

# SUBMISSION

**Address:** No. 7 Park Road, Alexandria

**Proposal:** Alexandria Park Community School  
Redevelopment (SSD 17\_8373)

**JANUARY 2018**

No. 6 Forestwood Crescent  
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31 January 2018

Department of Planning and Environment  
GPO Box 39  
SYDNEY NSW 2000

**Attention:** Peter McManus

**SUBMISSION**  
**ALEXANDRIA PARK COMMUNITY SCHOOL REDEVELOPMENT (SSD 17\_8373)**

Dear Peter,

This submission is made on behalf of the owner of Lot 1 DP 346555, Nos. 135 – 139 McEvoy Street, Alexandria (an adjoining property to the immediate south).

Following review of the exhibited materials for redevelopment of the Alexandria Park Community School, which seeks consent to cater for 1,000 primary school students and 1,200 secondary school students, we wish to make clear that we do not object to redevelopment of the site per se, recognising the proposal represents essential community infrastructure. We do however object to the proposed development on the basis of its direct impacts upon Nos. 135 – 139 McEvoy Street and its future development potential.

It is advised the owner of Nos. 135 – 139 McEvoy Street engaged Regden Mathieson Architects in mid 2017 and that we have been collaboratively preparing a scheme for redevelopment of the site, consistent with relevant controls applicable to mixed use development permitted with development consent. A pre-lodgement meeting has been scheduled with City of Sydney Council officers, and it is intended we would submit a development application for Council's consideration soon thereafter.

Concerns are raised in relation to the school's proposed setbacks, building height and scale, and subsequent impacts on privacy and overshadowing of Nos. 135 – 139 McEvoy Street. It is requested these matters be taken into consideration as part of the development assessment process.

**Impacts of Development**

It is noted that none of the 'Design Principles' established by the proponent in the Alexandria Park Community School – Architectural and Urban Design Report submitted in support of the application address impacts on neighbouring properties. The Built Form and Urban Design component of the Report does however note the following:

*The site is located within a rapidly developing area of inner Sydney and is in an area of transition. Many former industrial sites have been redeveloped into high density multi unit residential apartments of 4-5 stories in height.*

*The large site to south of the school is currently used for industrial warehousing and 'outlet type' or discount retailing. The buildings are large and bulky in scale and do not present issues of overlooking or security to the school, however should these sites be redeveloped in the near future this will need consideration by future development teams.*

*Key considerations for the school redevelopment include the location of facilities that are adjacent to residential development and the potential for overlooking by residential developments. The potential for mandatory setbacks on the northern and western boundaries of these sites with a potential through site link as a buffer to the school site could be considered.*

The principle concern for the owner of Nos. 135 – 139 McEvoy Street is for the scale of development proposed adjacent the common boundary, its impact upon the future development potential of the site, and the amenity of future residential occupants (overshadowing of indoor and outdoor spaces). The planning principle established for access to sunlight in *The Benevolent Society v Waverley Council* [2010] NSWLEC 1082 requires that:

*In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as the existing development.*

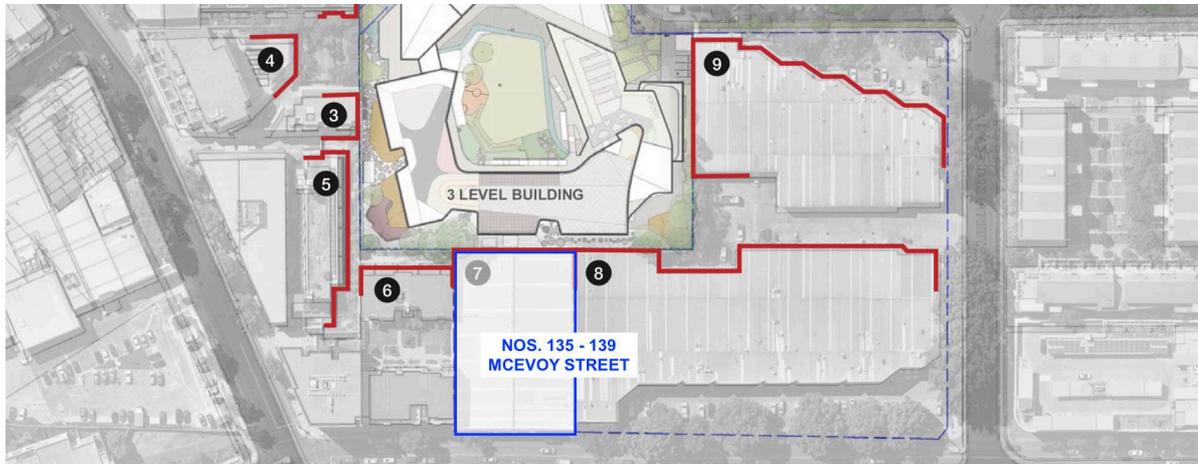
The issues identified by the proponent therefore require consideration by its own design team, and not by 'future development teams' of the adjacent sites as stated in their documentation. Nor should government authorities be required to consider the impacts of this development and to amend their development controls to accommodate the proposed development as is further suggested (a through site link is encouraged to be imposed upon adjoining properties to address the issue of scale and overshadowing impacts). The proposed development is required to respect existing development controls that are applicable to the form of development proposed, and to respond to the site's context.

The Sydney Local Environmental Plan 2012, Sydney Development Control Plan 2012 and the Apartment Design Guide operate in concert to provide controls for redevelopment of the adjacent warehouse sites, including provisions relating to permissibility, setbacks, privacy separation and landscaping.

The Urban Design Report rightly affirms that redevelopment of Nos. 135 – 139 McEvoy Street will be for residential development with shop fronts (see extracted figure over page), however, it is noted that 6 storeys can be accommodated in the 22 metre height limit adjacent McEvoy Street. It is noted The Alexandria Park Community School and the subject site share a common 15 metre maximum building height across their common boundary and that a 4 storey residential development will likely be accommodated at Nos. 135 – 139 McEvoy Street, setback 6 metres from its rear boundary.

The proponent states that the scale of the intended development has been determined by acknowledging the impact of overshadowing on adjacent residential developments and potential future development sites, and assures the consent authority the scale is consistent with residential developments in the immediate area. There is however no formative analysis provided to this effect. The architectural plans include an analysis of shadow impacts upon 'West Adjacent Buildings', but there is no analysis (1:1500 shadow diagrams aside) addressing the impacts of the proposed

development on the 'south adjacent buildings' (Nos. 141 – 143 McEvoy Street), nor the future 'potential south and east adjacent buildings' (including Nos. 135 – 139 McEvoy Street) as is required by *The Benevolent Society*.



**IMPACT ON NEIGHBOURS**

1 Adjacent Residential - 2 Storey	4 Adjacent Residential with Shop Fronts - 4 Storey	7 Adjacent Residential with Shop Fronts - 5 Storey
2 Adjacent Residential - 3 to 4 Storey	5 Commercial	8 'Outlet' Style Retail
3 Adjacent Residential - 3 Storey	6 Adjacent Residential with Shop Fronts - 7 Storey	9 Warehouse

The Sydney Local Environmental Plan 2012 prescribes a maximum building height of 15 metres for the subject redevelopment, measured from ground level existing to the topmost point of the building. Many of the proposed buildings exceed the 15 metre development standard, including the 'Homebase' buildings adjacent the common boundary with Nos. 135 – 139 McEvoy Street. These buildings are also noted to be setback only 5 metres from the common boundary (although building setbacks to site boundaries are difficult to determine from the detail provided by the architectural plans).

Clause 42 of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 relates that consent may be granted to development for the purpose of a school that is State significant development, even though the development would contravene a development standard imposed by this or any other environmental planning instrument under which the consent is granted. The provision does not however discharge the responsibility of the consent authority to consider the nature of the proposed development on its merit, pursuant to the relevant matters for consideration identified by Section 79C of the Environmental Planning and Assessment Act 1979. In seeking to vary the prescribed maximum building height, a consent authority still requires that a proponent demonstrate how a better planning outcome is achieved, and why strict application of the development standard is not reasonable or necessary in the circumstances.

Strict compliance with the height standard is suggested to be unreasonable and unnecessary by the proponent in the circumstances as the proposal provides critical community infrastructure, and as:

*The site can accommodate the scale without having significant unreasonable impacts on the amenity of the park and surrounding properties.*

This is not accepted, as a qualitative analysis has not been undertaken to determine the impacts of the proposed development upon the future potential development of the subject site.

Clause 35(6) of the SEPP requires that before determining an application, a consent authority must take into consideration the design quality of the development when evaluated in accordance with the design quality principles set out Schedule 4, which includes:

*Principle 1 – context, built form and landscape*

*Schools should be designed to respond to and enhance the positive qualities of their setting... The design and spatial organisation of buildings and the spaces between them should be informed by site conditions such as topography, orientation and climate.*

*Landscape should be integrated into the design of school developments to enhance on-site amenity, contribute to the streetscape and mitigate negative impacts on neighbouring sites.*

As suggested previously, the principle concern for the owner of Nos. 135 – 139 McEvoy Street is for the scale of development adjacent the common boundary, its impacts upon the development potential of the site and upon the amenity of future occupants. The planning principle in *The Benevolent Society* requires that in areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as the existing development. But whilst these concerns are mentioned, there is no quantitative analysis of the impacts of the proposed breach to the building height upon potential residential properties to the south and east of the site.

No analysis has been undertaken to understand the difference between a 'compliant' building form and the building form proposed.

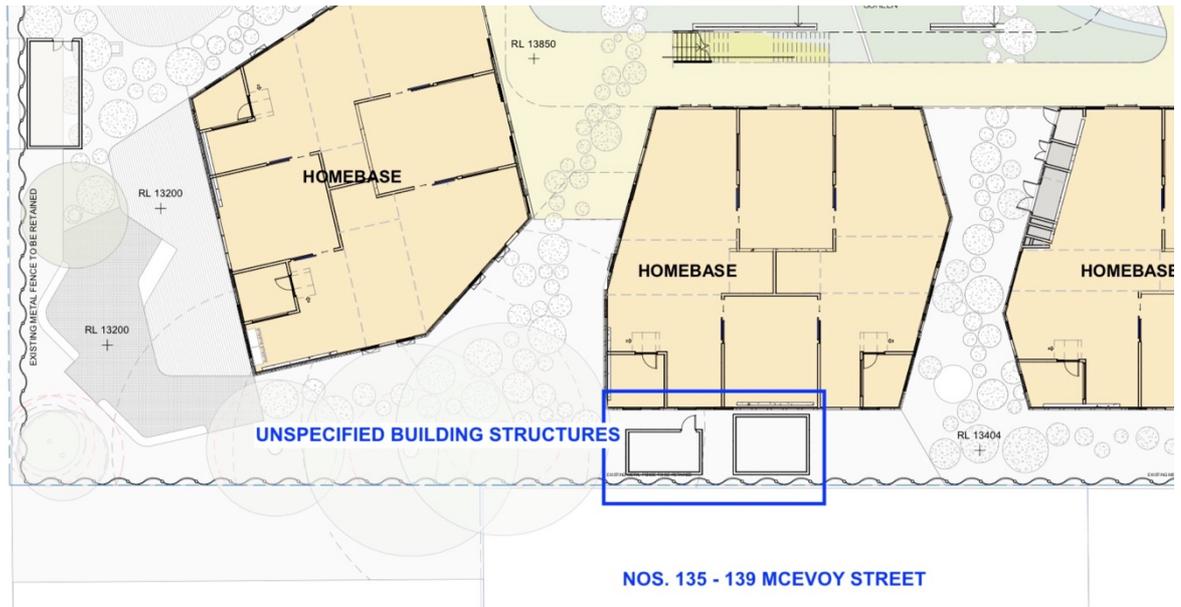
Residential flat development to 4 storeys in height is permitted adjacent the site's southern boundary, with habitable rooms setback a minimum 6 metres from the common boundary – see Objective 3F-1 of the Apartment Design Guide. The Guide suggests that adequate building separation distances should be shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy. The design guidance also notes that for residential buildings next to commercial buildings, separation distances to commercial buildings should use the same habitable room distances.

As a consequence, concern is raised in relation to the proposal's failure to achieve a 6 metre separation to the common boundary and to comply with the prescribed building height limit. The resultant impact may either lead to a reduction in the development potential of Nos. 135 – 139 McEvoy Street, or to a loss of amenity and sunlight to the units and their private outdoor spaces at the lower levels of any future development.

In assessing the proposed variation to the building height development standard, it is suggested the Department of Planning take into consideration the reasonableness of the proposal. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on overshadowing arises as a result of non-compliance with the prescribed planning controls, even a moderate impact might be considered unreasonable.

## Unspecified Structures Adjacent Boundary

It is noted there are 2 x unspecified building structures located immediately adjacent to our boundary (see figure below extracted from the Architectural Drawings). These structures are not labelled upon the floor plan, nor represented in sections or elevations. It is therefore difficult to determine their impacts upon Nos. 135 – 139 McEvoy Street. They do however significantly reduce the ability for the available setback area to be utilised for landscaping in scale with the proposed development, and as a consequence, further exacerbate issues in relation to the proposed 'Homebase' building's height and setback from the common boundary.



1 GROUND FLOOR PLAN  
1 : 200

An extract from the Landscape Detail Plan is reproduced below which indicates that these same structures may be built to boundary, and that no opportunity is afforded for the provision of landscaping.



## Conclusion

The proponent's suggestion that City of Sydney Council should introduce new controls to increase building setbacks upon adjoining sites to accommodate the scale of proposed development and its breach of the height standard via the introduction of a through site link to 'buffer the school site' (page 24 of the Urban Design Report) is preposterous.

**It is alternatively suggested that the proponent reposition the 'Homebase' modules for the primary school to ensure a minimum 6 metre landscaped setback to the common boundary, and modify the setback of the rooftop structure to ensure no greater overshadowing impact than a building otherwise compliant with a 6 metre setback and a maximum 15 metre building height.**

Some form of landscaping must be introduced adjacent the common boundary to assist in reducing the scale of intended development, and to assist providing an appropriate green buffer and visual privacy between the adjacent land uses.

Yours sincerely



Daniel McNamara  
Director