above, the modification is substantially the same and represents a continuation of the approved development from a qualitative perspective. As such, it is requested that Council consider the amendments favorably. The proposal does not seek to alter the approved use on site, alter the intensity of activity or alter the building footprint. Moreover, the modification does not alter the development's consistency with the key planning controls and includes no change of use, density, setbacks or overall height from the approved and therefore is considered that the proposed modification can be modified under Section 4.55(2).

### 3.1.2 Notification

The proposed modification may be exhibited in accordance with Council's policies, if required.

### 3.1.3 Consideration of any submissions

The proposed modification will include consideration of any submissions in accordance with Council's policies.

In addition, in accordance with Clause 4.55(3) of the Act, the subject SEE has considered relevant matters from Clause 4.15(1).

## 3.2 State Environmental Planning Policies

A list of SEPPs including SEPP 55 Remediation, SEPP Infrastructure 2007 and SEPP Affordable Rental Housing 2009 were considered under the Original DA. The subject application, which is minor in nature, will not affect any of the above State Environmental Planning Policies applying to the site.

Overall, the proposed modification:

- Does not seek additional excavation over what was approved and therefore, does not require referral or notification to the Rail Authority under Clause 86 of the ISEPP2007;
- Though the original application was considered traffic generating development required referral to RMS under Schedule 3 of the ISEPP2007, the application continues to not include any car parking and therefore will not generate any traffic beyond the existing approval – which is minimal;
- The Remedial Action Plan, Asbestos Management Plan and Acid Sulfate Soils Management Plan remain applicable and unchanged;
- Will not alter greatly the approved building envelope or cause any additional significant impacts to what was approved in regard to view loss, overshadowing, acoustic or visual amenity, other than what was approved in the Original DA;




- Will not create any significant additional noise or vibration impacts other than what was considered and approved in the Original DA;
- Will not alter the use of the site and will not introduce any new uses to the site as approved under the original DA;
- Will not alter the provision of affordable rental housing or standards for boarding houses under the Affordable Housing SEPP;
- Will improve the rate of bicycle parking spaces approved compared to the Original DA, as required by the Conditions of Consent; and
- Will maintain a development as approved which is compatible with the character of Mascot. The proposed modification will maintain the approved architecturally designed building which integrates a contemporary built form to present a modest and coherent development outcome in character with the Mascot Station Precinct.



### 3.3 Environmental Planning Instruments

#### 3.3.1 Botany Bay Local Environmental Plan 2013 (BBLEP2013).



The *Botany Bay Local Environmental Plan 2013* (BBLEP2013) is the primary local planning instrument applying to the site. The table below provides a summary of the key development standards that apply to the site under the BBLEP2013.

Table 3. BBLEP2013 Compliance Table		
Clause	Provision	Assessment
2.1 Zoning and permissibility	<p>The subject site is zoned B4 Mixed Use under the BBLEP2013.</p> 	<p><b>Complies</b></p> <p>The proposed works continue to relate to a boarding house which is permitted with consent in Zone B4 Mixed Use.</p> <p>The proposal maintains consistency with the objectives of the zone in that it continues to provide a development that will contribute to the mixture of compatible land uses in the area and includes residential student accommodation which encourages sustainable modes of transportation such as walking and cycling. The proposed student accommodation will also assist in stimulating the local economy both during construction as well as through the students who will reside at the boarding house.</p>
4.3 Height of Buildings	<p>The site is subject to a maximum height of 44m, in accordance with the BBLEP2013, applies to the site.</p>	<p><b>Complies</b></p> <p>With a proposed height of 40m, all of the proposed built form is contained within the maximum height control of the BBLEP2013. The proposed development remains consistent with the bulk</p>

**Table 3. BBLEP2013 Compliance Table**

		<p>and scale of neighbouring existing and approved developments. The proposed minor increases to the lift overrun and fire stairs will not exceed the parapet of the central core which remains at RL48.35m and compliant with the control.</p> <p>Refer to Architectural Plans in <b>Appendix 1</b>.</p>
<p>4.4 Floor Space Ratio</p>	<p>A maximum Floor Space Ratio (FSR) control of 3.2:1 applies to the subject site under the BBLEP2013.</p> <p>Pursuant to Clause 29 of the SEPP ARH 2009, an additional FSR was permitted for the development of the site equivalent to 20% of the FSR (as the existing FSR is 2.5:1 or greater) of the portion of the proposal that was for the purposes of a boarding house.</p> 	<p><b>Complies</b></p> <p>The maximum allowable FSR permitted is</p> <ul style="list-style-type: none"> <li>• <b>Allowable Base FSR:</b> 3.2:1</li> <li>• <b>Allowable FSR + 20% ARH SEPP:</b> 3.8:1</li> </ul> <p>The original application approved an GFA of 11,757m<sup>2</sup> (FSR of 3.72:1). This calculation is as per Revision B floor and GFA plans as approved and stamped by Council. The proposed modifications result in an GFA of 11,576m<sup>2</sup> (3.66:1 FSR) which is a reduction of -181m<sup>2</sup> from the approved (Rev B). The reduction is attributed to many small internal changes with the main contributors being the central void increasing in size at UG, and the core size increasing marginally, reducing circulation areas for all levels. It is noted that the building footprint has not changed as a result of this modification.</p> <p>The proposed modifications maintain consistency with the objectives of Clause 4.4 under the BBLEP2013.</p>
<p>5.10 Heritage Conservation</p>	<p>The site is not a heritage item and is not located in a heritage conservation area as per the BBLEP2013.</p>	<p><b>Complies</b></p> <p>The site is not a heritage item and is not located in a heritage conservation area as per the BBLEP2013.</p>
<p>6.1 Acid Sulfate Soils</p>	<p>The site is subject to Class 2 and Class 4 acid sulphate soils under Section 6.1 of the BBLEP2013.</p>	<p><b>Complies</b></p> <p>The original DA responded to the potential risk of disturbing any Class 2 Acid Sulfate Soils on site, by providing an Acid Sulfate Soils Management Plan (ASSMP).</p>

**Table 3. BBLEP2013 Compliance Table**

		The proposed additional excavation associated with the increase in bike store area will ensure compliance with the ASSMP.
6.8 Airspace operations	The site is subject to provisions that ensure the effective and ongoing operation of Sydney (Kingsford Smith) Airport.	<p><b>Complies</b></p> <p>The proposed development remains below the OLS and suitable acoustic and wind mitigation measures have been undertaken within the supporting reports assessed under the original DA.</p>
6.9 Development in areas subject to aircraft noise	<p>The site is near Sydney (Kingsford Smith) Airport and is within an ANEF contour of 20 or greater. Accordingly, the original DA made consideration to whether the development:</p> <p>a) will result in an increase in the number of dwellings or people affected by aircraft noise, and</p> <p>b) the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021—2000, and will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021—2000.</p>	<p><b>Complies</b></p> <p>As the proposed site is located between ANEF 20 and 25 contours, in alignment with AS2021:2015 a full evaluation of internal noise levels was undertaken in the original DA. The Acoustic Report concluded that, providing the application of recommendations and treatments as set out in Section 4 of the Acoustic Report, internal noise levels shall comply with both the BBDCP2012 and the AS2021:2015. The proposed modifications do not alter the developments ability to comply with these recommendations and treatments.</p>
6.15 Active street frontages	<p>The Church Avenue frontage of the site is identified as an “Active Street Frontage” on the Active Street Frontages Map.</p> 	<b>Consistent with Approved</b>
6.16 Design Excellence	The site sits within the Mascot Station Precinct on the key sites maps.	<p><b>Consistent with Approved</b></p> <p>In alignment with Section 1.5 of this SEE, the original DA was subject to an assessment by the</p>

**Table 3.** BBLEP2013 Compliance Table

		Urban Design Review Panel (UDRP).
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### 3.3.2 Botany Bay Development Control Plan 2013

The is the primary Development Control Plan that applies to the site and sets out the core controls for the site. The relevant BBDCP2013 controls that apply to the site have been addressed in the table that can be found at *Error! Reference source not found.* of the SEE.

The development has been addressed under the provisions of the environmental planning instrument in the original DA, which includes the *Botany Bay Development Control Plan 2013* (BBDCP2013). The BBDCP2013 aims to compliment and support the BBLEP2013.

The proposed modification does not seek to change the use, the overall general built form, setbacks or height from that approved under the original DA. Overall, the proposed modification will result in no change to the development's consistency with the BBDCP2013. Some of the key controls are discussed below.

#### Part 9A Mascot Station Precinct

Mascot Town Centre is defined broadly as land bounded by Gardeners Road, Kent Road, Coward Street and O'Riordan Street and includes the north-eastern corner of Coward and O'Riordan Street. The vision for the precinct is to create a:

*"spacious, high quality public domain... for thriving activities and cohesive built form. The Town Centre has the opportunity to evolve into a place of activity, with a range of transport modes, interconnectivity, permeability and accessibility. The growth potential of Mascot Town Centre Precinct is to be guided by an urban framework that emphasises an extensive and revitalized public domain, excellence in its urban and architectural design, an integrated transport network and sustainable development in the public and private domains".*

The site sits within **Urban Block 4**, which includes potential development sites providing apartment buildings up to 13 storeys in height. The proposed development continues to align with the vision and direction of the Mascot Station Precinct and maintains a high quality architecturally designed development with extensive landscaping and ESD initiatives. The modifications ensure consistency with the form, scale and finish of the approved development as well as those buildings in the surrounding locality.

#### Height

The development maintains the approved construction of an architecturally designed student accommodation building (boarding house), ranging from 7 to 12 storeys and containing 435 beds. The central core parapet (highest core element) (RL48.53m) is unaltered by the modifications and therefore will remain at a height of 40m which is complaint with the maximum height control of 44m under the BBLEP2013. The proposed height increases to the northern and southern fire and lift overrun cores will remain below this central core parapet. The amendments to the lower ground levels in response to the flood levels are contained within the existing building envelope and therefore will not alter the upper ground levels

Further, the proposed modifications ensure consistency with the bulk and scale of neighbouring existing and approved developments and remains consistent with existing street wall buildings on the northern side of John Street and within the vicinity of the subject site.

## **Site Amalgamation**

The site is not identified in the DCP as an amalgamation opportunity. Despite not having a site requiring site amalgamation, the original DA amalgamated surrounding allotments (6-8 John Street as well as 13B Church Avenue) to ensure a consistent and consolidated approach can be realised on the allotment. The proposed modifications to not alter this amalgamation.

## **Setbacks**

No site-specific setbacks are identified under the Part 9A Mascot Station Precinct Development Control Plan. Despite the minor amendments to the height of the lift overrun and fire stair on the northern and southern cores and the additional proposed excavation to the south at lower ground level to accommodate the required additional bicycle parking spaces, all setbacks remain unchanged as a result of the proposed modifications.

## **Views**

The proposed modification, with its three buildings, maintains the overall building heights with only minor amendments in height isolated to the northern and southern cores of the lift overrun and fire stair. The development remains consistent with the height of the surrounding existing and approved buildings envelopes whilst ensuring careful consideration of the outlook and view sharing of neighbouring buildings. It is considered that the minor increase in height at these isolated locations will not result in significant view loss impacts.

## **Boarding House Controls**

The original DA was assessed against Part 7A.4 of the BBDCP2013 which outlines the development performance criteria and controls specific to student accommodation and boarding houses of which the proposed development has demonstrated compliance.

The student accommodation development and subject modifications continue to comply with the DCP by maintaining a development that is well designed and contributes to the identity of the neighbourhood. The proposed modifications continue to meet the objectives of the control which by achieving a pleasant and attractive living environmental for future occupants and adjoining properties, the design results in high levels of amenity, safety and privacy to meet the needs of residents and owners. Furthermore, the proposed development also exceeds the standards expected of indoor and outdoor recreational area provisions.

## **Development Affecting Development at Sydney Airport**

The original DA, with supporting Acoustic Assessment, included appropriate consideration of the ongoing operation of Sydney Airport to ensure that development does not impact of the efficient operation of Sydney Airport or that the operation of Sydney Airport does not impact on the liveability of any residences developed in proximity to it.

Further, the site sits between the 20-25 ANEF contours with an Obstacle Limitation Surface (OLS) height of RL51m. Though the site is identified as blue on the OLS map – the proposed modifications maintains that the development does not exceed the OLS with the maximum building height of 44m (RL49.10m).



## 4 Environmental Assessment

In accordance with Section 4.15 of the Act, an assessment has been undertaken for the potential environmental impacts associated with the development in the original DA. The proposed modification does not create any additional significant environmental impacts other than those already assessed and approved under the original development application D-2019/385.

Mecone has worked closely with Iglu and Bates Smart to ensure the proposed modifications will enable efficient development of the site, without causing any additional environmental impacts. An assessment against Section 4.15 of the Act has been undertaken to demonstrate the minor nature of the proposed modification. **Table 4** provides a summary of the assessment.

**Table 4.** Section 4.15 Assessment Summary

(1)	<p>Matter for consideration – General</p> <p>In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:</p>	
(a)(i)	<p>The provision of:</p> <p>Any environmental planning instrument, and</p>	<p>The proposed modification has been shown to continue to be consistent with the relevant SEPPs and LEPs as approved under the original DA.</p>
(ii)	<p>Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and</p>	<p>Not Applicable</p>
(iii)	<p>Any development control plan, and</p>	<p>The proposed application has been assessed against the relevant provisions of the BBDCP2013.</p>
(iiia)	<p>Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and</p>	<p>Not Applicable</p>
(iv)	<p>The regulations (to the extent that they prescribe matters for the purposes of this paragraph),</p>	<p>The proposal remains consistent with the regulations applying to development applications.</p>
(v)	<p>(repealed)</p>	<p>Noted</p>
(b)	<p>The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,</p>	<p>The proposed modifications are minor and will have minimal environmental impacts. All conditions will still need to be met.</p>

**Table 4.** Section 4.15 Assessment Summary

(c)	The suitability of the site for the development,	The site has been demonstrated as being suitable for development, and this modification has no effect on the site's suitability.
(d)	Any submissions made in accordance with this Act or regulations,	The proposed modification will include consideration of any submissions in accordance with Council's policies.
(e)	The public interest.	The proposed modification is considered to be in the public interest.

## 5 Conclusion

This SEE has been prepared on behalf of *Iglu No.211 Pty Ltd* (Iglu) to support a Section 4.55(2) application to modify the Development Consent (**DA-2019/385**), for a proposal at 6-8 John Street and 13B Church Avenue, Mascot (the site) (Lots 2/DP 547700, 8/DP 939729 and 9/DP 939729).

This SEE concludes that the proposed modifications are consistent with Section 4.15 of the *Environmental Planning and Assessment Act 1979*. A Planning Assessment has been undertaken in **Section 3**, and an Environmental Assessment has been undertaken in **Section 4** and are supported by additional plans as requested by Council.

The planning and environmental assessments found the proposal remains consistent with the state and local planning controls and that associated impacts of the proposal are considered to be minimal and manageable and that the modification results in a modified development that is '*substantially the same*' as the development approved. Hence:

- The modification is in accordance with 4.55(2) of the Act, substantially the same development as the development for which development consent was originally granted;
- The development remains consistent with the relevant State Environmental Planning Policies;
- The proposal is permissible in the B4 Mixed Use zone;
- The site continues to provide a development which is of an appropriate height, bulk, scale which complies with the relevant objectives of the BBLEP2013 and BBDCP2013;
- The proposal continues to respond appropriately to any environmental site constraints and is compatible with the surrounding land uses and the surrounding development and context;
- The proposal will not result in any additional adverse impacts on the environment over those approved under the original DA;
- The proposal responds appropriately to any environmental site constraints including flood risk; and
- The proposal will generate additional direct and indirect employment as a result of providing employment opportunities during construction, as well as stimulating economic activity within the local economy once operational;
- Mecone has worked closely with *Iglu*, *Bates Smart* and other related consultants to ensure the modifications represent the most efficient and effective way forward;
- The proposal will continue to provide a high-quality, architecturally designed development which is respectful of the character of the area;
- The proposed modifications ensure that key social, economic and environmental matters are addressed within the design of the proposed modification, with respect to amenity;
- The modification will maintain the generation of additional direct and indirect employment as a result of providing employment opportunities during construction, as well as stimulating economic activity within the local economy once operational;

- The proposed development will continue to comprise a development which demonstrates a high level of environmentally sustainable initiatives which should be encouraged; and
- The proposed works are within the public interest, based on the above issues, is an appropriate outcome for the site.

We recommend that Council approve the proposed modifications in accordance with Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* for the development located at 6-8 John Street and 13B Church Avenue, Mascot.



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