



DATE OF DETERMINATION	17 September 2024
DATE OF PANEL DECISION	17 September 2024
DATE OF PANEL BRIEFING	12 September 2024
PANEL MEMBERS	Carl Scully (Chair), Alice Spizzo and Susan Budd
APOLOGIES	None
DECLARATIONS OF INTEREST	Amelia Thorpe declared a conflict of interest as she is an employee of UNSW. She did not participate in any Panel meetings.

Papers circulated electronically on 6 September 2024.

MATTER DETERMINED

PPSSEC-281 – Randwick – DA/168/2023 – 215B Anzac Parade, Kensington (the **Site**) – Demolition of 250 space car park (220 spaces for UNSW) 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 (as described in Schedule 1).

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6 and is satisfied that the relevant requirements have been considered and addressed; the material listed at item 7; and the material presented at meetings and briefings; and the matters listed at item 8 in Schedule 1.

As noted above, in coming to its decision, the Panel considered the public submissions and issues raised by speakers at the public meeting, including extensive submissions and representations from NIDA, the University of NSW (**UNSW/University**)(the applicant)) and representatives of Iglu, which will build and manage the development.

This determination should be read in conjunction with the assessment report prepared for the Panel by Council officers, as it addresses several matters and State Environmental Planning Policies that must be (and have been) considered by the Panel in coming to its decision.

Application to vary a development standard

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the Randwick Local Environmental Plan 2012 (LEP), that has demonstrated that:

- a) compliance with cl. 4.3 (Height of Buildings) is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard

the Panel is satisfied that:

- a) the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of cl. 4.3 (Height of Buildings) of the LEP and the objectives for development in the SP (Infrastructure – Educational Establishment) zone; and
- c) the concurrence of the Secretary has been assumed.

Decision

The Panel determined to approve DA168/2023 (the **DA**) pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* as, in the Panel's view, it generally meets the objectives of the relevant planning controls, where they apply and meets several objectives of the *Environmental Planning Assessment Act, 1979*, including to promote the orderly and economic use and development of land. It also provides student housing in an area which has significant demand for student housing.

Cr Joanne McCafferty was in support of the majority decision, whilst Cr Marea Wilson disagreed with the majority decision. As the decision of the Panel was made after the local government elections both Crs McCafferty and Wilson had ceased to be local government councillors and were no longer members of the Panel at the date of determination.

The decision was unanimous.

Development Application - Background and history of the DA

It is important to understand the history of the Site which is owned by the University of NSW and is to be leased to Iglu as part of the development of the Site for student housing. The Site currently operates as an at grade car park for the University and is also used by NIDA visitors in the evenings on a relatively regular but not a fulltime basis.

The DA seeks consent for a range of uses including student accommodation, UNSW university space, and ancillary ground level retail premises, new communal and publicly accessible open space, and basement car parking on a currently underutilised area forming part of the western campus of the University of NSW Kensington campus. The application is a Crown Development Application.

To the immediate north of the site and on land leased from UNSW is the National Institute of Dramatic Art (NIDA). The NIDA building was constructed to the southern boundary of the leased area (i.e. nil setback), and for more than two decades NIDA has had the benefit of an unobstructed line of sight to the south over the at grade University car park area. NIDA's internal uses include noise, light and privacy sensitive uses in a range of rooms on the southern side of its premises. NIDA benefits from a 6.875m wide easement providing access from Anzac Parade and has also benefited from a range of formal and informal arrangements with University relating to vehicular access from Day Avenue (particularly for larger vehicles) and parking on the adjacent at grade car park which is now proposed for development.

The low-density residential area to the west of the Site is separated from the development Site by a row of mature trees along Doncaster Avenue which will be retained. University uses (New College and the UNSW Regiment) occupy land to the south of the proposed development.

The Height of Buildings development controls under Clause 4.3 of the Randwick Local Environmental Plan (RLEP) only apply to the 30m deep periphery of the site (a 12m Height of Buildings Standard applies to the western periphery and a 24m Height of Buildings Standard applies to the eastern periphery of the site along Anzac Parade). This means there is no Height of Buildings Development Standard for the remainder of the site, nor is there a maximum Floor Space Ratio constraining the scale of development on the site.

The Council and relevant Council planners do not support the development because, in their view, the development is an overdevelopment of the Site. In this regard the development has been considerably reduced in bulk, scale and height in response to concerns raised by the Panel, NIDA, Council, the adjoining and surrounding residents and the broader community.

As noted above only a small part of the Site falls under the height and FSR controls of the Randwick Local Environmental Plan 2012 (**RLEP**) and the major part of the Site is not subject to any height and FSR controls under the RLEP that would otherwise constrain built form on the Site. Historically, the University has managed development on the University grounds through the University Masterplan (**Masterplan**). The Masterplan provides for lower scale buildings.

Neither the Council nor the University have pursued the updating of the Masterplan. The Site was also not considered by Council when it undertook planning investigations into the Kensington to Kingsford Town Centres Planning Proposal (K2K) as it was considered to be part of the University and to be regulated in the future by a new or amended Masterplan.

The K2K corridor is a 2.5km stretch along Anzac Parade between Kensington to Kingsford town centres which proposes taller buildings at three significant nodes being Todman Avenue intersection, Strachan Street intersection and Nine-ways roundabout.

Council has also recently prepared a draft planning proposal for the Site to regulate the height of development on the Site but it has no legal effect as yet, and is not a relevant matter for the Panel to consider in the determination of this development application. Importantly, the development is permissible on the Site.

The width of the access road used by NIDA (via an easement granting a right of way on the site) has been significantly increased and now includes a turning circle and drop off area for cars near the NIDA entrance as well as a drop off area for buses.

REASONS FOR THE DECISION

The Panel determined to uphold the Clause 4.6 variation to building height for the reasons set out above and to approve the development application for the reasons outlined below.

The Panel considers the proposed development is well located for the proposed student accommodation and related uses and in close proximity to a range of public transport options including the University light rail station. It will mark an appropriate and well-defined western edge for the University campus by uniting the eastern and western parts of the campus through an extension of the University mall and providing a new well designed civic space on the western side of the campus, as envisaged by the University Masterplan 2020.

The development as a whole appropriately transitions from maximum height in the middle of the site to lower heights at the eastern and western edges of the site, thereby respecting the LEP height controls. With the exception of the height exceedance of two small edges of buildings A and B and a minor height exceedance for building C the built form adjacent to Anzac Parade complies with the 24m height of building standard in Clause 4.3 of the RLEP.

The Panel appreciates the high degree of community interest in this development evidenced by the large volume of submissions (both by way of objection and by way of support). The Panel understands the well-articulated concerns raised by the community and by NIDA through submissions, technical reports and in meetings. The Panel appreciates the considerable time and resources invested by NIDA in the development assessment process in an attempt to negotiate a more respectful built form interface between the NIDA building and the proposed development.

Council's Design Excellence Advisory Panel has considered and provided feedback on the proposed development from pre-lodgement stage. Significant amendments have been made to the proposed development since lodgement in response to issues raised by the Design Excellence Advisory Panel, NIDA and other submitters including substantial reductions in the heights of buildings A and B, a significant increase in the setback between NIDA and the northern elevation of buildings B and C, and refinement of the podium and civic place design and architectural finishes. The Panel has had regard to the matters in clause 6.11 of the RLEP and considers that the development as a whole exhibits design excellence.

While the extent of the changes do not align with the full extent of changes sought by NIDA the Panel is of the view that on balance the proposed heights and setbacks in the amended scheme before the Panel for decision are an appropriate outcome, subject to the imposition of recommended conditions of consent that further mitigate privacy and other use interface issues.

In particular, the significant reduction in height of buildings A and B has reduced overshadowing impacts on adjacent properties to an acceptable level, when balanced against the public benefits of the proposed development.

The Panel notes that the Site has been assessed as requiring remediation and is satisfied that the site can be made suitable for the proposed uses and that appropriate conditions of consent have been imposed to ensure the site is remediated to the appropriate standard and validated prior to occupation.

A number of significant changes have been made by the applicant to address issues raised by NIDA, the public and the Panel and accordingly, the Panel is of the view the proposed development provides an appropriate built form outcome for the site and that the DA should be approved.

Providing additional university student housing will take some pressure off the private rental market which is under pressure as a result of the housing shortage in the greater Sydney metropolitan area. The Panel is consequently of the view that approval of this well designed additional stock of student housing in an accessible location is in the public interest.

CONDITIONS

The Development Application was approved subject to the draft conditions prepared by Council which were uploaded to the portal on 9 September 2024 with the following amendments.

- Amend Condition 2 to read as follows:

Amendment of Plans & Documentation

2. The approved plans and documents must be amended in accordance with the following requirements:
 - a. Privacy treatment having a height of 1.8m (measured above internal floor level) shall be provided to all northern facing student room windows of Building B up to Level 06 . The awning windows shall not be opened by more than 250mm outwards.
 - b. All privacy treatment/screens/louvres must be constructed with either:
 - Translucent or obscured glazing (The use of film applied to the clear glass pane is unacceptable);
 - Fixed lattice/slats with individual openings not more than 30mm wide;
 - Fixed vertical or horizontal louvres with the individual blades angled and spaced appropriately to prevent overlooking into the private open space or windows of the adjacent dwellings.

Reason: This condition has been included to ensure sufficient visual privacy between the development and NIDA.

Signage

- c. The following signage are permitted as shown on plans DA09.001 G, DA09.002 G, DA09.004 G, DA09.005 G, DA09.006 F:
 - One sign to southern elevation of building A parapet
 - One sign to northern elevation of building B parapet. Delete the western sign on Building B parapet facing NIDA building.
 - One sign to eastern elevation of building A podium
 - One sign to eastern elevation of building C parapetDetails of signage shall be submitted to Council for approval prior to the issue of a relevant Crown Certificate being issued for the development.
- d. Pick up and drop off in the easement benefiting NIDA shall be provided in accordance with a Plan of Management, prepared in consultation with NIDA, 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 boom gates to be installed in a position that minimises the potential for vehicles queuing 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.
- Amend Condition 6 by:
 - Deleting the first dot point and inserting:
 - The ROW shall include a line marked 1.4m wide pedestrian footpath running from the front of the easement at the eastern end of the site to the western stage door;
 - Inserting the following as dot point 4:
 - The ROW shall include a B99(car) turning circle located at the western end of the easement associated with the Pick-up and Drop off zones.
- Amend Condition 12 to change the wording of the first sentence to:
‘Based on the development cost of \$250,422,619.70 the following monetary levy (representing 1% of the development cost) must be paid to Council: \$2,504,226.20 prior to the release of the first Crown Certificate.
- Delete Condition 16
- Amend Condition 76 Construction Hours by:
 - Inserting the following at the bottom of the table:

Piling and excavation works within 20m of the northern boundary facing NIDA.	• 7am to 12noon Monday to Saturday.
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 - Deleting the following:
‘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.’


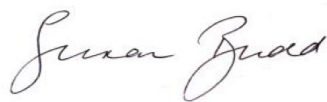

CONSIDERATION OF COMMUNITY VIEWS

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

- Inadequate separation along northern easement
- Noise and vibration impact from construction and operation
- Visual privacy impacts
- Visual bulk
- Overshadowing and loss of daylight
- Conflict with historical conditions of consent imposed under DA/1634/1999 regarding parking
- Increased traffic congestion and parking demand
- Excessive height
- Overshadowing
- DA is an inappropriate mechanism for significant changes
- Construction and site management impacts
- Noise impact from plant and machinery
- The proposal is not for affordable housing
- Works will cause damage to our building

- The proposed location of building C will impact the ability of vehicles to enter the site and detracts from the award-winning architectural character of the NIDA building
- Campus student accommodation in close proximity to the campus is ideal noting it will reduce reliance on privacy vehicles and result in use of more sustainable transport options
- Increasing the supply of student accommodation frees up housing rental for other key workers and professionals and working families
- The proposed development will bring student housing close to university resulting in more active travel and more productivity for students
- The proposal aligns with the government goal of solving the housing crisis
- The proposal will provide for affordable student housing
- Locating student housing close to university makes it affordable due to less time to travel and more conducive to the academic experience and the area along Anzac Parade from Todman Avenue down to Rainbow Street/Gardeners Road which is a student area supported by businesses and the light rail
- The proposal high density housing development would be a significant improvement to the streetscape and more productive use of land as opposed to the carpark
- Even if the campus accommodation is not low rental, it would reduce the demand for housing
- The reduced scale of the development is a direct dismissal of the housing crisis. There is a wide consensus on infill housing supply's impact on prices
- If the supply of housing is stunted this will have a follow-on effect on the viability of businesses in the area
- The UNSW is a significant employer which contributes greatly to the prosperity of the locality and the Randwick Council
- The proposed development looks fantastic
- Providing housing for international students on campus enables building up of social networks which is critical for new students from another country
- The developer should build kitchens in each common room
- The proposal will provide housing for rural and regional students
- The proposed development will benefit many more people than the submissions of a few objectors to the development
- Every development has compromises that must be made, the development is a better use of land and provides for many solutions relating to housing close to university, use of public transport and services
- The limited supply of housing in Randwick results in higher cost of housing

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

PANEL MEMBERS	
 Carl Scully (Chair)	 Susan Budd
 Alice Spizzo	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSEC-281 – Randwick – DA/168/2023
2	PROPOSED DEVELOPMENT	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
3	STREET ADDRESS	215B Anzac Parade, Kensington
4	APPLICANT/OWNER	University of New South Wales (UNSW) - Clare Hall University of New South Wales (UNSW)
5	TYPE OF REGIONAL DEVELOPMENT	Crown development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Planning Systems) 2021 ○ State Environmental Planning Policy (Biodiversity and Conservation) 2021 ○ State Environmental Planning Policy (Housing) 2021 ○ State Environmental Planning Policy (Industry and Employment) 2021 ○ State Environmental Planning Policy (Resilience and Hazards) 2021 ○ State Environmental Planning Policy (Transport and Infrastructure) 2021 ○ Randwick Local Environmental Plan 2012 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Randwick Development Control Plan 2013 • Planning agreements: Nil • Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> • Coastal zone management plan: Nil • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council Assessment Report: 30 July 2024 • Supplementary Assessment Report: 05 September 2024 • Clause 4.6 variation - Cl. 4.3 (Height of Buildings) • Written submissions during public exhibition: 584 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ Bill Peirson, Lauren Sideris, Gerard Hill, Liz Hughes, Catherine West, Philipa Veitch, Travis Cardona, Sigrid Thornton, Wendy Gray, Rachel Palazzi, Dr Benjamin Schostakowski, Nick Day, Kylie Harris, Kristen Hunter ○ Council assessment officer – Louis Coorey, Frank Ko, Meryl Bishop, Ferdinando Macri ○ On behalf of the applicant – Tim Beattie, Guy Lake, Tim Manning, Michael Oliver • Total number of unique submissions received by way of objection: 449

8 MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL

- Kick Off Briefing: 5 October 2023
 - Panel members: Carl Scully (Chair)
 - Council assessment staff: Louis Coorey and Frank Ko
 - Applicant representatives: Clare Hall, Michael Oliver, Jethro Yuen, Guy Lake, Chad Dao, Mark Pellen and Tim Manning
 - Department staff: Louisa Agyare and Lisa Ellis
- Briefing: 5 October 2023
 - Panel members: Carl Scully (Chair), Alice Spizzo, Susan Budd, Joanne McCafferty and Marea Wilson
 - Council assessment staff: Louis Coorey, Angela Manahan and David Appleby
 - Applicant representatives: Tim Manning, Mark Pellan, David Sok, Guy Lake, Clare Hall, Timothy Beattie, Clare Swan, Jethro Yuen
 - Department staff: Carolyn Hunt and Lisa Ellis
- Site inspection: 21 September 2023
 - Panel members: Carl Scully (Chair) and Marea Wilson
 - Council assessment staff: Louis Coorey
 - Applicant representatives: Tim Beattie, Tim Manning and Guy Lake
- Site inspection – 215 Anzac Parade, Kensington: 5 October 2023
 - Panel members: Carl Scully (Chair), Alice Spizzo, Susan Budd, Joanne McCafferty and Marea Wilson
 - Council assessment staff: Louis Coorey and Angela Manahan
 - NIDA representatives: Nick Read, Liz Hughes, Dan Brindle, Steve Kennedy and Danashree Chavan
- Briefing: 14 March 2024
 - Panel members: Carl Scully (Chair), Susan Budd, Joanne McCafferty and Marea Wilson
 - Council assessment staff: Louis Coorey, Kerry Kyriacou, Ferdinando Macri and David Appleby
 - Applicant representatives: Tim Manning, Mark Pellan, David Sok, Guy Lake, Clare Swan, Jethro Yuen, Alex Longley, William Miller, Dane Sinclair and Clare Hall
 - NIDA representatives: Liz Hughes, Rebecca Rush
 - Department staff: Carolyn Hunt and Lisa Ellis
- Briefing: 09 April 2024
 - Panel members: Carl Scully (Chair), Alice Spizzo, Susan Budd, Joanne McCafferty and Marea Wilson
 - Council assessment staff: Louis Coorey, Kerry Kyriacou and Frank Ko
 - Applicant representatives: Tim Manning and Tim Beattie
 - Department staff: Carolyn Hunt and Lisa Ellis
- Briefing: 18 June 2024
 - Panel members: Carl Scully (Chair), Alice Spizzo, Susan Budd, Joanne McCafferty and Marea Wilson
 - Council assessment staff: Louis Coorey, Frank Ko, Ferdinando Macri and Meryl Bishop
 - Applicant representatives: Tim Manning, Tim Beattie, Clare Hall and Dane Sinclair
 - Department staff: Carolyn Hunt and Lisa Ellis

		<ul style="list-style-type: none"> • Briefing: 17 July 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Susan Budd, Joanne McCafferty and Marea Wilson ○ <u>Council assessment staff</u>: Louis Coorey, Frank Ko, Ferdinando Macri, Meryl Bishop and Stella Agagiotis ○ <u>Applicant representatives</u>: Clare Hall, Tim Manning, Dane Sinclair ○ <u>NIDA representatives</u>: Liz Hughes, Nick Read and Catherine West ○ <u>Department staff</u>: Carolyn Hunt, Lisa Ellis and Renah Givney • Briefing to discuss Council’s recommendation: 06 August 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Susan Budd, Joanne McCafferty and Marea Wilson ○ <u>Council assessment staff</u>: Louis Coorey, Frank Ko, Meryl Bishop and Ferdinando Macri ○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis • Briefing: 13 August 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Susan Budd, Joanne McCafferty and Marea Wilson ○ <u>Council assessment staff</u>: Louis Coorey, Frank Ko, Meryl Bishop and Ferdinando Macri ○ <u>Applicant representatives</u>: Tim Manning, Tim Beattie, Clare Hall, Dane Sinclair ○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis • Briefing: 29 August 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair) ○ <u>Council assessment staff</u>: Louis Coorey, Frank Ko, Meryl Bishop and Ferdinando Macri ○ <u>Applicant representatives</u>: Tim Manning, Tim Beattie, Clare Hall, Mark Pellen ○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis • Final briefing to discuss Council’s recommendation: 12 September 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Susan Budd, Joanne McCafferty and Marea Wilson ○ <u>Council assessment staff</u>: Louis Coorey, Frank Ko, Meryl Bishop and Ferdinando Macri ○ <u>Applicant representatives</u>: Tim Manning, Tim Beattie, Clare Hall, Dane Sinclair, Mark Maryska ○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Provided with the Supplementary Council Assessment Report Version 2