



**Planning
Panels**



COUNCIL ASSESSMENT REPORT – MODIFICATION APPLICATION

SYDNEY EASTERN CITY PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSEC-408 MDA-2025/49
PROPOSAL	Modification to DA-2024/10 to change conditions relating to the Plan of Management, fit out of the coffee shop and general design amendments
ADDRESS	13A Church Avenue MASCOT NSW 2020 Lot 1 DP 547700
APPLICANT	The Trustee For Iglu Property Trust No. 216
OWNER	The Trustee For Iglu Property Trust No. 216
MOD LODGEMENT DATE	28 April 2025
ORIGINAL DA DETERMINATION DATE	12 December 2024
APPLICATION TYPE	Modification Application under Section 4.55(2)
REGIONALLY SIGNIFICANT CRITERIA	Clause ##, Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> : [type]
CIV	Original - \$60,064.47 (excluding GST) Modification - \$22,076 (excluding GST)
KEY SEPP/LEP	- State Environmental Planning Policy (Planning Systems) 2021 - State Environmental Planning Policy (Housing) 2021; and - Bayside Local Environmental Plan 2021
TOTAL & UNIQUE SUBMISSIONS ISSUES SUBMISSIONS	Nil
DOCUMENTS SUBMITTED FOR CONSIDERATION	- Draft Conditions of consent - Architectural Drawings - Landscape Plans - Statement of Environmental Effects
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)	N/A

RECOMMENDATION	Approval
DRAFT CONDITIONS TO APPLICANT	YES
SCHEDULED MEETING DATE	29 July 2025
PREPARED BY	Felicity Eberhart
DATE OF REPORT	16 July 2025

EXECUTIVE SUMMARY

The modification application has been lodged pursuant to section 4.55(2) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act') and seeks consent for amendments to a consent granted under DA-2024/10 approved by the Sydney Eastern City Planning Panel (SECPP). This consent approved the Construction of a thirteen (13) storey co-living development, restricted to student accommodation, comprising 305 rooms and associated communal areas at 13 A Church Avenue Mascot ('the site'). The modification application includes the relevant information required by Clause 100 of the *Environmental Planning and Assessment Regulation 2021* ('2021 EP&A Regulation').

The original development application was referred to the Sydney Eastern City Planning Panel ('the Panel') as the development is 'regionally significant development', pursuant to Section 2.19(1) and Clause 2 of Schedule 6 State Environmental Planning Policy (Planning Systems) 2021 as it comprises works over \$30 million.

The proposed subject modification (the application) is referred to the Panel as it triggers the criteria for consideration by the Panel under Clause 275(2) of the Environmental Planning and Assessment Regulation 2021 (formerly Clause 123BA of the 2000 Regulation). The proposal meets the criteria in Schedule 1 with regards to a departure of more than 10% from development standards, being the Floor Space Ratio (FSR) in this instance. The application seeks to further increase the Gross Floor Area (GFA) on site by 8.22 sqm, resulting in a total GFA of 8,201 sqm. This represents an overall variation of 1,136.36 sqm or 16%, resulting in an FSR of 4.09:1.

The application was placed on public exhibition, in accordance with Council's Community Participation Plan, from 6 May 2025 to 20 May 2025, with no submissions received.

The modification is considered to satisfy the "substantially the same development" test under Section 4.55 of the Environmental Planning and Assessment Act 1979 (NSW), which requires that the modified development remains fundamentally the same as the originally approved development. Following consideration of the matters for consideration under Section 4.15(1) and 4.55 of the EP&A Act, it is considered that the proposed modification can be supported.

1. Recommendation

That the Modification Application MDA-2025/49 for Modification to DA-2024/10 to change conditions relating to the Plan of Management, fit out of the coffee shop and general design amendments at 13A Church Avenue, be APPROVE pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* subject to the modifications to conditions of consent attached to this report at Attachment A.

2. THE SITE AND LOCALITY

2.1 The Site

The subject site is legally identified as Lot 1 in DP 547700 and is commonly known as 13A Church Avenue, Mascot. Located on the southern side of Church Avenue, the site is rectangular in shape and currently vacant. It features a primary frontage of approximately 33 Metres, a western side boundary of 61 metres along a service lane, and an eastern side boundary of 61 metres adjacent to an eight-storey residential flat building. The total site area is 2007 square metres.

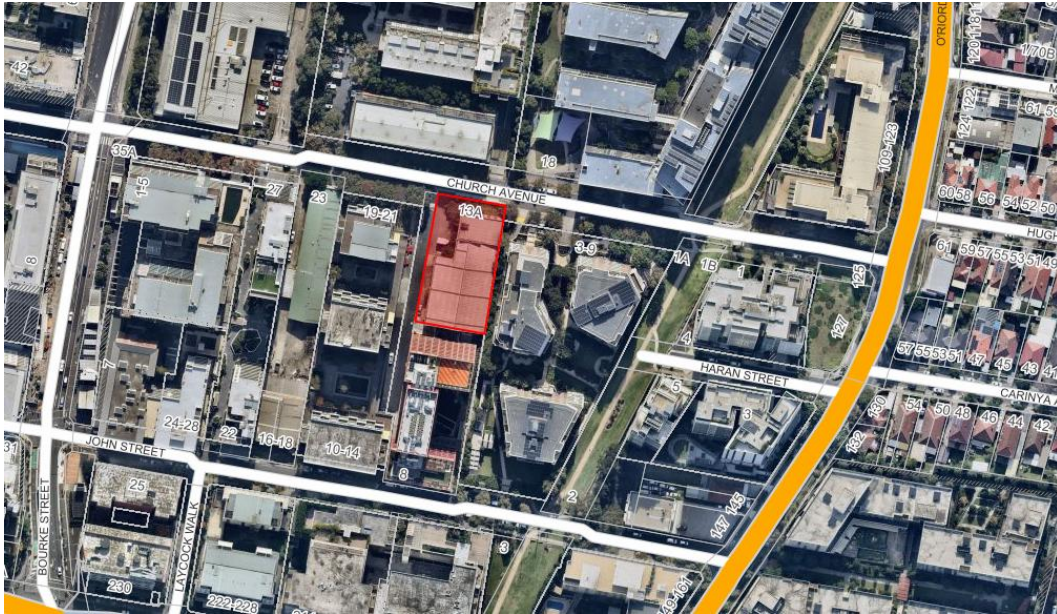


Figure 1: Aerial of subject site

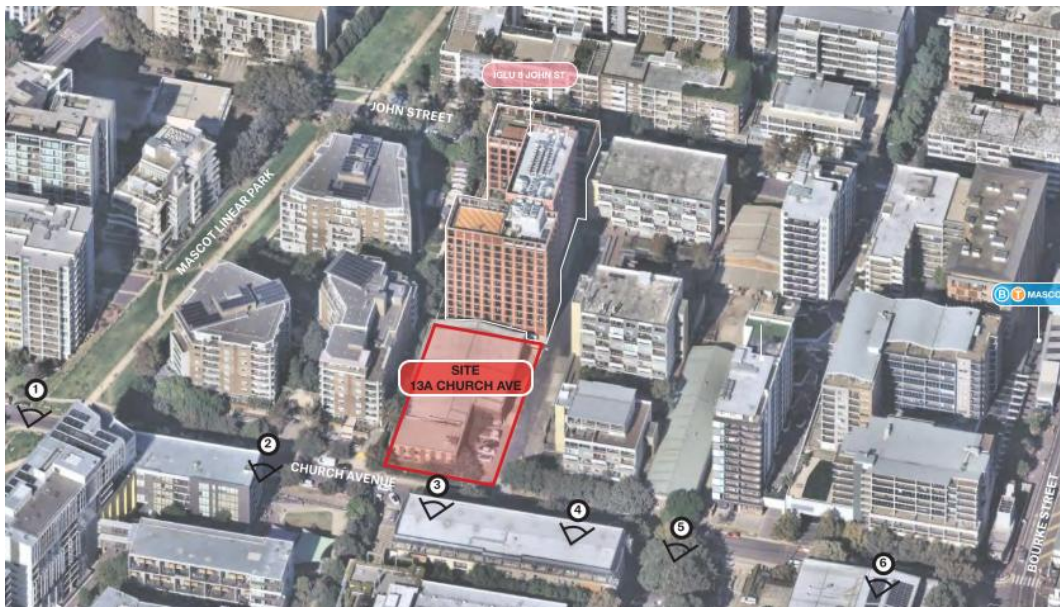


Figure 2: Context plan.

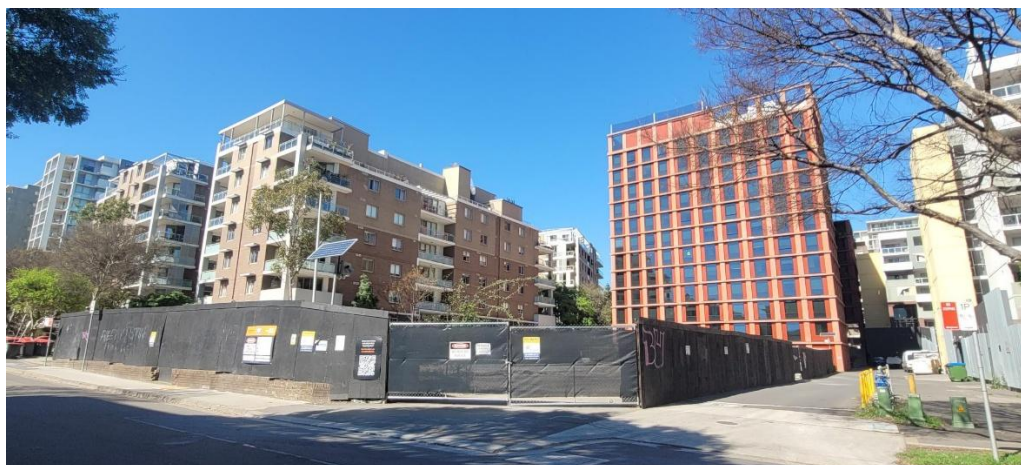


Figure 3: Subject site when viewed from Church Ave



Figure 4: Subject site looking to eastern the southern neighbours



Figure 5: Subject site looking to eastern the southern neighbours



Figure 6: Subject site when looking north from service lane

2.2 The Locality

Development surrounding the site within its immediate vicinity is characterised by a mix of uses including residential developments. Church Avenue exhibits a street wall height of 8 to 13 comprising of residential apartment and mixed-use development. Directly to the east is an eight-storey residential apartment complex, followed by a linear park extending up to Gardeners Road. To the west, there is a 10.2-Metre easement, adjacent to two separate apartment buildings—one with seven stories and the other with eight stories. The southern boundary is shared with an existing 12-storey student housing development owned and operated by Iglu (Iglu 1), the applicant for this application.



Figure 7: Streetscape illustrating mixed heights in the streetscape.

The site is located in proximity to both Mascot Town Centre and is 290m east of the Mascot Station Transport Interchange. It is also located approximately 2km north of the Sydney Airport Domestic Terminal and approximately 2km southwest of Green Square Town Centre. 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

3. THE PROPOSAL AND BACKGROUND

3.1 The Proposed Modification

The application seeks consent to modify the approved development MDA-2025/49 at 13A Church Avenue, MASCOT as follows:

- The setback to the first-floor south-east corner has been increased from 2.9m to 4.5m, with a 1m planter added around the terrace perimeter to satisfy DA condition 22(b).
- The "work zone" has been extended to the approved eastern setback, replacing the approved terrace space with approximately 8sqm of GFA along the north-south corner.
- The façade wall thickness has been increased to accommodate additional insulation.
- Condition 13 is requested to be amended to permit a future café use, allowing detailed fit-out and use approval either through a later DA or a complying development certificate.
- The laundry room has been relocated to the first floor; and
- Modifications to the approved landscape plan to increase the amount of native species from 70% to 73% and reduce the amount of exotic species from 30% to 27%.



Figure 8: Northern (Front) Elevation facing Church Ave



Figure 9: Eastern (Side) Elevation



Figure 10: Southern (Rear) Elevation



Figure 11: Western (Side) Elevation

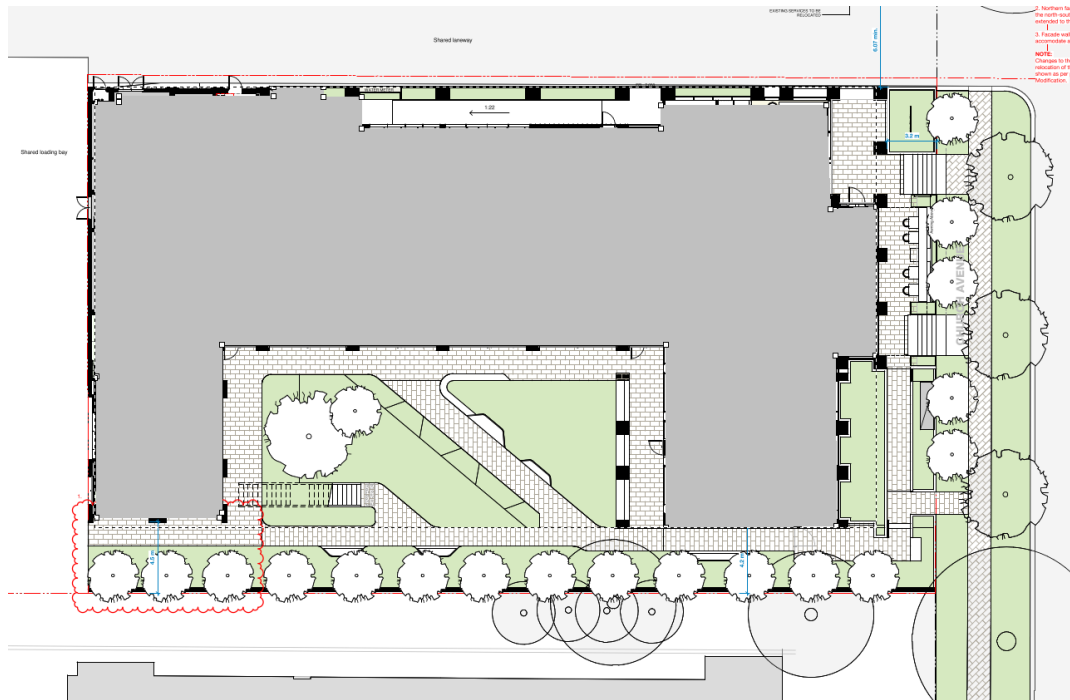


Figure 12: Ground Floor and First Floor – Setback increase

3.2 Proposed Changes to Conditions

The following conditions are proposed to be amended as follows:

- a) Amend Condition No.2 as follows:

Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision	Plan Title	Prepared By	Date
A01.004	G	Site Laneway Access to 8 John Street	Batessmart	19.06.2025
A03.000	J	General Arrangement Plan - Ground	Batessmart	19.06.2025
A03.001	J	General Arrangement Plan - Level 01	Batessmart	19.06.2025
A03.002	F	General Arrangement Plan Typical Lower Levels -L02-05	Batessmart	19.06.2025
A03.006	G	Level 06	Batessmart	19.06.2025
A03.007	F	General Arrangement Plan Typical Upper Levels - L07-L11	Batessmart	19.06.2025
A03.012	F	General Arrangement Plan Level 12	Batessmart	19.06.2025
A03.013	F	General Arrangement Plan	Batessmart	19.06.2025

		Roof Level		
A09.001	F	North Elevation (Church Ave)	Batessmart	19.06.2025
A09.002	F	East Elevation	Batessmart	19.06.2025
A09.003	F	South Elevation	Batessmart	19.06.2025
A09.004	F	West Elevation	Batessmart	19.06.2025
10.001	F	Section AA	Batessmart	19.06.2025
A10.002	F	Section BB	Batessmart	19.06.2025
A13.101	E	Typical Room Modules	Batessmart	19.06.2025
Landscape Plans				
3.1	E	Site Plan	RPS Australia East	04/06/2024
3.2	E	Master Plan	RPS Australia East	25/06/2025
3.3	E	Site Program	RPS Australia East	25/06/2025
3.4	E	Ground Level	RPS Australia East	25/06/2025
3.5	E	Ground Level Movement	RPS Australia East	25/06/2025
3.6	E	Ground Level Section	RPS Australia East	25/06/2025
3.7	E	Level 1	RPS Australia East	25/06/2025
3.8	E	Level 1 Section	RPS Australia East	25/06/2025
3.9	E	Level 6	RPS Australia East	25/06/2025
3.10	E	Level 6 Section	RPS Australia East	25/06/2025
4.1	E	Deep Soil Diagram	RPS Australia East	25/06/2025
4.2	E	Vegetation Management Plan	RPS Australia East	25/06/2025

4.3	E	Water Management and Irrigation Concept Plan	RPS Australia East	25/06/2025
4.4	E	Lighting Plan	RPS Australia East	25/06/2025
4.5 (page one)	E	Planning Palette	RPS Australia East	25/06/2025
4.5 (pages two)	E	Planning Palette	RPS Australia East	25/06/2025
4.6	B	Ground Level Planning Plan	RPS Australia East	04/06/2024
4.7	E	Level 1 Planning Plan	RPS Australia East	25/06/2025
4.8	E	Typical Levels 2-5 Plantings	RPS Australia East	25/06/2025
4.9	E	Level 6 Planning Plan	RPS Australia East	25/06/2025
4.10	E	Typical Levels 7-12 Plantings	RPS Australia East	25/06/2025
4.9	E	Planting Schedule	RPS Australia East	25/06/2025
4.10	E	Material Palette	RPS Australia East	25/06/2025
5.1	E	Typical Details	RPS Australia East	25/06/2025
5.2 (page one)	E	Specification Notes	RPS Australia East	25/06/2025
5.2 (page two)	E	Specification Notes	RPS Australia East	25/06/2025
5.3	E	Maintenance Guidelines	RPS Australia East	25/06/2025
Civil Plan				

00001	P2	General Cover sheet	Taylor Thomson Whitting (TTW) Pty. Ltd.	04/06/2024
00002	P2	General Notes	Taylor Thomson Whitting (TTW) Pty. Ltd.	04/06/2024
00011	P2	General Arrangement	Taylor Thomson Whitting (TTW) Pty. Ltd.	04/06/2024
04041	P2	Stormwater Details	Taylor Thomson Whitting (TTW) Pty. Ltd.	04/06/2024
04042	P2	Stormwater Details Sheet 2	Taylor Thomson Whitting (TTW) Pty. Ltd.	04/06/2024
09201	P2	Environmental Erosion Notes and Legend Sheet 1	Taylor Thomson Whitting (TTW) Pty. Ltd.	04/06/2024
09202	P2	Environmental Erosion Control Plan	Taylor Thomson Whitting (TTW) Pty. Ltd.	04/06/2024

Approved Documents			
Document Title	Version No.	Prepared By	Date of Document
<i>Iglu Co-Living Operation Plan of Management Iglu Mascot II 13A Church Avenue, Mascot</i>		<i>Iglu Pty Ltd</i>	<i>06 February 2025</i>
Stormwater Management Report Report No. 231865		Taylor Thomson Whitting (TTW) Pty. Ltd.	4 June 2024

Access Report 02 (Rev A) Development Application IGLU 13A Church Avenue, Mascot Project Number.17000	A	Architecture & Access (Aust) PtyLtd	19 December 2023
Iglu Pty Ltd Acid Sulfate Soil Management Plan 13A Church Avenue, Mascot, NSW Project Number. 66056/156,350	A	JBS&G Australia Pty Ltd	15 December 2023
Iglu Mascot II 13A Church Avenue, Mascot Noise Impact Assessment Document reference 202311147.1/2111A/R0/ RG		Acoustic Logic	21 November 2023
Iglu Mascot II BCA Assessment Report for DA Submission Report 2023/2469 R1.1	R1.1	Steve Watson and Partners Pty Ltd	3 June 2024
13a Church Ave, Mascot, NSW Iglu Pty Ltd Detailed Site Investigation		JBS&G Australia Pty Ltd	18 December 2023
ESD Report Iglu Mascot II	0	Atelier Ten	12.12.2023
Flood Emergency Management Plan Iglu II – Mascot Report No. 231865		Taylor Thomson Whitting (TTW) Pty. Ltd.	21 December 2023
Geotechnical Assessment	2	JK Geotechnics	7 December 2023
Pedestrian Wind Study RWDI # 2401467	A	RWDI Australia Pty Ltd	12 December 2023
Social Impact Assessment Iglu Pty Limited		The Planning Studio	4 June 2024
Stormwater Management Letter		Taylor Thomson Whitting (TTW) Pty. Ltd.	4 June 2024
Iglu Co-living Housing 13A Church Avenue, Mascot	V02	he Transport Planning Partnership	19 December 2023

Transport Impact Assessment			
Iglu Co-Living Waste Management Plan Iglu Mascot II 13A Church Avenue, Mascot		Iglu Pty Ltd	13 December 2023

In the event of any inconsistency between the approved plans and documents, the approved plans prevail.

In the event of any inconsistency with the approved plan and a condition of this consent, the condition prevails.

b) Amend condition No.13 as follows:

13. Preparation of Food

No handling or preparation of food shall take place on the premises. No intensification of activities of the food premises shall occur without the prior consent from Council **or through approval under the exempt and complying provisions in SEPP (Exempt and Complying Development Codes) 2008.**

c) Amend condition No. 22 as follows:

22. Design Amendments

Before the issue of any Construction Certificate, the Principal Certifier must ensure the approved Construction Certificate plans and specifications detail the following required amendments to the approved plans and documents:

(a) All rainwater pipes and mechanical services are to be concealed within the fabric of the building. No rainwater pipes or mechanical services are to be visible on the external facade of the building.

~~(b) The setbacks to the rear first floor terrace/ BBQ Zone are to be amended from 2.9m to 4.5m. A 1m planter box is to be located along the eastern elevation. Therefore, the steps access the ground floor open spaces will be setback at 5.5m from the boundary property~~

(c) The internal laundry shall be designed to ensure:

- A minimum of 12 x 5kg capacity automatic washing machines and 12 domestic dryers
- a minimum of 1 large laundry tub with hot and cold running water
- that adequate drying facilities are provided to ensure that outdoor clothes drying facilities are not visible from the public domain

(d) External lighting shall be provided along the western elevation towards the easement to enable casual surveillance of the shared space.

(e) The bicycle storage is to be designed to accommodate 49 bicycle spaces.

Plans demonstrating compliance with this condition must be submitted for approval by the Principal Certifier prior to the issue of any Construction Certificate

- d) Delete Condition No. 23 requiring amendments to the Plan of Management.

3.3 Background

The following applications have previously been considered by Council in relation to the subject site:

- PDA-2023/41 contained preliminary plans to the Design Review Panel in December 2023. Minutes are attached.
- DA-2024/10 was approved by Sydney Eastern City Planning Panel on 12 December 2024 for Construction of a thirteen (13) storey co-living development restricted to student accommodation, comprising 305 rooms and associated communal areas.
- MDA-2025/16 was approved under delegated authority for minor internal modifications to ground floor back of house area.

The proposed modification application was lodged on 28 April 2025. A chronology of the modification application since lodgement is outlined below in **Table 3** including the Panel's involvement (briefings, deferrals etc) with the application:

Table 1: Chronology of the Modification Application

Date	Event
28 April 2025	Application was submitted to Council
6 – 20 May 2025	The development application was publicly notified
5 June 2025	The application was presented to a Design Review Panel as the site is located within Mascot Station Precinct which requires an assessment on Design Excellence. Minutes were issued to the applicant and are discussed in greater detail below.
16 June 2025	RFI submitted.
23 June 2025	Revised material received. Council responded back to the applicant seeking further clarification on the revised plans.
26 June 2025	Revised material received.

4. STATUTORY CONSIDERATIONS

When determining a modification application, the consent authority must take into consideration the matters outlined in 4.55(2) of the EP&A Act in relation to modification of consents provisions, Section 4.15(1) of the EP&A Act in relation to matters for consideration for applications and Part 5 of the 2021 EP&A Regulation in relation to information requirements and notification. These matters are considered below.

4.1 Section 4.55 or of the EP&A Act

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 number of matters are satisfactorily addressed pursuant to Section 4.55(2) of the EP&A Act. The matters include the following:

- (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) (s4.55(2)(a)), and*

The proposal remains as previously approved, namely a Construction of a 13 storey co-living development, restricted to student accommodation, comprising 305 rooms and associated communal areas.

The proposed modifications will not change the land use or substantially alter the nature of the development. Having regard to both the qualitative and quantitative changes proposed, it is considered the proposed Modification application remains the same or substantially the same development as that originally approved.

- (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 (s4.55(2)(b)), and*

Consultation with a Minister, public authority or approval body was not required in this instance.

- (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 (s4.55(2)(c)), and*

The proposal has been notified in accordance with Council's Community Participation Plan from 6 May to 20 May 2025.

- (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 (Section 4.55(2)(d)).*

No submissions have been received.

- (e) *In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified (Section 4.55(3)).*

The matters required to be considered include:

- Matters for consideration pursuant to Section 4.15(1) of the EP&A Act – these matters are considered below in Section 3.2 of this report; and
- Reasons given by the consent authority for the grant of the consent that is sought to be modified – outlined below.

Reasons for Grant of Consent

The SYDNEY EASTERN CITY Planning Panel granted consent to the original development in a notice of determination 28 June 2022. The reasons outlined in the Statement of reasons for this decision included the following:

- *The proposal is acceptable when considered against all relevant State Environmental Planning Policies, in particular the SEPP (Housing) 2021.*
- *The proposed variation to FSR has been assessed in accordance with Clause 4.6 of Bayside Local Environmental Plan 2021 and is considered acceptable subject to design changes and/or conditions of consent.*
- *The scale and design of the proposal is suitable for the location and is compatible with the desired future character of the locality. The development, subject to conditions, is consistent with the objectives of Bayside Development Control Plan 2022 and generally consistent with the relevant requirements of Bayside Development Control Plan 2022.*
- *The use is suitable to the site and area. The lack of parking for student accommodation has been adequately justified.*

The proposed modification is consistent with these reasons for the decision on this consent in that the proposed development is entirely consistent with the planning controls and expectations for the site given the zoning and other planning controls for the site.

4.2 Section 4.15(1) of the EP&A Act

Section 4.15(1) of the EP&A Act contains matters which the consent authority must take into consideration in determining a development application and modification applications pursuant to Section 4.55(3)) which are of relevance to the application.

These matters include the following, which are considered in detail below:

- (a) *the provisions of—*
 - (i) *any environmental planning instrument, and*
 - (ii) *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*
 - (iii) *any development control plan, and*
 - (iiia) *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*
 - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*
- (b) *that apply to the land to which the development application relates, the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

4.3 Section 4.15(1)(a) - Provisions of Environmental Planning Instruments, Proposed Instruments, DCPs, Planning Agreements and the Regulations

The relevant provisions under s4.15(1)(a) are considered below.

(a) Environmental planning instruments (s4.15(1)(a)(i))

The following Environmental Planning Instruments are relevant to this application

- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Biodiversity & Conservation) 2021*
- *State Environmental Planning Policy (Sustainable Buildings) 2022*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy (Industry and Employment) 2021*
- *State Environmental Planning Policy (Housing) 2021; and*
- *Bayside Local Environmental Plan 2021*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 4** and considered in more detail below where required

Table 2: Summary of Applicable State Environmental Planning Policies

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Planning Systems) 2021	The application is subject to an assessment under Section 2.19(1) and Schedule 6 as the capital investment value (CIV) of the proposal is greater than \$30,000,000. See below discussion.	Yes
State Environmental Planning Policy (Resilience and Hazards) 2021	<u>Chapter 4: Remediation of Land</u> The provisions of Chapter 4 of the State Environmental Planning Policy (Resilience and Hazards) 2021 ('the Resilience and Hazards SEPP') have been considered in the original assessment (DA-2024/10). This application does not seek works or changes to or construction methods that would impact on the already imposed conditions. Therefore, subject to compliance with the already imposed conditions of consent, the proposal is satisfactory in relation to SEPP (Resilience and Hazards) 2021.	Yes
State Environmental Planning Policy (Biodiversity & Conservation) 2021	<u>Chapter 2: Vegetation in non-rural areas</u> The provisions of Chapter 2 of the State Environmental Planning Policy (Biodiversity & Conservation) 2021 have been considered in the original assessment (DA-2024/10). This application does not seek works or changes that would impact on the already imposed conditions relating to the removal of trees and vegetation. Therefore, subject to compliance with the already imposed conditions of consent, the proposal is satisfactory in relation to SEPP (Biodiversity & Conservation) 2021.	Yes

State Environmental Planning Policy (Sustainable Buildings) 2022	The provisions of the State Environmental Planning Policy (Sustainable Buildings) 2022 have been considered in the original assessment (DA-2024/10). This application does not seek works or changes that would impact on the already imposed conditions relating to Sustainable Buildings. Therefore, subject to compliance with the already imposed conditions of consent, the proposal is satisfactory in relation to SEPP (Sustainable Buildings) 2022	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	<u>Division 5 / Subdivision 2 – Clause 2.48</u> The provisions of Clause 2.48 have been considered in the original assessment (DA-2024/10). This modification application does not seek to amend any aspects of the building that would impact previously imposed conditions. Therefore, subject to compliance with the already imposed conditions of consent, the proposal is satisfactory in relation to SEPP (Transport and Infrastructure) 2021.	Yes
State Environmental Planning Policy (Industry and Employment) 2021	<u>Chapter 3 Advertising and Signage</u> This Chapter has been considered in the original assessment (DA-2024/10). The applicant did not apply for signage as part of the original assessment, nor have they sought changes within this modification. However, it is noted that there are still two requested “signage zones. Subject to compliance with the already imposed conditions of consent, the proposal is satisfactory in relation to SEPP (Industry and Employment) 2021.	Yes
State Environmental Planning Policy (Housing) 2021	<u>Chapter 3 Diverse housing</u> Addressed in detail below	Yes
Bayside Local Environmental Plan 2021	Addressed in detail below	Yes

State Environmental Planning Policy (Housing) 2021

Chapter 3 Diverse housing

Chapter 3 Part 3 Division 3 of the Housing SEPP identifies specific development standards that apply to Co-living. While this is not relatively the same type of the development, student accommodation is similar in nature to Co-living development.

A detailed assessment Chapter 3 Part 3 Division 3 of the Housing SEPP has been considered in the original assessment (DA-2024/10). The relevant controls, for the modification, are assessed against the development as demonstrated below in **Table 5** and considered in more detail below.

Table 5: Assessment against Housing SEPP

Section	Requirement	Proposal	Complies
67 - Co-living housing may be carried out	Permitted on land in a zone which development for the purposes of co-living	Since ‘Shop to Housing’ and ‘Residential Flat Buildings (RFB)’ are permitted in the	Yes

on certain land with consent	housing, residential flat buildings or shop top housing is permitted under another environmental planning instrument	MU1 zone under BLEP 2021, co-living housing is also permitted by virtue of the SEPP.	
68 - Non-Discretionary Development Standards	(2)(a) FSR – maximum permissible + 10% if the additional GFA is used only for co living.	A maximum FSR standard of 3.2:1 (6422.4sqm) applies to the site. The SEPP allows for an additional 10%, therefore an FSR of 3.52:1 (7064.64sqm) is permitted. The original application sought a GFA of 8,154sqm or a FSR of 4.06:1. This represented a variation of 1,089.54sqm or 15.44%. As part of that application a clause 4.6 statement seeking to contravene the development standard was submitted and approved. MDA-2025/12 requested an increase to the GFA by 38.6sqm increasing the approved FSR from 4.06:1 to 4.08:1. This was all internal and no changes to setback, essentially this application just filed voids that were previously approved. The subject modification application seeks for a further increase of 8.4sqm which includes the “Work Zone” on the first floor.	Acceptable – Refer to BLEP 2021 section below for further discussion.
	<u>(2)(c) Where more than 6 private rooms provided</u> (i) Min. 30sq/m Communal living area with min dimensions 3m, <u>plus</u> (ii) 2sq/m for each private room in excess of 6 private rooms.	A minimum of 630sqm of floor space is required to allocated to communal living areas. A total of 693.6sqm was approved for communal living areas. The application seeks for an additional 21sqm to now be considered “communal living areas”	Yes

		The space has been calculated over the ground and first floor which and still exceeds the minimum requirement. These spaces include the open media spaces, gym, wellness areas, lounge spaces, meeting rooms and work zone. Communal bathrooms, they laundry, reception area, corridors have been excluded from the calculations.													
	<u>(2)(d) Communal Open Space</u> (i) Min 20% (401.4sqm) site area + 3m min dimensions	The development is required to provided 410sqm, accounting for 20% of site area. A total of 789qm was approved The application seeks for an additional 790sqm which exceeds the minimum requirement. The proposal comprises of three key areas of communal open space, one located at the lower ground floor, one on the first floor and the other at the level 6.	Yes												
69 - Standards for co-living housing	(2)(b) if the co-living housing has at least 3 storeys the building will comply with the minimum building separation distances specified in the Apartment Design Guide <table><tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr><tr><td>up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table>	Building height	Habitable rooms and balconies	Non-habitable rooms	up to 12m (4 storeys)	6m	3m	up to 25m (5-8 storeys)	9m	4.5m	over 25m (9+ storeys)	12m	6m	<u>Northern (front)</u> No change <u>Western (side)</u> No change <u>Southern (rear)</u> No change <u>Eastern (side)</u> The setback to the first-floor southeastern corner has been increased from 2.9m to 4.5m, with a 1m planter added around the terrace perimeter to satisfy DA condition 22(b). The setback at the northeastern corner of the	Acceptable
Building height	Habitable rooms and balconies	Non-habitable rooms													
up to 12m (4 storeys)	6m	3m													
up to 25m (5-8 storeys)	9m	4.5m													
over 25m (9+ storeys)	12m	6m													

		first floor has retained the approved 4.2m distance. However, the originally approved 'work zone' communal space has been extended to reach this setback, replacing the previously approved open space terrace area. This change results in an additional approximately 8sqm of gross floor area (GFA).	
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Bayside Local Environmental Plan 2021

The relevant local environmental plan applying to the site is the ***Bayside Local Environmental Plan 2021*** ('the BLEP 2021'). The following table outlines the relevant Clauses of BLP 2021 applicable to the proposal.

1.2 – Aims of the Plan

Clause 1.2 of the LEP illustrate the strategic intent of the LEP and its provisions and is considered relevant to the assessment of this application. Clause 1.2 of the LEP Plan includes a range of aims, namely:

- (aa) *to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) *to protect, conserve and enhance Aboriginal cultural heritage and the environmental, cultural, scenic, built and landscape heritage of Bayside,*
- (b) *to provide high quality open space areas and recreational facilities,*
- (c) *to reduce community risk and improve resilience to, and from, urban and natural hazards,*
- (d) *to encourage sustainable economic growth and development in Bayside,*
- (e) *to create a liveable urban place through the application of design excellence in all elements of the built environment and public domain,*
- (f) *to encourage diversity in housing to meet the needs of, and enhance amenity for, Bayside residents,*
- (g) *to encourage walking, cycling and use of public transport through appropriate intensification of development densities surrounding transport nodes,*
- (h) *to encourage development that demonstrates efficient and sustainable use of energy and resources in accordance with ecologically sustainable development principles,*
- (i) *to enhance and protect the functions and roles of the international trade gateways of Sydney Airport and Port Botany,*
- (j) *to increase urban tree canopy cover and enable the protection and enhancement of green corridor connections,*
- (k) *to promote and enhance the amenity of Botany Bay's foreshores and Bayside's waterways.*

The proposal, as amended, is still consistent with these general aims, in particular (e), (f) and (g).

2.3 - Zone

The subject site is zoned MU1 - Mixed Used under the provisions of the BLEP 2021. The proposal is prohibited in the zone, however as both Residential Flat Buildings and Shop top housing are permitted, Co-living housing is permitted by virtue of Section 67 of the Housing SEPP. The proposed development as amended satisfies the objectives of the zone.

4.4 – Floor Space Ratio

A maximum FSR standard of 3.2:1 (6422.4sqm) applies to the site. The SEPP allows for an additional 10%, therefore an FSR of 3.52:1 (7064.64sqm) is permitted. The application originally sought a variation from the development standard of 1,089.54sqm in GFA or 15.44% resulting in a FSR of 4.06:1 and a total GFA of 8,154.18sqm. Modification application No. 2025/16 requested to further increase the overall GFA by 38sqm to increase the overall GFA to 8,192.78sqm. This was a variation of 15.97%, resulting in a FSR 4.08:1 and was approved.

This application seeks to once again increase the GFA by 8.22sqm, seeking an overall GFA of 8,201sqm. This is a variation of 1,136.36sqm or 16% resulting in a FSR of 4.09:1.

As the proposal is a Modification Application and not a Development Application, the provisions of Section 4.6 – Exceptions to Development Standards do not apply.

Whilst a written request to vary the FSR under Clause 4.6 is not required to be submitted for a section 4.55 modification application, an assessment has been provided below and adopts a similar approach and consideration to the proposal as would apply to a contravention request under Section 4.6 of the LEP.

The applicant has provided the following justification:

Compliance with the standard is unreasonable or unnecessary in the circumstances

As discussed above, compliance with the standard is unreasonable or unnecessary in the circumstances of the development for the following reasons:

- *The additional GFA largely comes through a minor adjustment to the level 1 terrace, to convert an area of external communal space into internal communal space. The approved development will continue to exceed the communal indoor and outdoor space requirements in the Housing SEPP. The conversion of part of the terrace to an additional study/co-working area is in response to student feedback about what communal spaces they find most valuable within Iglu's wider portfolio of assets.*
- *The changes simply convert some outdoor communal space to indoor communal space so that there are more areas for the amenity of student residents. The portion of the building being 'filled in' will now align with the footprint of the floors above and below, which will improve the presentation of the development to the street.*
- *The additional FSR creates no additional density or intensity of land use as it is simply providing more communal facilities for the existing number of rooms, which is not changing.*

Environmental Planning Grounds

There are sufficient environmental planning grounds to vary the standard for the following reasons:

- *The increase in floor space creates no additional environmental amenity impacts to surrounding properties such as acoustic or visual privacy impacts or overshadowing.*
- *In contrast, the infilling of part of the level 1 terrace will reduce any risk of noise or overlooking to the neighbours to the east of the subject site.*
- *The changes create no additional land intensity pressures as they do not cause the development to be able to accommodate any additional residents.*
- *The additional GFA represents such a modest increase to the development as to be imperceptible to any person viewing the site from its surrounds.*

The applicant's justification regarding the non-compliance is accepted and the proposal is found to be consistent with the objectives of the development standard, so therefore compliance is considered unnecessary and unreasonable. The applicant has also demonstrated that there are sufficient environmental grounds to support varying the standard.

The proposal as amended does not change the approved co-living room numbers, or any other floor layouts (except ground floor and first floor) and any general amenity requirements acquired for the co-living development. Thus, the proposal as amended does not intensify the approved use onsite and retains its building quality.

Collectively, due to the unchanged building scale and intensity of the use onsite, there is a minimal environmental impact resulted from the proposal as amended.

Compared to the overall development scale, the further variation of 0.10% to FSR (8.22sqm GFA) to the approved development is negligible, considering the FSR change does not contribute to the bulk and scale of the development, maintaining existing setback. The GFA increase results mainly from increasing the size of the work zone on the first floor which will improve the amenity quality for the future residents onsite.

Furthermore, it is important to note that there is an existing and active consent on site (DA-2013/10056/D) with an approved FSR of 4.18:1, resulting in a total Gross Floor Area (GFA) of 8,381.96 sqm. The requested variation will result in a reduction of 181.14sqm.

It is considered that the proposed variation of (8.22sqm or 0.10% from approved FSR of 4.08:1 to 4.09:1 standard is assessed as reasonable, and strict compliance with the development standard would be unreasonable in the circumstances of this case.

6.9 – Active Street Frontages

The site is identified as an Active Street Frontage, requiring the proposal to provide an active street frontage at ground floor level along the Church Avenue frontage. A café, lobby, and communal area with a glass windows are still fronting Church Avenue. The application does seek some minor amendments to slightly extend the café size as well as some other internal changes.

As part of the original application, it was conditioned that

13. Preparation of Food

No handling or preparation of food shall take place on the premises. No intensification of activities of the food premises shall occur without the prior consent from Council.

The applicant is seeking to have this amended to include the following sentence “or through approval under the exempt and complying provisions in SEPP (Exempt and Complying Development Codes) 2008.”

No issues are raised with this addition as it will enable flexibility for the fit out of the future space.

Nevertheless, the ethos of what was originally approved has been retained. The revised design still satisfies both the Design Review Panel and the Assessment Officer.

6.10 – Design Excellence

The application was presented to the DRP at the meeting of 5 June 2025. The DRP supported the application, subject to the replacement of *Elaeocarpus reticulatus* and *Banksia serrata* with native species and the removal of the active recreation court for a pickleball court. These changes have been made, and as such, the application can now be supported subject to amendments to the conditions of consent.

6.11 – Essential Services

Services are generally available on site to facilitate the proposed development, as proposed to be modified. Appropriate conditions have been recommended requiring approval or consultation with relevant utility providers regarding any specific requirements for the provision of services on the site.

(b) Provisions of any Proposed Instruments (s4.15 (1)(a)(ii))

There are no draft environmental planning instruments of direct relevance to the proposal.

(c) Provisions of any Development Control Plan (s4.15(1)(a)(iii))

Bayside Development Control Plan 2022

The following outlines the relevant Clauses of the BDCP 2022 applicable to the proposal.

Section 3.1 – Site Analysis and Locality

3.1.1 Interface with the Public Domain

The proposal, as amended, has been designed to ensure that all ground level elements of building are visible from the streets and parks make a positive contribution to the public domain. The development has been designed so that the principal entry point within the building is still via Church Street. The development has been designed so that services and infrastructure, where possible, integrated into the built form design at development assessment stage and have also been located so that they face the adjacent laneway and do not impact on the public domain along Church Avenue.

3.1.3 Crime Prevention through Environmental Design (CPTED)

The proposal, as amended, has been designed so that the principal entry point to the building is still via Church Street. The ground floor still provides large glass windows so that passive surveillance is carried out to the street, lower ground courtyard and where possible the site though link. The proposal still ensures opportunities for active and passive surveillance to Church Ave either from individual rooms or the upper floor outdoor terrace.

3.1.4 Active Street Frontages

Active Street Frontages is addressed above, under section 6.9 of the BLEP 2021.

3.1.5 Views

The siting of the proposed building will not cause further view loss beyond what was already approved development.

Part 3.2 – Design excellence

Addressed above under Section 6.10 in the BLEP 2021.

Part 3.3 – Energy and Environmental Sustainability

3.2.2 Natural daylight and ventilation

The BDCP 202 requires a minimum ceiling height of 2.7 metres for habitable rooms and 2.4 Metres for non-habitable rooms. The development has been designed to provide an adequate number of openings at each level to allow natural light. Each room has access to a window, and there are windows on either side of the corridor to provide light and minimize reliance on artificial lighting in the residential development. Therefore, the proposal complies with the requirements of this control.

Part 3.7 – Landscaping, Private Open Space and Biodiversity

Landscaping was comprehensively assessed under the original DA application. Council's Landscape Officer expressed general satisfaction with the proposal and was supportive of a variation to the standard requirement that 80% of the planted species be native. As part of that application 70% of the planted species were native.

Initially, the applicant proposed a further reduction in the proportion of native species, which was not supported. A revised landscaping scheme was subsequently submitted, which increased the number of native species beyond what was originally approved.

Below is the summary:

	No. Native	% Native	No. Exotics	% Exotics
Approved Consent	33	70%	14	30%
Current Modification	45	73%	17	27%

Furthermore, the replacement of *Elaeocarpus reticulatus* and *Banksia serrata* with native species has occurred to Council satisfaction.

The development, as revised, is considered acceptable, and it is encouraging to note that the number of planted native species on site has increased. Therefore, the proposal complies with the requirements of this control.

Part – 5.2.7 Boarding houses and co-living (including student accommodation)

The relevant controls are assessed against the proposed development as demonstrated below in **Table 6** and considered in more detail below.

Table 6: Assessment against relative Boarding houses and co-living controls in the BDCP 2022.

Control		Comments	Complies (Y/N)
Control - 5.2.7 - General			
C2.	A minimum lot width of 24 metres to any street frontage is required for Class 3 boarding house developments and co-living developments.	No Change The site benefits from a frontage of 37.765m	N/A
C4.	Strata subdivision or community title subdivision is not permitted.	No Change	N/A

		Development is not seeking subdivision.	
C5.	Development must ensure that the proposed FSR, height, setbacks, detailed design and other elements are compatible with predominant scale of development in the local area.	No significant changes are proposed that would result in the development no longer being considered compatible with mixed scale of existing developments in the locality as addressed in the body text of this report.	Yes
C6.	Communal open space is located away from habitable rooms of dwellings on adjoining properties.	Communal open space is still located away from habitable rooms subject to conditions.	Acceptable-
C7.	Private open space and balconies incorporate screening devices to avoid direct overlooking into habitable rooms of dwellings on adjoining properties.	No Change Private balconies have not been proposed.	N/A
C8.	Communal areas and bedroom windows are to be located away from the main living area or bedroom windows of any adjacent buildings.	The development has been designed to ensure that communal areas are located away from the main living area or bedroom windows of any adjacent buildings.	Acceptable-
C9.	Screen fencing, plantings, and acoustic barriers are to be incorporated in appropriate locations.	N/A on this site	N/A
C10.	The main entry point of the boarding house is located at the front of the site away from side boundary areas near adjoining properties.	No Change The main entry point for the development is still located at the front of the site.	N/A
C11.	Sources of noise, such as kitchens, communal rooms and parking areas must be sited and designed to minimise the noise impact on adjoining properties.	No Change Kitchens and communal rooms are located away from adjoining properties.	Yes
C12.	Where required Development Applications for boarding houses and co-living are to be accompanied by a noise assessment prepared by a qualified acoustic consultant, addressing the requirements of the SEPP (Transport and	A revised acoustic report was submitted which was prepared by Acoustic Logic, dated 7 February 2025. The application was referred to Council's Environmental Health Officer who has raised no objections to the proposal.	Yes

	Infrastructure) 2021 and Section – Noise and Vibration.		
C13.	Bedrooms are to be located so that they are separate from significant noise sources. Bedrooms are to incorporate adequate sound insulation to provide reasonable amenity between bedrooms and external noise sources.	No Change Bedrooms are located so that they are separate from significant noise sources.	Yes
C14.	Double glazed windows are to be incorporated where noise transmission affects neighbouring buildings.	No Change It is considered that adequate separation distances are provided to internal communal areas; therefore, double-glazed windows are not warranted in this instance.	Yes
C16.	The minimum ceiling height of all habitable rooms is 2.7m.	3.2m proposed	Yes
C19.	A Development Application for a boarding house or co-living is to be supported by a written Plan of Management (POM) that describes how the ongoing operation of the boarding house/co-living development will be managed to reduce its impact upon the amenity of surrounding properties.	A revised Plan of Management (POM) was submitted to ensure that Condition No. 23 could be satisfied. See below discussion	Yes - See below discussion
Control - 5.2.7.2 - Solar Access and Overshadowing			
C1.	Development is to be designed and sited to provide a minimum of 3 hours sunlight between the hours of 9.00am and 3.00pm on 21 June to: 70% of habitable rooms within the development - all habitable rooms in adjoining residential developments; and - private open space within the development private open space of adjoining dwellings.	The proposed development has been sited and designed, to protect the adjoining neighbouring buildings solar access to living space and private open spaces.	Yes
5.2.7.3 - Management			
C1	Development shall provide boarding rooms or on-site	No changes to the approved 305 occupants	N/A

	dwellings, to accommodate boarding house managers, based on the following rates of provision: a. 20 – 39 lodgers require 1 boarding room or on-site dwelling b. 40 – 79 lodgers require 2 boarding room or on-site dwelling 80 lodgers require 3 boarding rooms or on-site dwellings		
C2.	Boarding rooms or on-site dwellings, provided for management, shall achieve a minimum area of 16m ² .		
C3	Boarding rooms or on-site dwellings, provided for management, shall include private open space which achieves a		
5.2.7.4 - Function, efficiency, and safety			
C1.	Communal spaces, including laundry, bathroom, kitchen and living areas are to be located in safe and accessible locations.	The revised communal spaces, including laundry, bathroom, kitchen and living areas are located in safe and accessible locations	Yes
C2.	Habitable living areas (such as lounge room, kitchen, dining and bedroom) are to be located to allow general observation of the street and communal open space.	The revised Habitable living areas will still allow for allow general observation of the street from communal space.	Yes
C7	The following communal facilities are to be provided: a. living area b. kitchen c. dining d. outdoor open space e. bathrooms f. laundry (where clothes washing facilities not provided in individual rooms) g. outdoor clothes drying are.	The development has been redesign to incorporate living areas, kitchen, dining, outdoor open space, bathrooms and laundry. It is noted that outdoor clothes drying are not provided however is not critical can be replaced using dryers in the proposed laundry.	Adequate communal facilities are to be provided
C8.	The communal indoor living area can include a dining area but cannot include bedrooms,	Revised communal indoor living area have been calculated in accordance with the controls and	Yes

	bathrooms, laundries, reception area, storage, kitchens, car parking, loading docks, driveways, clothes drying areas, corridors and the like.	exceed the requirement as stipulated in the SEPP	
C9.	The communal indoor living area shall have: whichever is greater - a minimum area of 20m ² or 1.25m ² per resident; and a minimum width of 3m	Revised communal indoor living area have been calculated in accordance with the SEPP housing	Yes
C10.	The communal indoor living area shall be located: a. near commonly used spaces, such as kitchen, laundry, lobby entry area or manager's office b. adjacent to communal open space c. to receive a minimum 3 hours solar access to at least 50% of the windows during 9am and 3pm in June d. on each level of a multi-storey boarding house, where appropriate e. where they will have minimal impact on bedrooms and adjoining properties	Revised communal indoor living areas have been designed in accordance with the controls and deemed to be acceptable. While communal indoor areas are not provided on each level of the multi-storey boarding house, the additional space provided compensates for this requirement. Furthermore, the DRP raised no issue to the lack of a room on each floor. The development has been designed to ensure minimal impact on bedrooms and adjoining properties.	Yes
C11.	Communal outdoor open space shall be located and designed to: a. receive a minimum 2 hours of solar access to at least 50% of the area during 9am and 3pm on 21 June b. be provided at ground level in a courtyard or terrace area c. provide weather protection d. incorporate 50% soft landscaping of the area e. be connected to communal indoor spaces, such as kitchen or living areas f. contain communal facilities such as a toilet, outdoor drying, barbecues, seating, and	Revised outdoor open spaces have been designed in accordance with the relevant controls and are deemed acceptable. One of these spaces, located on the 4th floor facing Church Avenue, shall receive a minimum of two hours of solar access to at least 50% of the area between 9am and 3pm on June 21st. The ground-level space is connected to communal indoor areas, such as kitchens and living spaces	Yes

	pergolas where appropriate be screened from adjoining properties and the public domain		
C13.	Communal laundry facilities are provided and are to have: a. a minimum of 1 x 5kg capacity automatic washing machine and one domestic dryer for every 12 residents or part thereof b. a minimum of 1 large laundry tub with hot and cold running water Note: These facilities are not required if individual washers and driers are provided.	Communal laundry facilities have been relocated. The condition imposed by the SECPP for the size of the laundry will be retained.	Yes – subject to conditions.
C14.	Communal outdoor clothes drying facilities are provided and are located to: a. not be visible from the public domain b. have appropriate levels of solar access not comprise the usability of space for its intended function	Communal outdoor clothes drying facilities are still not provided. In this instance having the washing of 305 students is not ideal being presented to the public domain. The original development application was conditioned to ensure that drying facilities are provided within the proposed laundry.	Yes

Plan of Management:

As part of the initial consent, Condition No. 23 was imposed, which required that the submitted Plan of Management was to be amended. The condition stated the following:

The Plan of Management (PoM) is required to be amended as follows:

- (a) *Identify that the occupants are students only.*
- (b) *Document should detail procedures for handling complaints related to the operation of the premises. At a minimum the revised documents should require*
 - (i) *Complaint date and time,*
 - (ii) *Name, contact, and address details of the complainant,*
 - (iii) *Nature of the complaint,*
 - (iv) *Name of staff on duty; and*
 - (v) *Actions taken by the premises to resolve the complaint.*

The revised POM must be submitted for approval to Council's Director City Futures prior to the issue of any Construction Certificate.

The revised document has been submitted that adequately addresses the above, as such the removal of the condition is adequate. Condition No. 2 has been revised to ensure it accurately corresponds with the correct and most up to date Plan of Management.

Part – 7.8 Mascot Town Centre

Part 7.8.2 – Vision Statement

The vision statement within the DCP outlines Councils' vision for the area surrounding Mascot Train Station. This section of the DCP states that Mascot Station Town Centres' role is as a mixed-use centre where commercial uses, including retail shopping and community uses provide diversity in what has been previously an industrial and commercial development focus.

The proposed development, as amended, is still consistent with the vision Council has for the area and provides a diversity in use and built form.

7.8.3 Controls – General

This section of the DCP does not go into detail on the subject site with regard to height and floor space. Therefore, the BLEP 2021 controls apply in this instance. The development is compliant with respect to height and the requested to contravenes the FSR development standard is adequate. The relevant controls are assessed against the proposed development as demonstrated below in **Table 7**.

Table 7: Assessment against relative Mascot Town Centre controls in the BDCP 2022

Control		Comments	Complies (Y/N)
Control - 5.2.7 - General			
C1.	Development is in accordance with the Urban Block 1 and Urban Block 2 Public Domain Maps.	No Change proposed within the Public Domain. Nevertheless, the application was referred to Council's Landscape Architect and Council's Development Engineer who raised no issues with the proposal.	N/A
C7.	All work is to be in accordance with Council specifications, plans, details or the Urban Design Strategy.		
Built Form and Design			
C10.	Shadow diagrams must be provided for all development proposals for the summer and winter solstices. Shadow diagrams must illustrate the shadow impacts at 9.00AM, 12.00 noon and 3.00PM for both solstices. Additional building setbacks may be required where impacts within the site and/or upon adjoining properties are considered to be unreasonable	Shadow diagrams have been submitted. As detailed above it is considered that the development has been appropriately designed to enable the required solar access to the neighbouring sites, expect the site at the rear.	Yes
C13.	Development must conform to the Urban Block 1 and Urban Block 2 Lot Alignment Maps.	The proposal, as amended will still deliver the required road widening along Church Avenue. As such it is considered that the proposal will confirm with Urban Block 2 Lot Alignment Maps.	Yes
C17	Buildings and open space areas will be designed to:	Casual surveillance of streets and building entrances has been achieved on site. The proposed	Yes
C18			

	a. enable casual surveillance of streets, open space and entrances to buildings b. minimise access between roofs, balconies and windows of adjoining developments c. ensure adequate lighting to access routes, car park areas and open space. External lighting must be provided to mixed use developments, commercial developments and industrial areas where pedestrian ways, main building entries, driveways, communal areas and car parks require public access at night or after normal trading hours	café will facilitate surveillance of both the street and the building entrance. The proposed use of material including the glass windows from communal spaces and the bike storage area at the ground will allow for casual casual surveillance to the easement. To enhance security and passive surveillance for the safety of pedestrians and property, additional lighting has been conditioned along the eastern elevation adjacent to the easement.	
Street Character and Development Setbacks			
C28	Development must conform to the Urban Block 1 and Urban Block 2 Setback Maps	No Change to front setback. Council's DCP has identified that sites west of the Sydney Water SWSOOS (Liner Park) relevant to these controls does not specify any street setback requirements for new street alignments for the subject site. The development front setback has been staggered with a front setback ranging from 3m metres to 5.4m from the new front boundary alignment along Church Avenue. The subject site proposes a front setback boundary that is consist with that of 19-21 Church Avenue. It is noted that the development does not align with 3 – 9 Church Street, however is not anticipated that this alignment will impact the interpretation of the spatial streets alignment when viewed form the public domain.	N/A
C29	Development must conform with the section plans for Urban Blocks 1 and 2.		
C31	Development does not result in blank external walls of greater than 100m2	The development, as amended, ensures that development has been appropriately designed to ensure that the development does not result in blank external walls greater than 100sqm.	Yes
C32	All property boundary front setbacks must be deep soil and	Some deep soil has been provided within the front setback.	Acceptable

	landscaped and must not have any underground intrusions such as underground car parking or on-site detention	However, the entirety of this area cannot be achieved as equitable access must be provided to the development. Consequently, ramping has been included in the setback.	
C33	Setbacks are to maximise the retention of existing trees and their root systems (including those on adjoining properties) and may need to be variable to achieve this.	No change While trees do exist on site, they are not considered worthy of retention.	N/A
C34	Setbacks are to include the planting of canopy trees, both small and large varieties. Developments are not to rely solely on street trees to ameliorate buildings	The western setback includes the planting of canopy trees.	Yes
C36	Diversity and activity is to be ensured via providing a variety of frontage widths for retail shops along the street.	The floorplate of development as amended has been successfully designed thought the use of the café providing a variety along Church Ave.	Yes
C38	The primary area of outdoor private open space must not be located on the street frontage	Outdoor private open space is not located on the street frontage	Yes
C40	The landscaped street setback area shall be on one level or at a slight slope, not terraced or stepped or containing narrow planter boxes, to allow adequate lateral root space and soil volume for medium to large canopy trees	The landscaped area is terraced, within the front setback, in response to proving a ramp within the front setback to achieved equitable access. Unlike other developments within Church Avenue, the site is able to able to achieve lateral root space and soil volume for medium to large canopy trees within the site as it benefits from not having a basement. The development, despite the terraced planning, is still considered to provide active street frontages from the ground floor retail in line with the objectivise of the clause. The development is also considered to create a suitable interface between private and public spaces that ensures the safety, amenity and protection of privacy for resident.	Acceptable
C42	The visual connection between the building frontage and the public	The floorplate as amended, is still successfully designed	Yes

	domain must be considered carefully in all development. This may require the floorplate of development to step with the topography to ensure that the floor level of the building frontage is generally at footpath level	thought the use of the café, and windows from the communal rooms and bike storage to the easement to enable the visual connection between the building frontage and the public domain.	
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Part 7.8.5 – Controls Urban Block 2 - Road Network and Vehicular Access

There are no changes to the proposal that requires an assessment of part 7.8.5 of the BDCP 2022.

(d) Planning agreements under Section 7.4 of the EP&A Act (s4.15(1)(a)(iia))

The applicant requested to enter into a Planning Agreement under Section 7.4 of the EP&A Act under the original application. There are no changes to the Planning Agreement sought under the subject modification which was executed on the 8 May 2025.

(e) Provisions of Regulations (s4.15(1)(a)(iv))

In terms of provisions of the Regulation, the Modification submission has included sufficient information to enable environmental assessment of the application (Part 5, Division 1 of the Regulation). All relevant provisions of the Regulations have been taken into account in the assessment of this proposal.

4.3.1 Section 4.15(1)(b) - Likely Impacts of Development

This Section of the Act requires consideration of natural and built environmental impacts, and social and economic impacts. The potential and likely impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls. Accordingly, it is considered that the proposed modification will not result in any significant adverse impacts in the locality as outlined above.

4.3.2 Section 4.15(1)(c) - Suitability of the site

The site is affected by aircraft noise being situated within a 20-25 ANEF Contour. The proposal was accompanied by acoustic report which has been reviewed and is acceptable subject to conditions imposed in the consent for the development to comply.

Adequate information has been submitted to demonstrate that the site can be made suitable for the proposed development as amended. Further discussion relating to this issue has been carried out within Chapter 4 of the SEPP (Resilience and Hazards) 2021. Appropriate conditions have been recommended in the attached Schedule regarding remediation and acid sulfate soil management.

The site is affected by flooding. The proposal has been designed so that the majority of the development is located above the flood level with appropriate freeboard. Council's Engineers has included conditions regarding the lower ground level to comply and be raised to achieve the recommended freeboard.

The plans do surpass the overall OLS height limit of 51m AHD, however no objections have been raised by SACL or CASA, subject to conditions.

The proposed use as “Co-Living” is permissible under the Housing SEPP 2021 and aligns with the objectives and controls of both the BLEP 2021 and BDCP 2022. The development has been conditioned to ensure its exclusive use by tertiary students in perpetuity. This is not changing in the proposed modification. It is considered that the development as amended is suitable for the site.

4.3.3 Section 4.15(1)(d) - Public Submissions

The proposal has been notified in accordance with the applicable Development Control Plan. No submissions have been received.

4.3.4 Section 4.15(1)(e) - Public interest

The proposal has been assessed against the relevant planning instruments and controls applying to the site, also having regard to the applicable objectives of the controls. As demonstrated in this assessment of the Modification Application, the proposal is suitable for the site and has acceptable environmental impacts, subject to recommended conditions. Impacts on adjoining properties have been considered and addressed. As such, granting approval to the proposal will be in the public interest, subject to the recommended conditions which help manage and mitigate environmental or potential environmental impacts.

4.4 Part 5 of the 2021 EP&A Regulation

There are a number of matters required to be addressed in an application for modification of development consent pursuant to Division 1, 2 and 3 of Part 5 of the 2021 EP&A Regulation. These matters are considered in **Table 8** below.

Table 8: Consideration of the Requirements under the Regulation

Matter	Comment	Comply
Clause 100 Application for modification of development consent		
May be made by— (a) the owner of the land to which it relates, or (b) another person, with the consent of the owner of the land (CI 98(1))	The application has been made by the owner of the land to which it relates.	Yes
NSW Aboriginal Land Council consent required for land owned by a Local Aboriginal Land Council (CI 98(6)).	The land is not owned by a Local Aboriginal Land Council	N/A
Form approved by Planning Secretary and on portal (CI 99).	The application has been provided in accordance with the Regulation.	Yes
Applicant details (CI 100(1)(a))	Provided on the NSW Planning Portal.	Yes
Description of the development (CI 100(1)(b))	Provided on the Portal and outlined in this Report.	Yes
Address and title details (CI 100(1)(c))	Provided on the Portal outlined in this Report.	Yes

Description of the proposed modification (CI 100(1)(d))	Provided on the Portal and outlined in this Report.	Yes
Whether to correct a minor error, mis-description or miscalculation, or some other effect (CI 100(1)(e))	The proposed modification is to modify the original consent under Section 4.55(2) or and is not to correct a minor error, misdescription or miscalculation.	Yes
Description of the expected impacts of the modification (CI 100(1)(f))	There are unlikely to be any significant impacts resulting from the proposed modification given there are no significant changes to the external building form. Any other impacts were considered in the original proposal, which was supported by Council.	Yes
Undertaking that modified development will remain substantially same as development originally approved (CI 100(1)(g))	The modified development will remain substantially the same development as that originally approved.	Yes
If accompanied by a Biodiversity development assessment report, the biodiversity credits information (CI 100(1)(h))	A Biodiversity development assessment report is not required	N/A
Owner's consent (CI 100(1)(i))	An undertaking has been provided on the Portal.	Yes
Whether the application is being made to the Court (under section 4.55) or to the consent authority (under section 4.56) (CI 100(1)(j)).	This Application is made to the consent authority pursuant to Section 4.55(2) of the EP&A Act.	Yes
BASIX Certificate (CI 100(3))	The proposed modification does not involve any changes to the original assessed BASIX Certificate	N/A
Penrith Lakes Development Corporation (CI 101)	The proposed modification is not a Penrith Lakes Development Corporation.	N/A
Qualified designer statement for residential apartment development (CI 102)	The proposed modification does not involve residential apartment development	N/A
Mining and petroleum development consents (CI 102)	The proposed modification does not involve mining and petroleum development consents.	N/A
Notification and exhibition requirements (CII 105-112)	Refer to Section 5.1 of this report.	Yes
Notification of concurrence authorities and approval bodies (CI 109) (to be undertaken by Council)	The modification application, in this instance was not required to be referred externally.	N/A

5. NOTIFICATION

5.1 Notification and Community Consultation

The application was placed on public exhibition, in accordance with Council's Community Participation Plan, from 6 May 2025 to 20 May 2025, with no submissions received.

6. CONCLUSION

The proposed development at 13A Church Avenue, MASCOT NSW 2020 has been assessed in accordance with Sections 4.55 and 4.15 of the *Environmental Planning and Assessment Act 1979* including relevant environmental planning instruments and Bayside Development Control Plan 2022.

The proposal is a Modification Application under Section 4.55(2) of the Act, The Modification proposed seeks to modify Development consent DA-2024/10, which approved Construction of a thirteen (13) storey co-living development, restricted to student accommodation, comprising 305 rooms and associated communal areas originally approved by Sydney Eastern City Planning Panel on 12 December 2024. The proposed Modifications essentially involve minor internal modifications to the first floor which increase the FSR by a minor amount and seek modifications to the landscape plan.

The proposal is supported for the following main reasons:

- The proposal remains the same or substantially the same development as originally approved.
- The proposed variation to FSR is negligible and considered acceptable, as the modified proposal is consistent with the objectives of the standard being breached and consistent with the objectives of the MU1 mixed use zone.
- The proposed modifications will remain consistent with the Sydney Eastern City Planning Panels previous reasons for approving the original DA, thereby satisfying section 4.55(3) of the EP&A Act 1979.

7. RECOMMENDATION

It is recommended:

- That the Modification Application MDA-2025/49 for Modification to DA-2024/10 to change conditions relating to the Plan of Management, fit out of the coffee shop and general design amendments at 13A Church Avenue, be APPROVE pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at Attachment A.

The following attachments are provided:

- Attachment A: Draft Notice of Determination
- Attachment B: Relevant Architectural Plans and Landscaping Plans
- Attachment C: Statement of Environmental Effects
- Attachment D: Revised Plan of Management