

# THE PLANNINGHUB

*by Hawes & Swan*

3 April 2019

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Attention – Prity Cleary  
NSW Department of Planning and Environment  
GPO Box 39  
SYDNEY NSW 2001

Dear Prity,

## **Written Objection - SSD-17\_8993 – SCEGGS Darlinghurst Concept and Stage 1 DA on behalf of The Horizon, SP 58068, 184 Forbes St, Darlinghurst**

Thank you for providing the opportunity to comment on the proposed SCEGGS Darlinghurst Concept and Stage 1 DA at 165-215 Forbes Street, 159-163 Forbes Street, 224-226 Bourke Street and 217 Forbes Street, Darlinghurst (**the Subject Site**). This objection is written on behalf of The Horizon, SP 58068, 184 Forbes St Darlinghurst (**our Client**), that is located directly opposite the subject site to the east.

The Horizon is significant stakeholder in respect of this DA. The Horizon is a 43 storey tower comprising 243 residential apartments with a high (66%) owner occupier mix and approximately 400 residents calling the building home. Vehicular and pedestrian access is provided from Forbes Street, directly opposite the Subject Site. Apartments within the low rise of the building look onto Wilkinson House and Centenary Sports Hall. All apartments on the north, west and south side of the building look over the subject site with views towards the CBD.

It is noted that the proposal seeks approval for a Concept DA for the demolition of existing buildings, three new building envelopes for use as an education establishment and early education and care facility, on-site vehicular drop-off, and a concurrent first stage component for detailed works, being the demolition of Wilkinson House and detailed design and construction of one building within the Concept DA for an education establishment.

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It is our opinion that the development as proposed raises a number of significant issues for our Client that includes the following:

- The Demolition of Wilkinson House;
- Traffic Management;
- Review of CIV Value to Determine whether Design Competition Required;
- Impact of Construction & Staging; and
- Ambiguity within the Concept Application

The following sets out a detailed assessment of the proposed development based on a review of the DA documentation, a viewing of the site and adjoining properties and a detailed review of applicable planning controls.

## 1.0 The Demolition of Wilkinson House

Sydney Local Environmental Plan (SLEP) 2012 identifies Item I301 as a local heritage item at 165 – 215 Forbes Street and includes “*Sydney Church of England Girls grammar School group including Barham, Church Building and Wilkinson House and their interiors and grounds.*”

The following is extracted from the State Heritage Inventory Listing associated with Wilkinson House.

*“Wilkinson House: Originally named the Gwydir Flats, Wilkinson House is significant at a local level primary for its historic, aesthetic and social values. In a prominent location, the building makes a positive contribution to Forbes and St Peters Streets and to the Heritage Conservation Area. It is notable for its continuing residential use over the last 75 years and provides evidence of the residential flat building boom of the 1920s that permanently changed the residential pattern of Darlinghurst.*

*Wilkinson House is associated with the early stages of the career of the prominent early twentieth-century architect, Emil Sodersten, and could be, if not the first commission, then perhaps the last remaining of his early buildings in Sydney.*

*As a boarding house, the building has been associated with the historical development of SCEGGS Darlinghurst over a forty year period, playing an important role in the life of past and present boarders and staff. It continues to provide a focus of memories of their time at the school as well as being associated with traditions that contribute to the continually developing sense of the School’s identity.*

*Although not constructed to the original level of detail, Wilkinson House is representative of the construction of apartment buildings during the 1920s and of the use of an eclectic collection of architectural styles, displaying references to Inter-War Mediterranean, Spanish Mission and Georgian Revival influences.*

*Wilkinson House is significant for its continuous use since it was built for accommodation and for the long association with SCEGGS boarders and their strong attachment to the building as their 'home'. The building has historic social significance for its association with SCEGGS boarders. The building is historically significant for its association with Emil Sodersten, a key architect of the inter-war period in Sydney. Significant elements include original plaster ceilings to the majority of the building and ability to interpret the original apartment configuration, the intact entry foyer and lobby."*

It is noted that the applicant proposes both Concept Approval and detailed consent for the demolition of Wilkinson House.

The applicant states in their EIS that *"Wilkinson House is currently used by the School for a variety of purposes including general learning areas, staff rooms, study and student rooms. The useability of these rooms for full senior school classes is challenged, and the alternate use of these rooms for administrative and staff purposes result in a dilution of the primary administration zone within the centre of the school. Wilkinson House comprises a maximum four storeys and 1,161.90sqm of GFA."*

The applicant states that three broad options were developed that represent the range of possible alternatives for redeveloping Wilkinson house in accordance with the School's flexible learning spaces requirements, which were:

- Refurbishment of the building;
- Redeveloping the building with the principal facades retained; and
- Replacing Wilkinson House with a new building.

The applicant at the conclusion of this options analysis states:

*"This Options Analysis concludes that Wilkinson House does not adequately serve the School's educational objectives. The options considered for the site's redevelopment range from refurbishment of the existing building to its replacement with a new purpose-designed facility. The alternatives to replacement of the building which have been explored will not fully meet the School's requirements for the provision of larger flexible, contemporary learning spaces."*

#### **Comment:**

- Wilkinson House is heritage listed and located within C13 East Sydney Heritage Conservation area of SLEP 2012 and is highly visible from our client's property as can be seen in [Figure 1](#).
- The Land and Environment Court has decided a number of cases in recent time involving the demolition of heritage items, in all instances these appeals have not approved the demolition of the heritage item and the appeals have been dismissed, below is a list of these judgements:
  - *Morad v Inner West Council [2019] NSWLEC 1005;*
  - *Nader v Strathfield Council [2015] NSWLEC 1370;*

- *Otar Investments Pty Ltd v Burwood Council [2014] NSWLEC 1252*; and
- *Norm Fletcher & Associates v Strathfield Municipal Council [2013] NSWLEC 1118*;
- In our view the refurbishment of the building option is all that should be supported. As detailed in their own options analysis *“from a heritage perspective, the external form and fabric of Wilkinson House will be retained and the building will maintain its contribution to the streetscape and conservation area. Modifications of the interior to accommodate the required learning spaces will result in some loss of original fabric and plan form.”*
- The retention of Wilkinson House is of high importance and because the school says it does not meet its requirements should not be used as a reason for demolition. Many important heritage buildings have been adapted to new uses over the years in Sydney including:
  - Item No. I1661; Former Customs House at 31 Alfred St, Sydney;
  - Item No. I1890; Former Sydney General Post Office, 1 Martin Place, Sydney; and
  - Item No. I1698; Former “Legion House” ; 161-163 Castlereagh St, Sydney.



Figure 1: Photo taken from Horizon looking at Wilkinson House



## 2.0 Traffic Management

The applicant states that they do not propose any increases in student capacity or staff levels of SCEGGS Darlinghurst, however there will be a total net increase of 3,286.4m<sup>2</sup> GFA with the new facilities focussed on the delivery of improved functionality, efficiency and amenity. As such, there are expected to be negligible impacts on the external road network given the traffic generating potential of the school will be unchanged.

They further state that the proposed development should not warrant any road upgrades, and rely upon current arrangements already implemented to address the efficiency of pedestrian and vehicular movements.

The applicant notes that St Peters Street is a local street that traverses in an east-west direction linking Forbes in the east and Bourke in the west and accommodates westbound traffic via single one-way lane. They note that this street is typically only open during the AM and PM peak periods of the school, with a remotely operated gate closed at both ends during other times.

The applicant's traffic report incorrectly describes Forbes Street travelling to the north. As can be seen in [Figure 2](#), Forbes Street is a dead end and when St Peters Street is closed it is a dead end further back up the street.



**Figure 2:** Photo taken from Intersection of St Peters Street (closed) and Forbes Street with Dead End in Distance

The applicant does not propose any hours of operation for the school including whether any weekend use will be included. In addition, the applicant does not describe how buses that frequent the school to take kids to sporting events etc are undertaken.

[Figure 3](#) and [4](#) identifies existing on-street traffic problems that exist with the current operation of the school.

The EIS and Traffic Impact Assessment do not describe how the school is used outside of the typical school timetable. For example, there is no discussion on using the space on weekends for events etc.

The Traffic Impact Assessment when considering the traffic impacts of the proposal does not detail the impacts of the proposed development in future years once other surrounding DA approved development sites come on line and their Concept Masterplan has been realised.

Our client's property has a internal driveway loop that operates like a Porte -cochere. Because of limited opportunities to turn-around parents often use this private property to turn around and to head south along Forbes Street.



**Figure 3:** Photo of Idling Buses in Forbes Street in AM Peak





**Figure 4: Existing Traffic Jams within the Surrounding Local Street network**

**Comment:**

- The Residents of the Horizon already have concerns about the ongoing traffic arrangements that are currently in place and are of the opinion that they are not adequate which we would concur with based on our observations onsite.
- The applicant notes that whilst the Gross Floor Area (GFA) of the school is getting bigger, the staff and student numbers will not be increasing and therefore there will be no traffic impact. However, State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 permits under certain circumstances (cl 36) an increase in the number of students and staff by up to 10% (compared with the average of each of those numbers for the 12-month period immediately before the commencement of the development) without consent. Therefore, we are concerned that whilst the applicant states there will be no increase, the school may be able to increase their numbers without proper traffic input.
- The Traffic Impact Assessment should be revised to take into consideration future traffic demand under the Masterplan. We are aware of a current application on the corner of Forbes and Liverpool Street which if approved has the potential to impact on traffic within the local area.
- Currently as can be seen in [Figure 2](#), buses being used for school events and the like are sitting idling in the street up to an hour within Forbes Street in the AM peak which removes important on street drop-off and pick-up space. The Traffic Impact Assessment does not adequately address this conflict

and better arrangements are needed detailing where these buses should park without causing any traffic impact.

- As discussed above St Peters Street is a one-way road linking Forbes and Bourke St. However, this local street is closed outside of weekday peak periods. Once closed Forbes St ends up being a dead end road with all traffic arriving within Forbes Street having to turn around with limited opportunities to do so then travelling back south along Forbes Street. Consideration should be given to making St Peters Street open 24 hours permanently 24 hours a day, 7 days a week. This would alleviate concerns on evenings or weekends when events take place within the school.
- The applicant states that they currently implement a traffic warden to monitor pick-up and drop-off zones and a member of primary school staff to help with efficient on-site vehicular movement however our on-site observations noted that the school staff member did not play an active role in assisting with the drop-off and pick-up periods and if the school are going to place a high emphasis on this initiative to alleviate traffic problems then they need to be more hands on and should the DA be approved by the Department strong enforceable conditions should be included committing the school to this initiative.

### 3.0 Review of CIV Value to Determine whether Design Competition Required

Clause 6.21(5)(c) of Sydney Local Environmental Plan (SLEP) 2012 states *“Development consent must not be granted to the following development to which this clause applies unless a competitive design process has been held in relation to the proposed development: (c) development in respect of which a development control plan is required to be prepared under Clause 7.20,”*

Clause 7.20 (2)(b) of SLEP 2012 states *“development consent must not be granted to which this clause on the following land unless a development control plan that provides for the matters in subclause (4) has been prepared for the land (b) if the site area for the development is more than 5,000 square metres or if the development will result in a building with a height greater than 25 metres above ground level (existing).”*

The subject site is identified as having a total land area of 11,519sqm therefore the provisions of a competitive design process is required by SLEP 2012.

Clause 35(8) of the State Environmental Planning Policy (SEPP) (Educational Establishments and Child Care Facilities) 2007 states *“a provision in another environmental planning instrument that requires a competitive design process to be held as a prerequisite to the granting of development consent does not apply to development to which subclause (6)(a) applies that has a capital investment value of less than \$50 million.”*



It is noted that the applicant has identified the Capital Investment Value (CIV) as \$49,374,000, therefore relies on Clause 35(8) of the SEPP (Educational Establishments and Child Care Facilities) 2007 to not require a competitive design process under SLEP 2012.

**Comment:**

- It is our strong opinion that the Department of Planning & Environment should undertake an independent peer review of the CIV value identified by the applicant given it is close to the \$50 million threshold.
- It is our strong opinion that a competitive design process should be undertaken in accordance with SLEP 2012 if the Department of Planning & Environment's peer review determines that the CIV exceeds \$50 million.

#### **4.0 Impact of Construction & Staging**

The applicant states that excavation up to a maximum depth of 3.3m is required to accommodate the proposed building envelopes and the replacement building of Wilkinson House. It is noted that this excavation will require excavation through rock which will cause noise and vibration to surrounding buildings including our client.

The Acoustic Assessment recommends a Construction Noise and Vibration Management for the site which addresses noise and vibration measures and monitoring, and importantly community liaison and complaint handling contact.

In addition, the applicant states that the Concept Masterplan will be implemented over 3 stages with Stage 1 commencing in 2020 and Stage 3 commencing between 2030 – 2040. This means that the subject site could be considered a construction site for the next 20 years, which is concerning.

**Comment:**

- It is important that particular emphasis is placed by the Department on the Construction and Noise Vibration Management Plan, and conditions included ensuring that this Management Plan be approved by the Secretary.
- Particular emphasis should be placed on ensuring that rock breaking is minimised, or should it be needed only occurs over short periods to minimise any noise and vibration impacts on local residents.
- The Construction and Noise Vibration Management Plan should also include respite periods, e.g. it is highly likely that the school will want works to occur during holiday periods to minimise impacts on their school activities, however this is likely to be at times when local residents are enjoying holidays themselves, e.g. over Christmas & New Year Periods.

- Any conditions of consent should be flexible enough that should a particular construction management plan not work, that the Secretary can require changes to the Management Plans during construction, for example a review requirement of the management plans could be implemented mid-way through construction.

## 5.0 Ambiguity within the Concept Application

The applicant's EIS states that this SSD DA seeks consent for 'education establishments' and 'early education and care facility'. It further states at Pg. 14 *"the future uses of the multi-purpose building proposed above will be confirmed as part of a subsequent detailed DA for the construction, operation, and fit out of the building however could accommodate an information and research centre (contemporary library), early learning centre (90 maximum children), classrooms and general learning areas, meeting rooms, and/or a swimming pool."*

The EIS at pg. 15 then states "The SSD DA does not seek to increase the student or staff population at the school compared to current school populations."

Existing populations within the senior and junior school is provided on pg. 17 and 18 of the EIS. They state that the senior school accommodates a maximum 656 enrolled senior school pupils. They state that the junior school caters for a maximum 286 enrolled pupils.

On pg. 25 of the EIS the applicant states:

*"The proposed development and the broader 2040 Masterplan does not seek to increase student or staff numbers from the current level."*

*Consent is however sought for the potential use of part of the multi-dwelling purpose building for an "early education and care facility". If detailed consent for this use is ultimately sought for this use within the multi-purpose building and if it is open to the public and local community as opposed to out of hours school care (that currently exists on the site), there could be an increase in up to 90 children and the required staff to support those children on the site. Prior to this occurring however, a separate SSD DA and detailed assessment of the impact of this additional population on the school would need to be undertaken at that stage (Stage 3 of the Masterplan)."*

On pg. 29 of the EIS states "Concept development consent is sought for 'educational establishment' and 'early education and care facility' land uses as defined under the standard instrument LEP across the site the subject of this SSD DA."

The traffic impact assessment at Pg. 29 states "In summary of the Concept Masterplan, there will be a net increase of 3,123.3m<sup>2</sup> GFA but importantly, no increase in either staff or student numbers, with the new facilities focussed on the delivery of improved functionality, efficiency and amenity."

On Pg. 30 the traffic impact assessment then states *“It is also noted that one of the potential uses of the Multi-Purpose is for a child care centre. While this is not formally proposed, discussion has been provided for the indicative parking and traffic impacts arising from an envisaged capacity for 90 children.”*

On Pg. 34 of the traffic impact assessment, they state *“the child care centre would nominally require 11 pick-up and set down spaces (with a parking provision to be determined upon confirming the GFA). It is anticipated that a traffic assessment would accompany any future Development Application, where it is understood that SCEGGS Darlinghurst will intend to schedule opening times away from the peak activity for the current school. The provision of seven (7) pick-up and drop-off spaces as part of the Concept Masterplan could thus be relied upon, with any concessions to the above rates to be taken into consideration.”*

On pg. 35 the traffic impact assessment states *“The Concept Masterplan and Stage 1 DA does not propose any increases in student capacity or staff levels for SCEGGS Darlinghurst. As such, there are expected to be negligible impacts on the external road network given the traffic generation of the school will be unchanged.”*

Finally on Pg. 36 the traffic impact assessment states *“it is noted that the potential for a child care centre would have the potential to generate up to 72 vehicle trips per hour, based on application of trip rates under the RMS Guide to Traffic Generating Developments (0.8 vehicle trips per child per hour during the AM peak period). These impacts have not been modelled as the centre is not formally proposed as part of the Concept Masterplan, however it is noteworthy that the critical intersections of Liverpool Street at Bourke Street and Forbes Street operate well at a Level of Service B and A respectively under 2018 conditions.”*

#### **Comment:**

- As can be seen in the summary of the EIS and traffic impact assessment above, on the one hand they are seeking concept approval for a child care centre for up to 90 children within a proposed envelope, then saying that there will be no increase in the schools population. The traffic impact assessment goes further to state, there are expected to be negligible impact on the external road network given the traffic generation of the school will be unchanged, then states that the child care centre will have the potential to generate up to 72 vehicle trips per hour in the morning peak and these impacts have not been modelled.
- In our opinion there is unacceptable ambiguity in the applicant’s Concept Application. They either need to seek approval in concept for the child care centre and therefore assess the traffic impacts that are generated by that development, or not propose the child care centre and remove the envelope from the concept application.
- It is not acceptable to grant approval for an envelope with an assigned land use, e.g. ‘early education and care facility’ and then not assess the traffic impacts that this land use generates and leave it to a detailed DA. It either needs to be taken into consideration in the assessment of this concept application or the envelope and land use removed from the application.



## 6.0 Other Comments

Whilst we have raised a number of significant issues that our Client has with the proposed development there are a number of other issues that we would like to raise to ensure that they are adequately addressed during the Department's assessment. These are:

- Our client is located directly the opposite and looks over and down on the subject site. Therefore, what happens on the roofs of new buildings is particularly important. We would like to ensure that:
  - The use of green roofs should be encouraged and specified on future buildings;
  - Plant located on the roof shall be contained within the architecture of the building; and
  - The use of reflective material minimised.
- Feedback from our client is that the whilst the applicant undertook public consultation with the community, it was considered not acceptable and they felt that none of their concerns identified in the consultation have been properly listened to or addressed. The concern is that any future public consultation that occurs during the construction phase will be the same and therefore detailed conditions of consent during construction need to be drafted to ensure the school is held accountable during construction and issues that arise during construction are addressed promptly.

## 7.0 Recommendations

It is in our professional opinion that the proposed application is not acceptable in its current form and has unacceptable impacts on adjoining properties and should not be approved.

In summary, we are of the opinion that the application should be **refused** for the following reasons:

- The demolition of Wilkinson House should not be supported. The applicant has detailed 3 options and it is our strong opinion that the only acceptable outcome is the refurbishment of the building or at the very least, redeveloping the building with the principle facades retained.
- The traffic impact of the proposed development has not adequately been resolved. On-street traffic problems currently exist, and the applicant does not propose any additional traffic measures to adequately manage traffic impacts caused by the school within the local network.
- Strong consideration should be given to opening up St Peters Street permanently to better manage traffic that occurs outside of normal School hours.
- Consideration should be given to how the schools commitments including the use of traffic wardens and school staff to assist with pick-up and drop-off can be complied with as they currently do not work, and the applicant relies upon these to address traffic impacts.

- The Department should undertake an independent review of the Applicant's CIV value and should this come back over \$50 million a competitive design process should occur.
- The applicant should be required to address the ambiguity in the current Concept Application and either seek approval in concept for the child care centre and therefore assess the traffic impacts that are generated by that development, or not propose the child care centre and remove the envelope from the concept application.
- The applicant should be required to specifically address rock breaking given the proposed excavation likely through rock and ensure that this is done over short periods only and respite periods implemented.
- The applicant should be required to ensure that the roofs of all buildings either have green roofs and any plant incorporated into the architecture of the building to reduce impacts from our client's property.
- The applicant must commit to public consultation during construction and detailed conditions in place during construction that requires the school to address any complaints promptly.

We thank you for the opportunity to outline our client's real and genuine concerns and should you wish to discuss any of the details of this response please do not hesitate to contact **Jeremy** on 9690 0279 or [jeremy@theplanninghub.com.au](mailto:jeremy@theplanninghub.com.au).

Yours sincerely,



Jeremy Swan  
DIRECTOR | THE PLANNINGHUB