

DATE OF DETERMINATION	16 September 2020
PANEL MEMBERS	Carl Scully (Chair), Sue Francis, Roberta Ryan, Ed McDougall, Michael Nagi
APOLOGIES	None
DECLARATIONS OF INTEREST	Jan Murrell declared a conflict of interest for this matter. In her role of Chair of the Bayside Local Planning Panel Jan considered another DA for the subject site. Accordingly, Jan did not participate in the Panel for this matter.

Public meeting held via Microsoft Teams on 16 September 2020, opened at 3.35pm and closed at 5.30pm.

MATTER DETERMINED

PPSSEC-23– Bayside – DA-2019/385 at 6-8 John Street and 13B Church Avenue Mascot (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel adjourned after the meeting to deliberate on the matter and formulate a resolution.

Application to vary a development standard

Following consideration of a written request from the applicant, made under cl 30 (1) (h) - Motorcycle Parking of the Affordable Rental Housing SEPP, the Panel was satisfied that the applicant has demonstrated that:

- compliance with the standard is unreasonable or unnecessary in the circumstances of the case given compliance with objectives of the standard.
- there are sufficient environmental planning grounds to justify contravening the development standard.
- the development is in the public interest and satisfies the objectives of the zone, and;
- the concurrence of the Secretary has been assumed.

Development application

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was 3:2 in favour, against the decision were Michael Nagi and Ed McDougall.

REASONS FOR THE DECISION

The majority of the Panel were of the view that the proposed student accommodation satisfied public need and that the location, some 200m from the rail station, in a high density residential area was a desirable and appropriate location for such a use. The concerns raised by residents are appreciated, however, the proposal is a permissible use in the zone, is of a form that minimises external impact and through management and Conditions of Consent, will address the concerns raised.

The Panel was, however, concerned with the proposed basketball court on the rooftop of the building. Its use, apart from noise, can cause considerable nuisance to surrounding residents. It was not considered a necessary element of the proposal and therefore, in this case, the Panel agreed to delete the proposal but to allow the rooftop area to be used for a more passive communal open space. This will be achieved by a condition of consent.

Michael Nagi and Ed McDougall disagreed with the majority decision for the following reasons:

- Given the objects of the Environmental Planning and Assessment Act 1979, including the promotion for the orderly and economic use and development of land, and the promotion of proper construction and maintenance of buildings, including the health and safety of their occupants, and the site's adjacency to the Mascot Towers development site, the development could not be supported at this time given the broader concerns that development in the immediate area has created for the planning system across the entire state.

The removal of the basketball court from the rooftop communal area, and the inclusion of 7-9 John Street in the dilapidation report is supported.

CONDITIONS

The development application was approved subject to the conditions in the council assessment report with the following amendments.

- Additional Condition to read *"The proposed rooftop basketball court shall be deleted. The rooftop shall remain as communal open space. Details to be provided prior to the issue of a Construction Certificate."*
- Additional Condition to be drafted requiring the community reference group to continue for a period of two years after the date of the issuing of an Occupation Certificate.
- Additional Condition to be drafted requiring public access to the through-site link 24 hours a day 7 days a week and requiring the applicant to install monitored CCTV along the whole length and suitably Council approved lighting along the path, prior to the issue of a Construction Certificate.
- Condition 18 – add 7-9 John Street as the list of properties
- Delete Condition 26 (d)
- Condition 43 – delete all reference to the "through-site link"
- Delete Condition 56
- Condition 139 (b) – add at the end *"(except in the case of emergencies)"*
- Condition 140 – Amend to be read as follows *'The proposed boarding room should be accommodated by 435 rooms, and a maximum occupancy of 435 persons'*
- Condition 142 (c) delete the words "the multi-purpose sports" and insert the words *"the communal open space"*






CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- Concern about issues previously raised not being heard/responded to

- Construction impacts
- Historical demolition impacts
- Mascot Towers concerns
- Need for student accommodation in this location
- Distance from tertiary institutions
- Student behaviour
- Noise treatment for roof top uses
- Capacity of Mascot railway station
- Open space
- Existing social infrastructure
- Easement – conflicting legal advice
- Definition of visitor
- Car parking
- Comparison with the context of this proposal with other Iglu facilities

The Panel appreciates the concerns raised by the community but considers they have been adequately addressed in the assessment report and that no new issues requiring assessment were raised during the public meeting. The Panel notes that in addressing these issues appropriate conditions have been imposed.

PANEL MEMBERS	
 Carl Scully (Chair)	 Roberta Ryan
 Sue Francis	 Ed McDougall
 Michael Nagi	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSEC-23 – Bayside – DA-2019/385
2	PROPOSED DEVELOPMENT	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
3	STREET ADDRESS	6-8 John Street and 13B Church Avenue Mascot
4	APPLICANT/OWNER	Iglu No. 211 Pty Ltd c/- Mecone
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Infrastructure) 2007 ○ State Environmental Planning Policy (Affordable Rental Housing) 2009 ○ Environmental Planning & Assessment Act 1979, Part 4 – Development Assessment & Schedule 7 of the SEPP- State and Regional Development 2011 which regional panels may be authorised to exercise consent authority functions of councils ○ Environmental Planning & Assessment Regulation 2000, Part 6 – Procedures relating to Development Applications ○ State Environmental Planning Policy No. 55 – Remediation of Land ○ State Environmental Planning Policy No. 64 – Advertising and Signage ○ State Environmental Planning Policy (Vegetation in non-rural areas) 2017 ○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ○ Botany Bay Local Environmental Plan 2013 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Botany Development Control Plan 2013 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil • Coastal zone management plan: Nil • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council Addendum assessment report: 2 September 2020 • Clause 4.6 variation request - Motorcycle parking- State Environmental Planning Policy (Affordable Rental Housing) 2009 • Written submissions during public exhibition: Round One: 137 submissions (including 35 individual submissions and 102 pro-forma letters) • Round Two: 160 submissions (including 66 individual submissions and 94 pro-forma letters) • Verbal submissions at the public meeting:

		<ul style="list-style-type: none"> ○ Lynette Hickey (on behalf of Mascot Concerned Residents), Emily Liang, Karina Vasserman, Davisha Singh, Sheng Kong, Cruz Vida, Olga Sztiniak, David Xia, Maria Manitta, Sophie Jacob ○ Council assessment officer – Angela Lazaridis, Ben Latta, Luis Melim ○ On behalf of the applicant – Kate Bartlett, Adam Brown, Guy Lake, Lukas Madar, Matt Sonter
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 27 February 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Roberta Ryan, Sue Francis, Michael Nagi ○ <u>Council assessment staff</u>: Angela Lazaridis, Ben Latta, Luis Melim • Site inspection: Due to Coronavirus precautions, the Panel visited the site independently, prior to 25 June 2020 • Decision Deferred at a public meeting on 25 June 2020. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Sue Francis, Roberta Ryan, Michael Nagi, Ed McDougall <u>Council assessment staff</u>: Angela Lazaridis, Ben Latta, Luis Melim • Final briefing to discuss council's recommendation, 16 September 2020, 2pm. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Sue Francis, Roberta Ryan, Michael Nagi, Ed McDougall ○ <u>Council assessment staff</u>: Angela Lazaridis, Ben Latta, Luis Melim
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Addendum Assessment Report