

COUNCIL SUPPLEMENTARY ASSESSMENT REPORT

SYDNEY EASTERN CITY PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSEC-281 – [DA/168/2023]
PROPOSAL	Demolition (220 space car park) and construction and use of five (5) buildings for mixed uses including student accommodation, UNSW university space, retail, communal and publicly accessible open space (West Mall), and basement car parking. Amended plans received increasing the width of the northern easement by setting back further buildings C and D, providing within the easement a B99 Turning circle at western rear end and options for Pick-up Drop-off (PUDO).
ADDRESS	Lot 2 DP 1173179 [215B Anzac Parade]
APPLICANT	Clare Hall - UNSW
OWNER	University of New South Wales
DA LODGEMENT DATE	11 May 2023
APPLICATION TYPE	CROWN DA
REGIONALLY SIGNIFICANT CRITERIA	Section 2.19(1) and Clause 4 of Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021 declares the proposal regionally significant development as the development has a cost of works greater than \$5m.
CIV	\$227,656,927 (excluding GST)
CLAUSE 4.6 REQUESTS	Randwick LEP 2012 - Clause 4.3 Height of Buildings to be varied and SP2 Special Infrastructure
KEY SEPP/LEP	<ul style="list-style-type: none"> • State Environmental Planning Policy (Industry and Employment) 2021 • State Environmental Planning Policy (Planning Systems) 2021 • State Environmental Planning Policy (Resilience and Hazards) 2021 • State Environmental Planning Policy (Transport and Infrastructure) 2021 • Local Environmental Plan 2012 • Development Control plan – Part E2 Section 4 UNSW Kensington.
TOTAL & UNIQUE SUBMISSIONS ISSUES SUBMISSIONS UNIQUE KEY IN	NIDA meetings – 14 August 2024; 2 September 2024 and 4 September 2024.

KEY DOCUMENTS SUBMITTED FOR CONSIDERATION	<ul style="list-style-type: none"> • Record of Deferral PPSSEC-281 9 August 2024 • Record of Briefing PPSSEC-281 13 August 2024 • Record of Briefing PPSSEC-281 29 August 2024 • Amended Architectural Drawings 27 Aug 2024 • Cover letter to DA-168-2023 Response to SECPP Deferral 28Aug24. • Pick Up Drop Off on NIDA Lane – Feasibility Assessment • Amendment Development Summary Page 6 of Architectural Design Report 27Aug24 • NIDA preference email • Preliminary comments from Colston, Budd, Rogers & Kafes Pty Ltd
RECOMMENDATION	Refusal as per original assessment report.
DRAFT CONDITIONS TO APPLICANT	4 September 2024
SCHEDULED MEETING DATE	12 September 2024
PLAN VERSION	Plan revision G – Amendments received by Portal 27/08/2024.
PREPARED BY	Louis Coorey
DATE OF REPORT	5 September 2024

EXECUTIVE SUMMARY

This addendum report is supplementary to the original assessment report dated 30 July 2024 and provides an assessment of the additional matters as discussed at the Panel's determination meeting on 6 August 2024 where a deferral decision was made on 9 August 2024 and subsequently clarified on 29 August 2024 as detailed below:

Northern easement

- Building C footprint amended whereby northern setback to be increased to 10m with ground level colonnade having 3m in depth to be consistent with that of Building B
- Building D northern setback to be increased to accommodate a turning circle for B99 vehicles as referred to in traffic report commissioned by NIDA (dated 31 July 2024) and for Council to confirm adequacy.
- Discussions to occur around a workable drop off zone in consultation with NIDA preferences.
- Council referral to TfNSW consultation noting request by applicant to be included and consideration of options including plan of management of service lane.

The applicant submitted amended plans on 27 August 2024 demonstrating setbacks for Building C and D. Council's Traffic Engineer has confirmed adequacy of the B99 turning circle. The applicant's Pick-up Drop-off (PUDO) feasibility study showing three options (A, B and C) was presented to NIDA, who indicated a preference for flexibility in use of the PUDO, minimum footpath widths, extension of the footpath to the western stage door entry and widened Anzac Parade cross over to 10m. These preference in large part can adequately be accommodated by way of conditioning for an easement management plan except for the widening of the Anzac Parade crossover which is not sought to be increased at the kerb line.

In respect to the meeting with TfNSW, which the applicant was in attendance, it is noted that no objections were raised to the easement extension or the accommodation of the PUDO zone. However, a widened Anzac Parade crossover would require re-referral and concurrence under S138 of the Roads Act. TfNSW also indicated that Sydney Buses in its original consultation with TfNSW recommended that no changes be made to the bus stop adjoining the southern edge of the crossover, which would be an impediment to crossover widening at the southern end of the crossover.

Draft conditions

As part of the deferral decision, the panel noted that to the satisfaction of the above issues and if it determines to approve the application that the draft conditions would be amended to provide as follows:

- Contributions to be 1% of CIV pursuant to Section 7.12 of the Act
- Deletion of condition 17 carparking management plan retaining condition restricting allocation of parking for IGLU residents (159)
- Consultative Committee forum to incorporate in-person forum instead of only electronic forum.
- IGLU delegate details to be made available.
- Signage to be restricted to Buildings A and B as per current draft conditions.

Council sent draft conditions to the applicant in line with the deferral requirements except for contribution requirements and several new and amended conditions addressing the PUDO easement, and restricted operating times for heavy machinery and piling works along the northern part of the site from 7am to 12 noon during a 12-month period in line with the scheduling of noise sensitive NIDA operations.

The applicant's response to the draft conditions are summarised as follows:

- **Conditions 2d** requiring additional privacy measures for levels 7 to 10 of building B – objected and outlined that this is not required for inclusion.
- **Condition 2g** for PUDO design can be addressed via new easement condition (6). Requested the removal of this requirement.
- **Condition 77** - A blanket ban on construction hours for heavy machinery and piling along the northern boundary from 7am to 12noon for a 12-month period should not be applied as it is covered by condition 28 (Construction Noise and Vibration Management Plan).

In response to the other draft conditions, Council provides in response:

- **Condition 2d** should remain as it is considered that additional privacy measures for Levels 7 to 10 of Building B are required to provide an appropriate interface to the NIDA development and prevent overlooking impacts.
- **Condition 2g** - PUDO design could be replaced with a condition requiring an easement management plan and new Condition 6 may be amended in line with NIDA preference for additional footpath changes (line marking) and other setback requirements.
- **Condition 77** should be retained in that a blanket ban is not necessarily required by this condition as it is worded such that it enables flexibility to these times through a Consultative forum (condition 27), which is informed by noise and vibration management plans (under condition 28). It is important that this condition be maintained as drafted to ensure that NIDA is provided a level of certainty when scheduling their ongoing operations. It is acknowledged that NIDA will undoubtedly be impacted by the demolition, and excavation works, and the proposed condition will allow for continuation a reasonable operational capacity during the afternoon period.

Contributions

In respect to the contribution condition, Council maintains its request that the Panel in line with legal advice provided to the Panel and the Applicant that a higher contribution be applied under S7.11 of the Act. Council has sent a further letter directly to the UNSW seeking their agreement on applying a higher contribution. Council maintains the view that the proposal will or is likely to require the provision of a significantly increased demand for public amenities and public services within the Council area. It is also noted that the development is adopting a density and scale of development that is only allowed in the K2K town centres. The UNSW's view is that the proposed development is appropriate because of its proximity to the K2K town centres and the strategic approach that was adopted by Council. The proposed student housing is also equivalent to the co-living housing development approved on land within the K2K town centres and should be subject to the same contributions framework applied to these developments.

Whilst the additional information in support of the deferral has generally addressed and incorporated the requirements of the Panel, as detailed in the Record of Deferral, dated 9 August 2024 and 29 August 2024, Council maintains its assessment of the proposal and

determination report recommendation for refusal provided at the determination meeting on 6 August 2023. However, should the Panel be of a view to support the application as amended to address the Panel deferral issues, Council requests that the Panel adopt the conditions as presented in the attached draft conditions of consent notably requiring an easement to be registered in line with amendments in condition 6, limit heavy machinery and piling along the northern easement and northern boundary to restricted time line and require that a higher developer contribution be paid in line with the intensity and nature of development sought for the subject site.

1. THE PROPOSAL AND BACKGROUND

1.1 Background

A determination meeting was held with the Panel on 6 August 2024. At the determination meeting, the Panel resolved to defer the determination of the application to enable the preparation of additional information, including amendments to the siting of Buildings C and D, consultation with NIDA for their preferences for the Pick-up Drop-off use, Council confirmation of adequacy of the B99 turning circle and consultation with TfNSW.

In response to the matters raised by the Panel, amended information was provided by the Applicant in the form of amended plans revision G received 27 August 2024 and a Pick up / drop off Feasibility Study showing 3 options.

Following subsequent meetings with NIDA, the Applicant and TfNSW, an assessment of the submitted information and compliance with the deferral matters is outlined in the Key Issues section below.

1.2 The Proposal

The proposal seeks consent for the demolition of existing structures, removal of five trees onsite, excavation and remediation. Construction and use of five (5) buildings (A to E – see figure 1 layout and figure 14 3D massing) for mixed use including student accommodation, UNSW university space, and ancillary ground level retail, new communal and publicly accessible open space, and basement car parking.

Amendments to the proposal largely relate to the ground level setbacks shown below, which includes removal of 9 campus rooms (4 in building D and 5 in building C) and increased setbacks to the northern boundary:

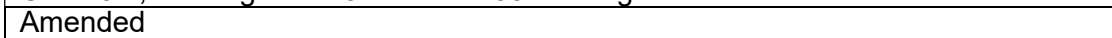
Figure 1: Shows the increased setbacks of Building C 10m from the north including 3m wide colonnade and building D setback 13.4m enabling a B99 turning circle.



Figure 2: Proposed site plan as amended showing layout changes clouded red being building D and C shifted further south and increased northern easement -see also figure 3 and 4 further below.



Figure 3: Amended Northern easement changes show increased setback of building C to 10m, building D to 13.4m and B99 Turning circle.



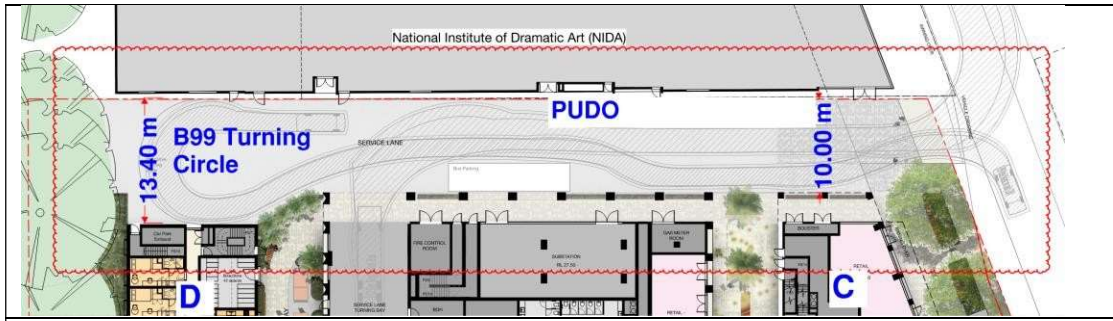
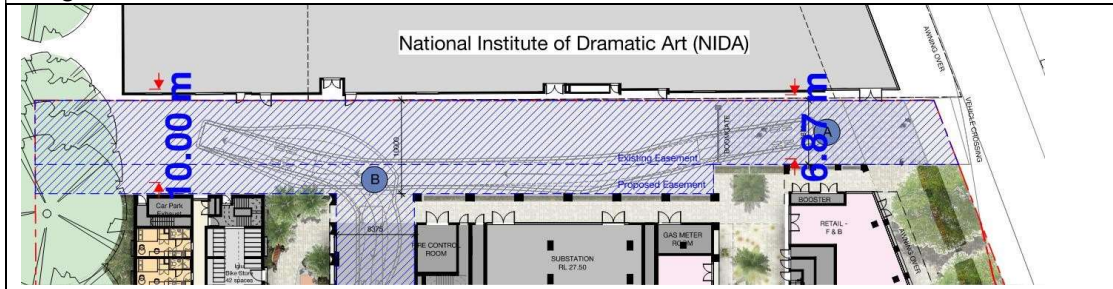


Figure 4: Original Northern easement changes show setback of building C 6.8475m building D 10m noting no B99 turning circle was provided

Original



The sole plan amendments relate to the shifting of building C and D further south increasing their setbacks to 10m and 13.4m respectively and including a B99 Turning circle at the western (rear) part of the easement resulting in the changes in the development data shown in table 1 further below.

Table 1: Development Data

Control	Proposal (as amended)	Deferral plans
Site area	9,280sqm (14,250sqm includes the regiment leased part of the subject site).	9,280sqm
GFA	27,741sqm (31,749sqm original)	27,417sqm
No of student rooms	881 student rooms (953 beds). (original: 1066 beds/rooms)	872 student rooms (944 beds)
Setbacks	Northern setbacks <ul style="list-style-type: none"> • Building C 6.875m • Building D 10m 	Northern setbacks <ul style="list-style-type: none"> • Building C 10m plus 3m wide colonnade • Building D 13.4m

2. KEY ISSUES

In addition to those identified in the original assessment report, the following Key Issues are relevant to the assessment of this application:

2.1 Building C and D setbacks

Deferral issues raised by the Panel include:

Building D and B99 Turning circle

The deferral issues raised by the panel requiring further issue to be canvassed with the applicant for reduced footprint of Building D to accommodate a turning circle for B99 vehicles as referred to in Colston Budd Report lodged on behalf of NIDA dated 31 July 2024.

The applicant submitted amended plans on 27 August 2024 showing an increase of the Building D footprint from the northern boundary from 10m to 13.4m. Colston Budd Rogers and Kafes have reviewed the amended setback and provided acknowledgement that the easement contains a right of way that allows a car to turn around at the western end of the right of way. Council's Traffic Engineer has also reviewed and confirm no further issues in relation to the turning circle and its ability to accommodate the B99 turning circle.

Building C

The deferral issue required canvassing of Building C footprint to be increased to be in line with Building B inclusive of a 3m deep colonnade. The applicant's amended plans as indicated in **Figures 1 and 2** show that the whole of building C is setback 10m from the northern boundary and that a 3m wide colonnade is provided in line with the colonnade at the rear of building B along the ground level.

The additional material submitted with the application demonstrates consistency with the deferral issues required to be canvassed with Council regarding Building C.

2.2 Pick-up and Drop-off (PUDO)

Council met with NIDA and the applicant to discuss the feasibility report and outline NIDA preferences for the easement inclusive of requirements for footpaths, pick up and drop off zones and additional changes to facilitate access arrangements. It is noted on behalf of NIDA, Colston, Budd, Rogers and Kafes reviewed the amended plans and PUDO feasibility study, the subject of this supplementary assessment and acknowledged that the improvements associated with the B99 turning circle and widened easement. This review also maintained a recommendation that the crossover be widened and amendments be made to the Building B turning bay to enable semi-trailers to enter and exit in a forward direction.

NIDA provided correspondence indicating preferences as follows:

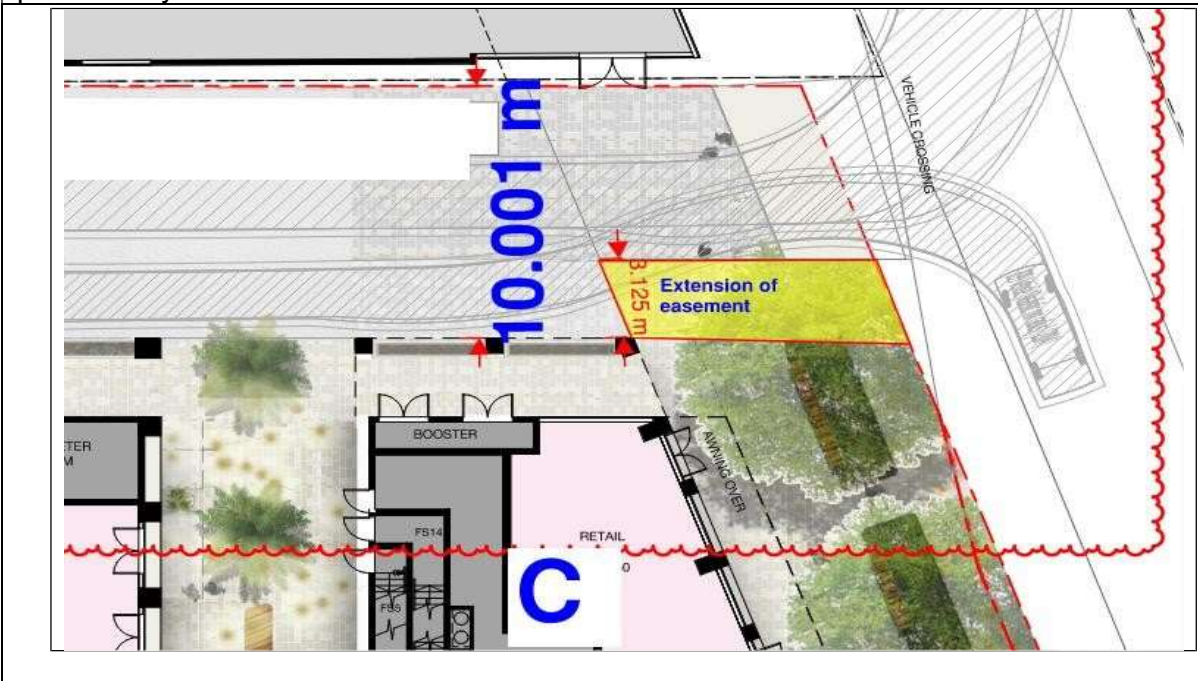
- *A 10m easement width for the entire length of the easement except where widened to accommodate a car turning bay and service turning bay. Removal of the landscaped area at the eastern end of the easement and replacement with paving or concrete to enable vehicles to travel over the area.*

Assessment Officers' comment: The main purpose of this change is to enable an extension of the easement at the north-east of building C in the yellow shaded area of the **Figure's 5 and 6** below. No objections are raised by Council in relation to this amendment as it enables a larger swept path for HRV vehicles and semi-trailers entering and/or exiting the site. A suitable condition is included to enable widening of the easement in this part of the site.

Figures 5: The figures below shows in street view the easement crossover and area of the easement extension preferred by NIDA. The street view image also shows the location of the bus stop in proximity to the southern edge of the existing crossover.



Figure 6: The figure below shows in plan layout, the extension to the easement width preferred by NIDA.



- *Two Pick Up and Drop Off (PUDO) areas within the easement, being an amended version of Option B. This involves one PUDO to the southern side of the easement adjoining the colonnade of Building B, and another on the northern side of the easement adjoining NIDA . These areas are required to accommodate cars, MRV and HRV vehicles.*

Assessment officers' comment: No objections to the above revision as it enables NIDA with the flexibility to use the PUDO areas and will assist in managing operations within the service easement to accommodate NIDA's operational requirements. An internal basement car park management plan was not included in the consent conditions as noted in deferral matters, however recommended Condition 2f requires the submission of an easement management plan prior to the occupation of this portion of the site.

- *Footpaths: A minimum 1.4m wide line-marked pedestrian pathway adjoining NIDA next to the northern PUDO for the length of the easement from Anzac Parade to the western studio doors.*

Assessment officers' comment: No objections to this preference as it ensures suitable access paths are available to pedestrians accessing NIDA various entrances along its southern elevation. A suitable condition is included to require the easement to be suitably line marked for pedestrian access.

Additional Matters raised by NIDA

NIDA also raised other operational preferences maintained in previous submissions for consideration by the panel, however these fall outside of the Panel's deferral issues to be canvassed with the applicant and are outlined as follows:

- *Widened Anzac Parade crossover: NIDA indicate a preference for the widening of the crossover to 10m at the street kerb.*

Assessment officers' comment: Council canvassed this with TfNSW who indicated that this has not been sought by the applicant and that this change would require referral and concurrence under S138 of the Roads Act. TfNSW also advised that in their consideration of the current application, they liaised with Sydney Buses who advised they were not supportive of a change to the crossover, which is located in close proximity to the existing bus stop. NIDA requests that the panel require that the applicant amend their application and seek a crossover widening on the basis that it is an opportune time to make such a change in terms of enabling HRV and also semi-trailers to enter and exit the easement. The widened crossover would also limit the need to traverse over splays, reduce potential conflict with pedestrians and remove the requirement to use the Tram Lane during the exit manoeuvres.

- *Semi-Trailers: NIDA appreciated the changes made thus far however indicated that it is also an opportune time to enable semi-trailers to enter and exit the site in a forward direction and that only minor internal changes such as extending the service turning bay into the meeting room and slight shift of columns adjacent to the east of the entry to the service turning bay along with increased crossover widening enable semi-trailers to enter and exit in a forward direction.*

Assessment officers' comment: The applicant does not seek to make these changes. Notwithstanding, it is acknowledged that a widening of the easement and increased depth and entry to the service turning bay area could enable semi-trailers to enter and exit in a forward direction.

- *Installation of a boom gate or traffic management system.*

Assessment officers' comment: Council advised NIDA that TfNSW advised Council that there were no objections to the use of the PUDO within the easement however that the existing gate at the front may result in vehicles overhanging onto Anzac Parade and recommended removal of the existing gate. It is recommended by condition that this gate be removed, and a replacement gate be sited further within the site to reduce the potential for vehicular congestion on Anzac Parade.

2.3 Conditions

The applicant was provided with draft conditions and has not agreed to condition 2b relating to privacy measures for building B facing NIDA, along with recommending amendments to condition 2f relating to pick up and drop off and requirement for a NIDA management plan within the easement and easement registration condition 6. An assessment has been carried out in respect to the Crown response as follows:

- Condition 2b Privacy measures for Building B levels 07 to 10 northern elevation reads:

2. *The approved plans and documents must be amended in accordance with the following requirements:*
 - b. *Privacy screening having a height of 1.6m (measured above internal floor level) shall be provided to northern side of Building B Levels 07 to 10. The awning windows shall not be opened by more than 250mm outwards.*

Applicant comments: Requiring additional privacy measures for levels 7 to 10 of building B aren't objectively required.

Assessment officers comment: Condition 2b is recommended to be retained as it is considered that additional privacy measures for levels 7 to 10 of building B are required to stop downward overlooking into NIDA classrooms particularly at night.

- Condition 2f Pick up Drop off condition:

Original draft condition:

2. *Pick up and drop off shall be provided along northern side of the easement alongside NIDA as generally shown in option C of the TTPP "Pick-up/Drop-off on NIDA lane – feasibility assessment document" dated 26 August 20224 (your ref: 23384) subject to the following changes:*
 - *A 2m minimum footpath width.*
 - *One PUDO area accommodating vehicles up to maximum HRV size.*
 - *Appropriate signage directing pedestrian traffic along the footpath towards Anzac Parade.*
 - *Pick up and drop off time limits.*
 - *Footpaths:*
 - *A 1.2 m minimum footpath width for the footpath east of the PUDO shown in option C towards the east frontage (guided by disabled d access)*
 - *1.4m minimum footpath width for the length of the PUDO.*
 - *1.2m minimum footpath width for the footpath west of the PUDO up to the western stage door.*
 - *Removable bollards shall be used around entry and exit points.*

Applicant comment: Iglu/UNSW are providing the easement area as per DA Drawing No. DA01.201 Rev F dated 26.08.2024. It will be up to NIDA's future plan of management/new easement terms/agreement with TfNSW on how it is to be operated.

We have proven all 3 options can work. The 3m wide footpath is picked up in condition 6 below. The other items are operational items.

Assessment officers comment: Noted, condition 2g (now 2f) is recommended to be amended to read as follows:

2. *The approved plans and documents must be amended in accordance with the following requirements:*

f. *Pick up and drop off along northern side of the easement alongside NIDA is to be provided in accordance with a Plan of Management, prepared in consultation with Transport for NSW and Council, and approved by UNSW as a Declared Organisation parking authority under the Road Transport Act and Regulation, and which may be updated from time to time to address the operational requirements of the users. Subject to the operational needs of the users, the Plan of Management shall set out the following:*

- *Size and dimensions to be consistent with the easement requirements in condition 6 of this consent.*
- *Footpaths and Pick-up and Drop-off zones are appropriately line marked and suitably clear of all vehicles sweep paths other than semi-trailers.*
- *Time limits for Pick-up and Drop-off*
- *Include signage necessary to direct and minimise potential for conflict with pedestrians and vehicle movement.*
- *Ensure that all visitors that use the right of way are aware of the necessity to ensure no obstruction of traffic through the way.*
- *Signalling and gates to be installed in a position that minimises the potential for vehicles to be backed up onto Anzac Parade.*
- *Any necessary approvals required for semi-trailer access or vehicles required to access the tram lane.*
- *Removable bollards shall be installed at entry and exit points along the easement.*

Condition 6: Easement condition read:

6. *Widening of northern easement/right of carriageway*

The existing right of carriageway at the northern side of the property shall be enlarged to be consistent with Drawing No. DA01.201 Rev F dated 26.08.2024. The ROW shall include a 2m minimum deep pedestrian footpath alongside the required pick-up drop-off area. No part of the building or other structures shall extend into or over the right of carriageway unless otherwise approved. The terms of the widened easement right of carriageway are to be to the satisfaction of Council's Development Engineers. All relevant plans submitted for the construction certificate shall demonstrate compliance with this requirement.

A 'Plan of Survey' with attached 88B instrument shall be registered at NSW Land Registry Services demonstrating compliance with this condition. All cost associated with the registration of the plan and widened right of carriageway are to borne by the applicant.

Applicant comment: Changes recommended on 3 September 2024 to condition wording.

Assessment officers comment: Following consultation with NIDA and Applicant on 4 September this condition is further amended as follows:

Widening of northern easement/right of carriageway

6. *The existing Easement for Access at the northern side of the property shall be enlarged to be consistent with Drawing No. DA01.201 Rev F dated 26.08.2024 and to incorporate the following line marking:*

- The ROW shall include the widening of the existing 1.4m wide pedestrian footpath shall be line marked running from the front of the easement at the eastern end of the site to the western stage door;
- The ROW at the front of Building C along Anzac Parade shall be widened from 6.875m to 10m for its full-length requiring replacement of landscape space with hard surface area.
- The ROW shall include a Pick-up Drop-off zone alongside the southern side of NIDA building beyond the 1.4m deep footpath and along the northern side of Building B colonnade. The PUDO shall accommodate vehicles up to HRV size and shall be suitably sited to not conflict with HRV sweep paths.

No part of the building or other structures shall extend into or over the right of carriageway that would inhibit vehicle access unless otherwise approved. It is acknowledged that the Easement for Access also includes the turning bay for an HRV within the proposed Building B and turning circle for B99 vehicles at the western end of the site.

All relevant plans submitted for the relevant crown certificate shall demonstrate compliance with this requirement. The terms of the widened easement right of carriageway are to be to the satisfaction of Council's Development Engineers acting reasonably.

A 'Plan of Survey' with attached 88B instrument shall be registered at NSW Land Registry Services demonstrating compliance with this condition prior to the Completion Certificate being issued. All cost associated with the registration of the plan and widened right of carriageway are to be borne by the applicant.

- Condition 77 Construction Hours reads:

Construction Hours

77. Building, demolition and associated site works must be carried out in accordance with the following requirements:

<i>Activity</i>	<i>Permitted working hours</i>
<i>All building, demolition and site work, including site deliveries (except as detailed below)</i>	<ul style="list-style-type: none"> • Monday to Friday - 7.00am to 5.00pm • Saturday - 8.00am to 5.00pm • Sunday & public holidays - No work permitted
<i>Excavating or sawing of rock, use of jackhammers, pile-drivers or the like</i>	<ul style="list-style-type: none"> • Monday to Friday - 8.00am to 3.00pm • Saturday - No work permitted. • Sunday & public holidays - No work permitted
<i>Excavating material other than rock</i>	<ul style="list-style-type: none"> • Monday to Friday - 7.00am to 5.00pm • Saturday - 8.00am to 1.00pm. • Sunday & public holidays - No work permitted

<p><i>Internal work only, which is not audible within any off-campus dwelling</i></p>	<ul style="list-style-type: none"> • <i>Monday to Saturday - No time limits (subject to work not being audible in any residential dwelling or commercial/industrial tenancy or building)</i> • <i>Sunday & public holidays - No work permitted</i>
<p><i>Additional requirements for all development (except for single residential dwellings)</i></p>	<ul style="list-style-type: none"> • <i>Saturdays and Sundays where the preceding Friday and/or the following Monday is a public holiday - No work permitted</i>

Please note: The hours for heavy machinery / piling works along the northern boundary and easement with NIDA shall be limited to between 7am and 12noon for 12-months from the date of work starting unless otherwise altered as a result of consultation forum with NIDA which shall be informed by the relevant Construction Noise and Vibration management plan required by condition 28 of this consent.

An application to vary the abovementioned hours may be submitted to appropriate authority, Building & Regulatory Services for consideration and approval to vary the specified hours may be granted in exceptional circumstances and for limited occasions (e.g. for public safety, traffic management or road safety reasons). Any applications are to be made on the standard application form and include payment of the relevant fees and supporting information. Applications must be made at least 10 days prior to the date of the proposed work and the prior written approval of authority must be obtained to vary the standard permitted working hours.

Applicants comment: Applicant does not agree with the note highlighted in yellow above on the basis that a blanket ban on construction hours for heavy machinery and piling along the northern boundary to 7am to 12noon for a 12-month period should not be applied as it is covered by condition 28 (Construction Noise and Vibration Management Plan).

Assessment officers' comment: Condition 77 should be retained in that a blanket ban is not necessarily required by this condition as it is worded such that it enables flexibility to amend these times through a Consultative forum (condition 27), which is informed by noise and vibration management plans (under condition 28). It is important that this condition be maintained as drafted to ensure that the demolition, and excavation works are managed in such a manner to provide for a reasonable level of certainty for NIDA ongoing operations. The operations that occur alongside the northern boundary and easement includes particularly sensitive uses such as practice-based class teaching, voice workshops including corporate training programs, operations in the ground level theatres and upper level Graduate studios, recording - both music and sound, events including industry, donors, school children, disabled community events etc., study and learning activities requiring quiet areas (including the library, meeting and breakout rooms), NIDA office administration, meetings and interactive, group and individual learning and tuition.

- Condition 13 Developer Contributions:

Section 7.11 Developer Contributions

13. Based on the development cost of \$242,848,265.00 the following monetary levy (representing 2.5% of the development cost) must be paid to Council: \$6,071,206.63 prior to the release of the first Crown Certificate.

The levy must be paid in **cash, bank cheque** or by **credit card** prior to a Crown Certificate being issued for the proposed development. The development is subject to an index to reflect quarterly variations in the Consumer Price Index (CPI) from the date of Council's determination to the date of payment. Please contact Council on telephone 9093 6000 or 1300 722 542 for the indexed contribution amount prior to payment.

To calculate the indexed levy, the following formula must be used:

$$\text{IDC} = \text{ODC} \times \text{CP2/CP1}$$

Where:

IDC = the indexed development cost

ODC = the original development cost determined by the Council

CP2 = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment

CP1 = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition requiring payment of the levy.

Council's Development Contribution Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at www.randwick.nsw.gov.au.

Reason: This condition is included to ensure that infrastructure upgrades and management costs are appropriately born by the applicant.

Applicant comment: The applicant has provided legal advice indicating that it is unlawful to apply the condition under S7.12 of the Act.

Assessment officers comment: Council acknowledges the Panel deferral comment requiring a contribution be applied at a maximum of 1% pursuant to S7.12 of the Act, however Council maintains its request that in line with legal advice provided to the panel and the applicant that a higher contribution should be applied under S7.11 of the Act, and that the Panel shall consult with the Council before determining the application as required by Section 2.26 of the EP&A Act. Council maintains the view that a higher contribution shall be applied for the following reasons:

- The proposal will or is likely to require the provision of or increase the demand for public amenities and public services within the Council area.
- The development is adopting a density and scale of development that is only allowed in the K2K town centres.
- The UNSW's view is that the proposed development is appropriate because of its proximity to the K2K town centres and the strategic approach that was adopted by Council.
- The proposed student housing is also equivalent to the co-living housing development approved on land within the K2K town centres and should be subject to the same contributions applied to these developments.

It is noted that Council has sent a further letter to the Crown (UNSW) seeking their agreement on application of a higher contribution commensurate with the scale of the development proposed under the subject application.

6. CONCLUSION

The Applicant has amended the proposal to address concerns raised by the Panel and has adequately addressed the reasons for deferral of the matter at the Panel meeting of 6 and 29 August. It is considered that the outstanding key issues as outlined by the Panel in section 2 have been resolved satisfactorily through amendments to the proposal.

The draft conditions not agreed by the Crown have been considered in this supplementary assessment report and are recommended to be retained by Council. It is recommended that these conditions be included to appropriately manage noise and vibration for heavy machinery and piling along the northern boundary and developer contributions.

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in the original assessment report and this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that whilst the additional information in support of the deferral has generally addressed and incorporated the requirements of the Panel, as detailed in the Record of Deferral, dated 9 August 2024 and 29 August 2024, Council maintains its assessment of the proposal and determination report recommendation for refusal provided at the determination meeting on 6 August 2023.

However, should the Panel recommend approval of the Development Application as amended to respond to the deferral issues, draft conditions of consent have been provided at **Attachment A**.

7. RECOMMENDATION

That the Development Application DA/199/2022 for alterations to existing educational establishment to demolish existing 220 space car park) and construction and use of five (5) buildings for mixed uses including student accommodation, UNSW university space, retail, communal and publicly accessible open space (West Mall), and basement car parking at 215B Anzac Parade, Kensington be REFUSED pursuant to Section 4.16(1)(a) or (b) of the *Environmental Planning and Assessment Act 1979*.

The following attachments are provided:

- **Attachment A:** Draft Conditions of Consent
- **Attachment B:** Architectural plans Revision G
- **Attachment C:** PUDO feasibility study