

Our reference Jodie Wauchope
Direct line +61 2 9931 4778
Email Jodie.wauchope@gadens.com
Partner responsible Jodie Wauchope

gadens

Gadens Lawyers
Sydney Pty Limited
ABN 69 100 963 308

77 Castlereagh Street
Sydney NSW 2000
Australia

DX 364 Sydney

T +61 2 9931 4999
F +61 2 9931 4888

gadens.com

27 July 2015

Department of Planning and Environment
23-33 Bridge Street
Sydney NSW 2000

By email: peter.mcmanus@planning.nsw.gov.au

Dear Sir

**Letter of objection to Staged Concept Proposal SSD 6454– SCEGGS Redlands 272 Military Road, Cremorne (Proposal)
Unit 1/19 Waters Street Neutral Bay NSW (Property)**

We act for Margaret Hanks the owner of the above Property (**Owner**). We are instructed to make submissions on behalf of the Owner.

We have reviewed the plans and documents lodged in respect of the Proposal, and have considered the impact the Proposal will have on our client's property and amenity. Having reviewed these documents, the Owner strongly objects to the Proposal as the impacts of Stage 4 of the Proposal on the amenity of our client's land will be significant, including:

- (a) significant loss of solar access to our client's Property, particularly the living room and principle private open space throughout June, July and August;
- (b) privacy impacts upon our client's primary private open space, and living room;
- (c) significant increase in noise and vibrations as a result of the adjacent building and new roadway, but also during the period of excavation; and
- (d) increase in traffic and concerns regarding reduced access to the Property.

Our client's concerns are set out in more details below. We ask that you consider these concerns in your assessment of the concept Proposal.

The proposal in relation to Unit 1/19 Waters Street

The applicant has proposed a redevelopment of the education facility, SCEGGS Redlands, and is seeking approval for stage 1 and concept plan approval for the remaining stages. Stage 4 of the proposal is directly adjacent to our client's property, and the subject of this objection.

Our client's home is one of a number of townhouses, directly adjacent to a portion of the southern boundary of the school. The rear northern boundary of our client's property abuts the school boundary. In that location of our client's property there is a small outdoor courtyard which is the principal private open space for the dwelling. The living area of the home faces onto the courtyard (and the current low level school buildings).

We are instructed that two of the six occupants of our client's townhouse building, including our client, are over 60 years of age and spend the majority of their time at home, and therefore will be

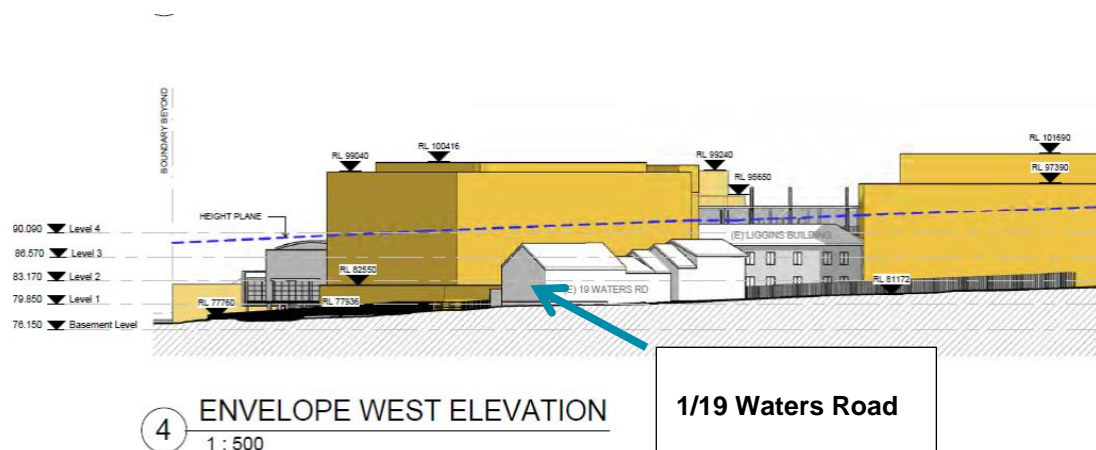
impacted significantly by the development. Another two of the six properties are owner / occupants who work from home.

Adjacent to the rear of our client's property the applicant proposes a long driveway (passing from west to east of the site) which is proposed to provide access to parking and a garbage room. Also in that location, with a minimal setback to our client's rear boundary, the applicant proposes one of the largest buildings on the site, a 4 storey multi-use building, referred to in the Proposal as the Humphrey Learning Hub (**Humphrey Building**), that is **entirely unacceptable** in its current form.

The location of such a large building (in height and length) directly adjacent to the northern boundary of many residential properties is a spectacular case of extremely poor site analysis and planning that will result in maximum impact on the residential properties.

The building is designed as one large 'box-type' mass directly at the rear of our client's townhouse home, separated only by a driveway. The height and bulk of the proposed building, combined with the totally inadequate setback from our client's northern boundary would, if approved, have significant impacts on our client's property.

The proposed building will completely remove solar access to our client's living room and rear private open space courtyard. It will also have a detrimental impact on our client's privacy. There is no evidence in the design that the applicant has sought to accommodate these concerns or in any way considered the interaction between the proposed building and the adjacent townhouses. The building is significant in its bulk and scale, and it does not respect the scale or uses of the adjacent residential buildings. The below image extracted from the plans lodged with the application demonstrates the overbearing nature of the proposed building on our client's dwelling.



Solar access

1. Our client's property currently has direct sunlight to her living room and main bedroom through windows located on the north side of the Property, being that side directly adjacent to and facing the site. Our client also has a small outdoor courtyard that currently receives solar access and where our client, being retired, spends a significant portion of her time. These are the only living areas that receive direct sunlight in the home and the only direction from which direct sunlight can be received.
2. The shadow diagrams provided with the application are at a scale which is totally inadequate for the purpose of properly understanding the impact of the proposed building on our client's property. Nevertheless, a review of the shadow diagrams included in the submission shows that the excessive bulk and height of the proposed Humphrey Building will **completely** remove the solar access to our client's living room which is her primary living area, and her courtyard which is her primary outdoor area. The Humphrey Building would also completely remove solar access to our client's bedroom on the first floor of the property in winter. Additionally, this complete loss of solar access during the winter months

will impact **all of the properties** located at 19 Waters Road.

3. Reduced solar access will significantly impact on our client's access to natural light and warmth, particularly in the winter months. Our client currently receives plenty of natural light through the windows on the Northern side of her property, and the loss of this light will considerably decrease the energy efficiency of the building and heating costs in winter will rise excessively.
4. The loss of solar access that would be caused by the bulk and 4 storey building is unjustifiable on any merit assessment. Our client's living room and courtyard are located on the ground floor of the property, and the height of the building, being 4 storeys, will completely overshadow our client's primary living areas. It is also contrary to the Land and Environment Court's planning principle in *The Benevolent Society v Waverley Council* [2010] NSWLEC 1082, which relevantly held that:
 - (a) The amount of sunlight lost should be taken into account. Our client is completely losing her sunlight access to, at minimum, her living room and courtyard;
 - (b) The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. The Proposal is within a low density residential area, and the majority of the surrounding properties are consistent with such an area, and therefore significant weight should be given to this concern; and
 - (c) Overshadowing due to poor design is not acceptable, even if it satisfies numerical guidelines. The Humphrey Building has been designed as one large 'box-type' mass, and this design indicates that little thought has been given to creative solutions for continued solar access to our client's property.
5. Additionally, *North Sydney Development Control Plan 2013 (DCP)* requires all dwellings to have access to sunlight and daylight and minimal overshadowing of windows to internal living areas and private open space of adjoining dwellings.
6. Further, the DCP requires existing sunlight and daylight to adjoining dwellings is maintained and any design is to allow solar access to the main internal living areas and principal private open space areas of adjoining properties for a minimum of three hours between the hours of 9.00am and 3.00pm during winter solstice (21st June).
7. The DCP also requires that the design of any proposal not reduce any existing solar access to adjoining properties if that solar access is already below three hours between the hours of 9.00am and 3.00pm during winter solstice (21st June). No assessment has been provided in this regard in the Statement of Environmental Effects, however it is clear that the impact will be material.

Privacy concerns

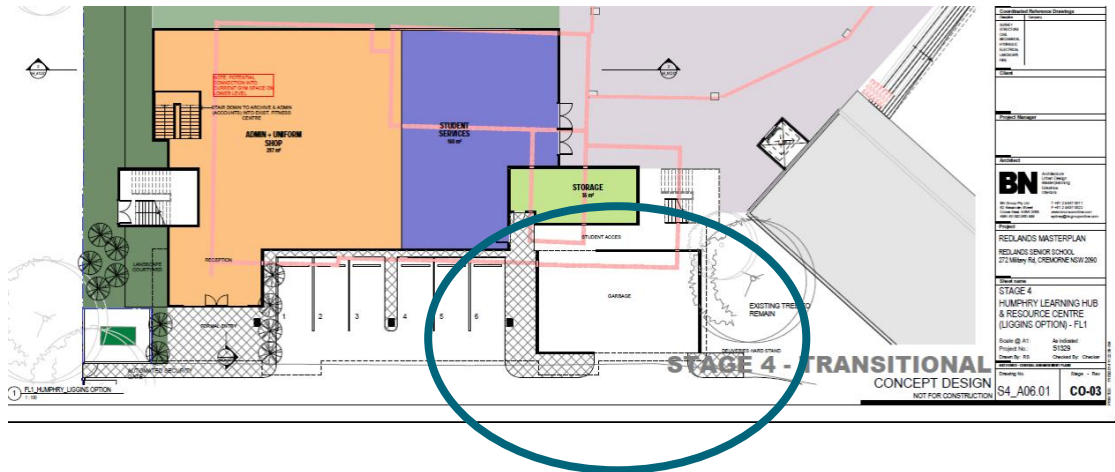
8. Our client's main living area and kitchen are at the rear of the building. Directly adjacent to our client's internal living/kitchen area, outside, is the principal private open space area. This area is paved and surrounded by a combination of a brushwood fence and a 2 metre brick wall and low lying shrubbery. The proposed internal access road will be built directly adjacent to the outside area, and the Humphrey Building will be directly in front of our client's courtyard and the other townhouses at 19 Waters Road.
9. The proposed internal access road and the Humphrey Building will directly impact our client's privacy as follows:
 - (a) The Humphrey Building is proposed to be four storeys high. This means that

students on storeys two, three and four of the building will be able to look **directly into our client's primary living area and outside courtyard**. This is particularly significant as our client is retired and is therefore home during school hours;

- (b) The Humphrey Building proposes having a pool on the top of the building, which will result in students being able to look over the edge of the complex directly down into our client's courtyard, bedroom and living room; and
 - (c) There will be school buses, cars, rubbish trucks and pedestrians using the internal access road which is proposed adjacent to the rear boundary of our client's property (and our client's private open space). Users of this road will be able to see into our client's living area and courtyard, and will be in extremely close proximity to our client whilst she is using her outside area. There will also be exhaust fumes and traffic noise as a result of the close proximity of the access road to our client's property.
10. Overall the impact on our client's property will be to completely remove all amenity in her living and bedroom areas, by way of loss of privacy, acoustic impact, and complete loss of solar access.
11. The loss of privacy that would be caused by the additional storey and bulk of the building is directly contrary to the Land and Environment Court's planning principle in *Meriton v Sydney City Council* [2004] NSWLEC 313. In this decision, the Court held that the ease with which privacy can be protected is inversely proportional to the density of the development, and at low densities there is a reasonable expectation that a dwelling and some of its private open space will remain private. The Proposal falls in an area comprised primarily of low density residential dwellings and therefore it is reasonable for greater weight to be placed on privacy concerns.
12. Furthermore, the Court also stipulated that the use of a space determines the importance of its privacy, and that the privacy of living areas are more important than that of a bedroom. As noted, our client's primary indoor and outdoor living areas are directly adjacent to the proposed internal access road and Humphrey Building and therefore the impact is of great significance to our client's use of her home.

Noise

13. The Proposal will have a detrimental effect on our client due to the level of noise generated by the proximity of the Humphrey Building, one of two core teaching facilities in the Proposal, being located directly adjacent to our client's property.
14. Further, the Proposal suggests that a pool will be built on the roof of the Humphrey Building for use as a sporting facility. The plans depict this as an open-roofed pool, and therefore the noise generated from sporting activities will not be contained and significantly impact on our client. This is particularly the case where any sporting activities would likely take place during the day at which time our client, being retired, is often using her outside courtyard area.
15. The diagram below extracted from the application plans shows a large garbage area within or adjacent to the Humphrey building and demonstrates that access to the garbage area for the Proposal is directly adjacent to our client's property (though notably the adjacent residences are not shown on the plan). This will result in garbage trucks using the access lane on a weekly or daily basis, which is both noisy and potentially smelly, and strongly objected to by our client.



16. The large garbage area is proposed to be located directly adjacent to the backyards of the residential properties, off the access handle.
17. Our client's only private open space, lounge room and bedroom all face onto the proposed access handle. This means that our client and other residents will be subjected to the noise and smell of regular garbage truck movements.
18. The location of the access handle and garbage room are completely inappropriate, and push the unacceptable impacts of noise, traffic and garbage trucks onto the neighbouring residences, rather than containing these impacts internally within the development.

Traffic

19. As noted in the Statement of Environmental Effects (**SEE**) accompanying the Proposal, there is already a deficit of parking in the area, and an analysis of existing travel behaviour indicates strong reliance on private cars. The development will undoubtedly have an impact on the already poor availability of parking in the area particularly if the significantly expanded scale of the school grounds leads to an increase in the number of students attending the school.
20. An increase in the number of students being picked up at the site will significantly reduce parking availability in the nearby streets of Gerard Street, Waters Road and Winnie Street, especially at peak times. Our client considers that the current pick up situation is already problematic, with our client being unable to access her property most week days due to congestion and cars parking across the property driveway arising from a lack of pick up points. Given our client is elderly and lives alone, it is crucial she have appropriate access to her property at all times.
21. Further, the Proposal anticipates the increase of sporting facilities on-site. This will significantly increase traffic flow in the area on Saturdays from external visitors attending sporting events.

School student numbers

Notably the application does not include an application to increase the total number of students (currently maximum potential is 950 students). There is no information as to what the total capacity of the school will be following such a massive expansion of school facilities as is proposed, with such a large increase in total GFA. Given there is no request to increase the student population (and no consequential assessment of the impact of such a request) any approval should include a limitation on the total number of students enrolled, to cap the number at the total 950 maximum.

Appropriateness of proposal

The proposal ought to be refused on the basis that the impacts of the Stage 4 component of the proposal on our client's land in relation to solar access and privacy/overlooking are severe and unacceptable. The placement of a large bulky four storey building almost directly on our client's rear northern boundary will remove all winter solar access for her private open space and living room, and will also impact on her bedroom, all of which are oriented to the north.

Other amenity impacts arising from the totally inappropriate bulk and scale of the building abutting the residential properties and the ill thought out placement of the internal road and garbage room will be both significant and unacceptable for our client. The acoustic and privacy impacts and likelihood of increased traffic congestion make the Proposal objectionable in its current form.

Although the proposal includes an analysis of the opportunities within the site it wholly fails, in respect of the Humphrey building, internal road and garbage room, to take into consideration the adjoining land uses, urban design and amenity of neighbouring properties.

The application should be refused outright, or the applicants should be required to undertake a further urban design exercise in relation to (at least) the Humphrey building (and internal road and garbage room) in order to propose a solution which would not have such severe impacts on adjoining properties. The relationship with the residential properties to the south of the proposed Humphrey building should be properly considered in order to minimise the impacts on those residences and ensure that solar access is maintained.

Please contact Jodie Wauchope on 9931 4778 if you would like to discuss this submission.

Yours sincerely



Jodie Wauchope
Director

CC: General Manager, North Sydney Council