

DETERMINATION AND STATEMENT OF REASONS

SYDNEY EASTERN CITY PLANNING PANEL

DATE OF DETERMINATION	12 December 2024
DATE OF PANEL DECISION	12 December 2024
DATE OF PANEL MEETING	3 December 2024
PANEL MEMBERS	Carl Scully (Chair), Alice Spizzo, Glennis James, Joe Awada and Michael Nagi
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held by videoconference on 3 December 2024, opened at 2.36pm and closed at 3.46pm.

MATTER DETERMINED

PPSSEC-306 – Bayside – DA-2024/10 – 13A Church Avenue, Mascot – Construction of a thirteen (13) storey co-living development, restricted to student accommodation, comprising 305 rooms and associated communal areas (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.

Application to vary a development standard:

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the Bayside Local Environmental Plan 2021 (LEP), the Panel is satisfied that the applicant has demonstrated that:

- a) compliance with cl. 4.4 (floor space ratio) of the Bayside LEP and s.68 (parking) of the State Environmental Planning Policy (Housing) 2021 (Housing SEPP) is unreasonable or unnecessary in the circumstances because the proposal is consistent with the objectives of the standards; and
- b) there are sufficient environmental planning grounds to justify contravening the development standards as there are no adverse environmental planning impacts to the surrounding amenity, the size and scale is compatible with the existing surrounding development, no additional environmental impacts or unacceptable traffic impacts, the site is well serviced by public and active transport and is not an overdevelopment of the site.

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 unanimous.

REASONS FOR THE DECISION

The Panel determined to uphold the Clause 4.6 variations to floor space ratio and parking and approve the application for the reasons outlined in the Council Assessment Report.

CONDITIONS

The Development Application was approved subject to the conditions in the Council Assessment Report with the following amendments.

- Delete Deferred Commencement Conditions A, B and C and associated deferred commencement wording.
- Insert new Condition 1 which reads as follows and renumber the remaining conditions accordingly:

1. **Easements**

The following shall be undertaken to the satisfaction of Council prior to the issue of any Construction Certificate, except in relation to (d) below:

(a) Right of Carriageway Easement Conflict

The existing right of carriageway easements on 13A Church Avenue conflicts with the proposed footprint of the building and must be modified to remove this conflict. All vehicular access to 19-21 Church Avenue MASCOT NSW 2020 (SP 82064) and 13A Church Avenue (development site) shall occur via 8 John Street MASCOT NSW 2020 (Lot 100 DP 1278578). As part of this modification/extinguishment to existing easements, it shall be demonstrated that the appropriate legal instruments are in place (registered with the NSWLRS) to ensure legal rights for vehicular access are provided to all properties mentioned above. A right of carriageway shall be in place for the first 13m into the property aligned with the 6.07m wide driveway crossing.

(b) Loading Dock Easement

An easement shall be registered over the loading dock of 8 John Street to permit loading/unloading and waste collection activities for 13A Church Avenue. Including demonstrating legal access to the loading dock over the entire travel path of the 8.8m long MRV vehicle entering and exiting the site in a forward direction to Church Avenue.

(c) Services relocation to remove the conflict with the driveway

Full details of the relocation of the existing services located on 8 John Street (shown on the ground floor architectural plan as “existing services to be relocated”) to the western boundary of the development site shall be submitted to Council (including Ausgrid pillars). The services shall be integrated into the façade and screened from view. This shall be reflected in the architectural drawings (plans and elevations). Agreement to the relocation of the existing services must be obtained from the owners of 8 John Street. An easement covering the services needs to be registered burdening 13A Church Avenue and benefiting 8 John Street over the new location of the services.

(d) Ausgrid

Agreement to the relocation of the Ausgrid Pillars must be obtained from Ausgrid prior to the issue of the relevant Construction Certificate that relates to the existing services relocation.

REASON

To ensure that services have legal rights to be located within the site or on adjoining land.

- Amend now Condition 22 (former Condition 21) as follows:
 - 22(c) dot pot one shall read as follows:
A minimum of 12 x 5kg capacity automatic washing machines and 12 domestic dryers
 - 22(e) Correct typographical error to replace ‘accommodating’ with ‘accommodate’ and replacing ‘102’ with ‘49’
- Amend now Condition 26 (former Condition 25) to correct the typographical error in the long service levy amount to \$160,161.10
- Amend now Condition 27 (former Condition 2) to update the Housing and Productivity Contribution (basement component) amount to \$257,725.15 and the Total Housing and Productivity Contribution to \$257,752.15
- Amend now Condition 30 (former Condition 29) to correct the typographical error of the word ‘Remedial’ to ‘Remediation’ in the condition title and first sentence
- Amend now Condition 48 (former Condition 47) to correct the typographical error of the word ‘Desing’ to ‘Design’ in the condition title
- Amend now Condition 49. Bicycle Parking Details (former Condition 48) to amend the minimum number of bicycle parking facilities from 102 to 49
- Amend now Condition 62 (former Condition 61) as follows:
 - 61(a) to delete the word ‘should’ and insert ‘shall’






- 61(b) by inserting the words after 'members', 'as per Iglu 1 (as updated) and'
- Amend now Condition 65 (former Condition 64) by deleting (a) to (c) and inserting the following:
 - (i) Rina 3-9 Church Avenue (all buildings) SP80521
 - (ii) 19-21 Church Avenue (all buildings between Church and John) SP82064
 - (iii) 7 and 9 John Street SP86382 and SP 84886 John Street
 - (iv) Aero 18-26 Church Avenue Mascot SP73802 Building B
- Amend now Condition 80(d) (former Condition 79(d) to correct the typographical error of the word 'Remedial' to 'Remediation'
- Delete former Condition 146(c)
- Amend now Condition 162 (former Condition 161) to delete the last sentence and insert 'The size of the storage area should be 10 meters squared.'

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:

- Application for co-living and not students/use as student accommodation in residential area
- Increased pressure on public services, Mascot train station at capacity
- Construction work may impact current Mascot tower project
- Traffic and parking
- Height, overshadowing and view loss
- Floor space ratio
- Loss of privacy
- Noise and odour
- Public domain
- Built form and scale/materiality and design
- Road widening and setbacks
- Health and safety
- Footpath size
- Development is inconsistent with the Mascot Station Town Centre Precinct Masterplan
- Developer is powerful and influential corporation
- Inaccuracy by applicant
- Full architectural were not submitted
- Notification of application not carried out appropriately
- S.7.11 Contribution and public exhibition of the VPA letter
- Development not in public interest

The Panel considers that concerns raised by the community 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)	 Alice Spizzo
 Glennis James	 Joe Awada
 Michael Nagi	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSEC-306 – Bayside – DA-2024/10
2	PROPOSED DEVELOPMENT	Construction of a thirteen (13) storey co-living development, restricted to student accommodation, comprising 305 rooms and associated communal areas
3	STREET ADDRESS	13A Church Avenue, Mascot
4	APPLICANT/OWNER	The Trustee for Iglu Property Trust No. 216
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 (Resilience and Hazards) 2021 ○ State Environmental Planning Policy (Biodiversity and Conservation) 2021 ○ State Environmental Planning Policy (Planning Systems) 2021 ○ State Environmental Planning Policy (Sustainable Buildings) 2022 ○ State Environmental Planning Policy (Transport and Infrastructure) 2021 ○ State Environmental Planning Policy (Housing) 2021 ○ Bayside Local Environmental Plan 2021 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Bayside Development Control Plan 2022 • Planning agreements: Proposed Planning Agreement, prepared by Holding Redlich, dated 24 September 2024 • Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> • 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 Assessment Report: 3 December 2024 • Clause 4.6 variation requests: cl. 4.4 (floor space ratio) of the Bayside LEP and s.68 (parking) of the State Environmental Planning Policy (Housing) 2021 (Housing SEPP) • Written submissions during public exhibition: 12 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ Lynette Hickey ○ Council assessment officer – Felicity Eberhart, Luis Melim and Marta Gonzalez-Valdes ○ On behalf of the applicant – Kate Bartlett, Tim Manning, Guy Lake, Alastair Kilner • Total number of unique submissions received by way of objection: 12
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 9 April 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Amelia Thorpe and Joe Awada ○ <u>Council assessment staff</u>: Felicity Eberhart, Marta Gonzalez-Valdes, Luis Melim ○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis

		<ul style="list-style-type: none">• Site inspection: 3 December 2024<ul style="list-style-type: none">○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Glennis James and Joe Awada○ <u>Council assessment staff</u>: Felicity Eberhart, Marta Gonzalez-Valdes, Luis Melim• Final briefing to discuss Council’s recommendation: 3 December 2024<ul style="list-style-type: none">○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Glennis James, Joe Awada and Michael Nagi○ <u>Council assessment staff</u>: Felicity Eberhart, Marta Gonzalez-Valdes, Luis Melim○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report and updated on 03/12/2024