

Mr John Biviano  
120 Darlington Road  
Darlington NSW 2008

29-06-2020

**Darlington Terraces Mixed Use Development Application No.: SSD 7539**

Submission

Attention Director – Social and Other Infrastructure Assessment

**Declaration:**

I, John Biviano, make this declaration that, to my knowledge, have not made any reportable political donations in the past two years.

To Whom It May Concern,

I object to the amendments to the development proposal.

I am surprised to find that this development remains to have consent.

According to the 'Development Consent - Section 89E of the Environmental Planning and Assessment Act 1979' that The Hon Pru Goward MP (Minister for Planning) signed on the **16 February 2015** (approval date)...

*A10.*

*a) This approval does not allow any components of the Campus Improvement Program Concept Proposal to be carried out without further approval or consent being obtained.*

*b) This approval will **lapse five years from the date** of this approval **unless works the subject of any related application are physically commenced, on or before that lapse date.***

The lapse date would be **16 February 2020** and the **works for this development have not physically commenced.** This would mean that this development no longer has consent from the Minister for Planning.

There should also be further approval/consent for this component of the Campus Improvement Program (CIP) – see A10 a). The only documentation shown is an amendment of this 'Development Consent' that does not show changes to A10 nor a further consent for this component.

This project is not a State Specific Development because this project is primarily for accommodation and should be submitted to local council as they have a better insight and understanding into the local area and community.

I believe this home is the most original of all the terrace houses on Darlington Road. 120 Darlington Road has been identified as having the authentic wrought iron and tiles, fences etc at the front and the rear of the house also been identified as the example of the only remaining authentic laundry and lavatory (WC, toilet, dunny) of heritage items. They have not referred to the interior of the house as I have not permitted entry in the house. Apart from the kitchen and bathroom that have been modernized, a majority of the home, including the plaster walls, is authentic, original and in sound condition. We embrace the Victorian tradition of excreting outside the home and the toilet (dunny, lavatory) is still in use.

I do object to residential development, but not to educational development. As a former teacher working for TAFE in Queensland teaching and living in remote outback communities, I could not describe the conditions and the behaviour in that environment. When I returned to Darlington I was horrified to see similar behaviour of the students residing in the terrace houses, which seems to me to be a situation that could be managed and controlled.

I object to the proposed residential development.

Cramming students (like sardines) in rooms like a backpackers hostel will lead to social problems as has been seen in the past in Darlington terraces. The study spaces provided are small spaces with only standing room. The common spaces indicated in the project are common within many residential developments and are not educational in nature. Students find it difficult to study in this type of environment.

It is recommended that a drug and alcohol rehabilitation unit be included in the design of this development.

Would you send your child there?

It is well known that private residences in this area are cheaper than affordable student accommodation, achieving better educational outcomes.

The high cost of the Regiment student accommodation of 600 students compared to the disproportional low cost of this development, bearing in mind that the construction is over a water course plus the works to the terrace houses seems to be undervalued, which casts doubt on the quality of the project and the buildings.

In response to *page 32 of USYD Project Amend RtS\_SSD7539\_Darlington Terraces*

5. Proximity of new Buildings adjoining private 97 and 120 Darlington terrace should be between 4.5 and 6 metres (2)	Disagree: The proximity of the building forms to adjoining private Terraces at 97 and 120 Darlington Road is addressed by the project architects AJ+C at Appendix M (Privacy screening and Neighbour Views). In summary, juxtaposition of building form with neighbouring private Terraces will be mitigated by a combination of: • Side building setbacks beyond those required by regulation and by the CIP concept approval; • splayed building forms (to reduce building massing and shadow impacts); • Use of opaque materials and varied elegant brickwork; and; • Landscaped elements to bookend internal courtyards • Rooftop terrace vegetation that can cascade down the (setback) building side elevations. Refer to RtS response to DPIE items 6, 7 and 8 on the same issue.
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I object to the disagreement from USYD in the RtS Public Submissions No.5 (page 32) and DPIE items 6,7 and 8 regarding proximity. The proximity of the development is not appropriate for 120 Darlington Road, nor the other terraces. The response from USYD is about privacy (addressed in Appendix M) which is not the same as proximity. The recommended amendments from the *Heritage Office of the Office of Environment and Heritage and NSW Heritage Council* on page 21 of the Secretary's Environmental Assessment Report was that

- the Darlington Road terrace building envelopes should be reduced to 8.5m in height and setback **6m from existing terraces**

The reason for this is that heritage buildings do not have the same footings as regular buildings. Sandstone footings will shift when land is excavated too close to the heritage

terrace houses. The recommendation is not about 6m for privacy but rather 6m for maintaining the structural integrity of the terraces.

The Environment Impact Statement from USYD on page 98, in the section of 6.3.2 Privacy, notes that

*'The proposed design provides a clear break between the old and new through the use of setbacks. The setbacks between the new building and the terraces vary. The average setback is 5 metres, with glazed areas setback further and screened.'*

From the architectural drawings provided in Appendix A-1, it is difficult to determine where this value of an average of 5m is calculated. A detailed description of how this is calculated is requested as, from the drawings, most of the setbacks between the terraces and the new buildings do not seem to be close to even 5m, let alone an average of 5m (see orange arrow in diagram on next page). An explanation would clarify this part of the project and would be greatly appreciated.

Since heritage requirements have been made such an important feature by USYD of this development for creating smaller rooms for students in the terraces (a better solution would be to make bigger rooms although this would not result in affordable student accommodation), it should be **just as important** to include appropriate setbacks to avoid damage to terrace structures.

120 Darlington has the original walls of the terrace (see red square in diagram below) situated much further back than any other of the terraces in the road (see diagram below) and the distance (proximity) of the new development will be too close to this terrace house for the construction to avoid damage to the Heritage terrace structures so I object to the overbearing impact on the property in particular the proposed setback of 1.5m from the lavatory and the laundry structures (see diagram on next page) that have been identified as an example of the last remaining original ones in Darlington Road. The 6m setback from the existing terraces mentioned in the Secretary's Environmental Assessment Report (page 21 under the Heritage Office of the Office of Environment and Heritage and NSW Heritage Council) is not adhered to with respect to 120 Darlington. During the period of construction, the depth of the excavation would be way below the sandstone footings of the structures and would be like being at the edge of a 1.5 metre cliff face subject to erosion before a retaining wall is built. There would be a high risk of the sandstone footing moving and damaging the walls. It is extremely likely that the walls would have to be replaced and would damage the authenticity of the heritage structures and as a result would be seeking compensation.



This heritage terrace home has already been damaged as a result of the heavy vibrating equipment of other projects of surrounding university developments. The construction work is much closer than other developments and will be seeking compensation when it occurs.

When construction happens, I want to ban the use of heavy hammer and vibrating equipment rather than leaving it to construction workers to decide whether it is necessary simply to save time.



In response to page 33 of *USYD Project Amend RtS SSD7539 Darlington Terraces*

7. Shadow impact of Block A upon to adjoining private Darlington Terraces (2)

**Provided:** Refer to USyd response to DPIE Issue 4 and AJ+C Shadow Analysis Solar Access Plans at Appendix A-3 (overall mid-winter analysis) and Appendix A-4 (for 120 Darlington Road). The solar access plans conclude that No.120 Darlington Road will receive at least 2 hours of sun to at least 8m<sup>2</sup> of private open space all year round and will therefore more than satisfy the objectives of Sydney DCP 2012 clause 4.1.3.1 Solar Access.

See also RtS for DPIE (Department of Planning & Environment) - items 3 and 4 on same issue

The diagrams showing the overshadowing for 120 Darlington Road shown in 'Apndx A-4 – AJ+C Shadows to 120 Darlington Road\_' do not appear to include the shadows that are caused by the new Regiment Student Accommodation building (see No.1, Figure 8) at the front of 120 Darlington that appears to be 5 storeys high plus a rooftop terrace. This new building has already been completed as part of the University's Campus Improvement Program and the University is aware of its existence and completion date. The overshadowing caused by this development do not appear to have been taken into account in any of the diagrams shown in Appendix A-3 or A-4.

2.2 Key Features

**Merewether Precinct (Figure 8)**

- Mixed use precinct, comprising student accommodation, teaching and learning spaces, service delivery, ancillary facilities and basement parking;
- redevelopment of the Regiment and Merewether Building groups and rear of Darlington Road residential terraces;
- new building envelopes ranging in height from approximately 10 m to 50 m; and
- demolition of 13,040 sqm of GFA and development of 76,400 sqm of GFA (+63,400 sqm of GFA).

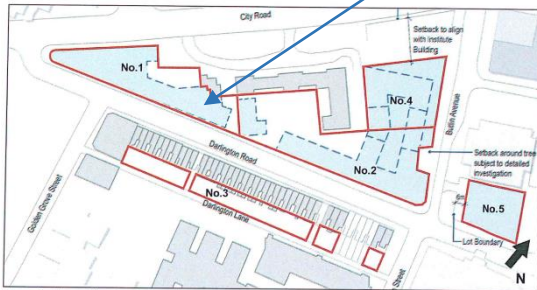
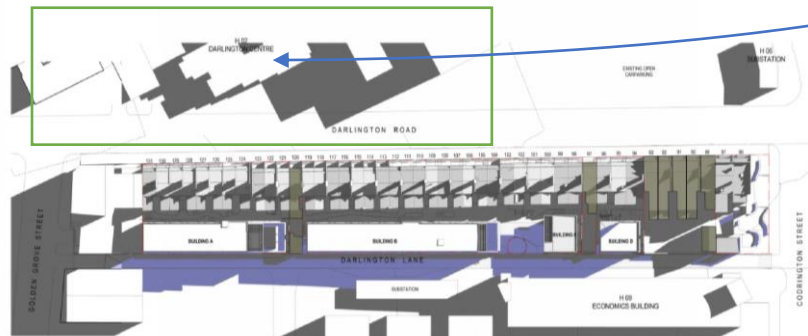


Figure 8: Merewether Precinct



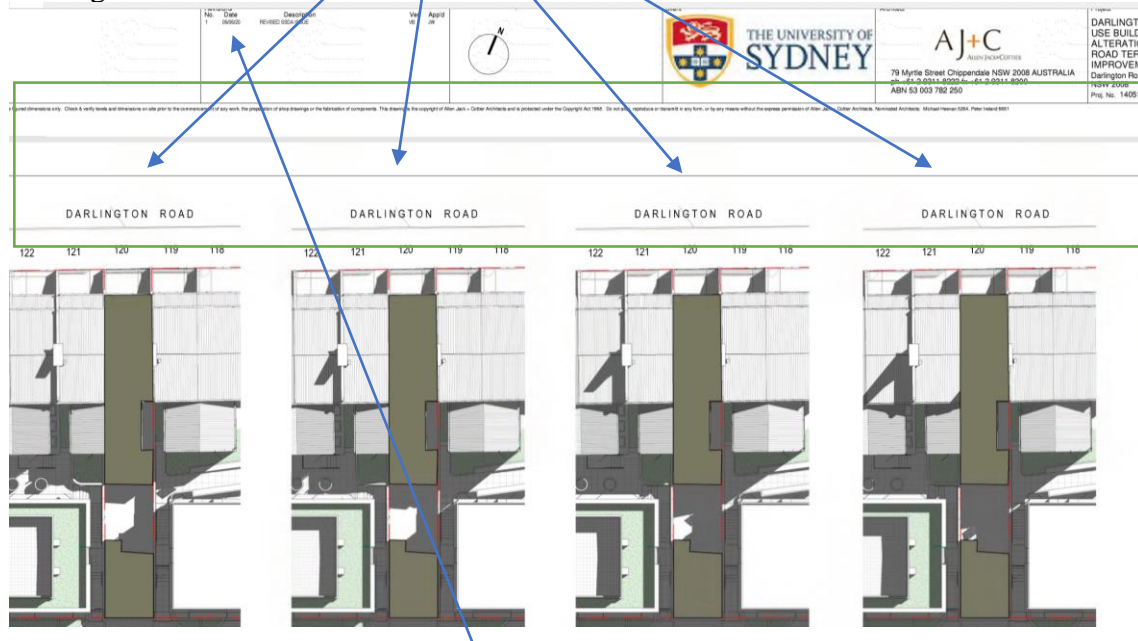
View of Regiment Student Accommodation building from the front of 120 Darlington

The current 'Apndx A-3 AJ+C Shadow Analysis Overall\_' shows an OLD map where the Darlington Centre still exists (a much smaller building whose height barely reached above the brick wall shown in the photo and situated at an angle so the shadows do not reach 120 Darlington).



Darlington Centre has been replaced with the Regiment Student Accommodation as shown in photo.

The diagrams shown in Appendix A-4 (specifically for 120 Darlington) do not show any shadow to the front of the house. There are no buildings shown in the diagram across the road from 120 Darlington. From this and Appendix A-3, it can be assumed that there is no overshadowing analysis of the current Regiment Student Accommodation on 120 Darlington Road in this file.



The date of review is shown to be the 5/6/20 on all pages of the document – the multi-storey Regiment Student Accommodation was completed well before this date. It seems that the lack of inclusion of the shadows produced by the Regiment Student Accommodation building demonstrates a convenient oversight and lack of awareness by the designers AJ+C of the impact of the Campus Improvement Program as a whole. This oversight needs to be addressed so that the University's and the Sydney LEP 2012 Design Excellence Criteria (shown in the EIS 'Appendix E Design Excellence Process') of:

*g) environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity* in relation to 'overshadowing and solar access' has been satisfied.

The Secretary's Environmental Assessment Requirements (SEARs) states (Section 78A(8A) of the Environmental Planning and Assessment Act Schedule 2 of the Environmental Planning and Assessment Regulation 2000), that the following must be addressed

- Demonstrate design excellence in accordance with the design excellence provisions of Sydney Local Environmental Plan 2012.

It is uncertain at this point whether the project completely complies with this legislation. When looking at the height of the Regiment Student Accommodation building, it also needs to be taken into account that the rooftop terrace has trees and shrubs that are continually growing upwards and creating more shadow over 120 Darlington due to their height (see photo 'View of Regiment Student Accommodation building from the front of 120 Darlington').

It would be appreciated that another **independent** company be hired to perform the new overshadowing analysis so that bias is removed.

It is important that the CIP be looked at as a whole – the impact of all developments assessed together rather than separately. An uncovering of more inconsistencies may be revealed, especially in terms of welfare of the community due to an overcrowding of space and structural buildings on other buildings and the environment.

In response to *page 33 of USYD Project Amend RtS\_SSD7539\_Darlington Terraces*

6. Privacy – proximity of Block A recreational terrace to adjoining private 120 Darlington terrace (2)	<b>Disagree:</b> Refer to comment above. Furthermore, the rooftop Terraces provide a physical setback (planting) from the rooftop parapet to prevent direct overlooking into neighbouring properties.
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There is not enough detail provided in Appendix M regarding the privacy screenings on the new development.

The angled metal screens appear to be of use to the students' privacy but not to private residents. The peep-hole nature of the screens seem to ensure that the students will still be able to see into the backyard of private residents.

The main response of USYD in appendix M to the HIS identification of 'maintaining privacy to the privately owned terraces' was about roof top views that do show some 'side setbacks', rather than the bedrooms for the new development with respect to private residents.

Facades are 'predominantly opaque' gives the impression that you can still see through them – how much they can see into the backyard of residents is unclear. 'Brickwork and panelled claddings' are not specific about how this is predominantly opaque – seems to conflict as brickwork and cladding are opaque.

It's not about the green space view but concerns about the bedroom windows that have screens with holes in them. The 'photo' showing the green facades show windows that can be seen out of with no screens, possibly into the backyard of residents – again this is not clear.

Some more clarification would be appreciated. Appendix M highlights that the 'HIS identified maintaining privacy to the privately owned terraces as one of its key recommendations for approval'.

The time provided for the public to read many documents - 41 appendices and the 35 page Response to Submissions is not acceptable. The notice of amended State Significant Development sent to residents was dated 17 June 2020 (not the date the letter arrived but when it was written). The close of submissions was 2 July 2020 – less than two weeks is a very short time to read and digest documents. A lack of time has been raised multiple times in previous submissions and has not been addressed. The response appears to be to shorten the time for submissions to be made.

I object to the conditional agreement raised as a response to No.7 in the USYD RtS for the EPA (Environment Protection Authority) – page 26. The EPA recommendations should not be changed

The university's Susan Wakil Health Precinct development on Camperdown campus - SSD 7974 approved on 6 May 2020 did **not have a private residence** in such **close proximity** to construction.

The request for quiet trade activities to 10pm Monday - Friday is unreasonable as the activities would be again be in too close a proximity to the privately owned residences in this development, already listening to noise all day.

I object to the conditional agreement raised as No. 16 USYD RtS for the EPA (Environment Protection Authority) – page 28. The conditional agreement is unreasonable – the recommendation of the EPA is to ensure that noise does NOT interfere with the comfort and repose of persons not on the development site. The request in this conditional agreement is not conducive for **either** students or residents. If the area in use was a study area (not recreational), then the educational benefits would be apparent. However, this is a **recreational** area, not used for study – the appropriate area for these times would be the proposed indoor study spaces, that unfortunately will not provide enough space for a large number of students.

Students who want to well in their course need and **want** quiet time and place to study away from recreational noise. If other students are in recreation areas at the later times requested by USYD it will not be conducive to their learning. The recommendation from the EPA for less time on weekends and public holidays recognises this. This is where peace and quiet is required for residents and for students to effectively study.

The argument of keeping the same times as other USYD accommodations is unreasonable as none of these developments (Regiment development) are situated as close to the privately owned residences as this development. Also there is, again, no consideration of combined noise from multiple sources. Another oversight that has occurred because the developments are looked at separately and not as a whole.

I object to the perception created by the EIS document regarding the acquisition to privately owned terraces. My family have lived in Darlington Road for the past 67 years. There is an incorrect perception portrayed in the documents – (pages 48-49 of the Environmental Impact Statement, 4.2.1 Commercial Acquisition of privately owned terraces).

When working in Tropical North Institute of TAFE, I received a phone call with an offer from the property agent of the University for half the market value and was asked to consider that the rest being a donation to education.

At one point a value was agreed and 4 years later they were ready to proceed.

The University also made an offer to buy exclusive rights to purchase the property but failed to mention that the offer was \$5,000.

Another offer was to be relocated down the road to No 86 & 87 Darlington. After inspecting no 86 & 87 the kitchen and the bathroom needed extensive renovation, the rear of the backyards were converted into smoking areas and would be sold ‘as is’ straight swap. The other option was homes in Forest Lodge and, as soon as I showed interest, the offer was withdrawn.

At the time, my value was based on that provided by two local well known agents - one of the agents had Asian clients who were interested in purchasing 3 houses in Darlington Road– this purchase price was deemed by the University as an unreasonable selling price (see EIS document).

We haven’t refused to sell, just failed to reach an agreement.



The condition of the University owned terraces as shown in both Appendix G and Appendix H highlight the lack of maintenance by the University. As a result, the terraces are in a state of disrepair. The front and rear yards and fences that have many hazards and are in a dilapidated condition demonstrate an inability to maintain the terraces while still allowing students to live there, lacking protection of the health and safety of these occupants.

Whatever happened to duty of care?

I object to the removal of tree no 25 that houses a lot of wildlife. Already many trees have been destroyed in Darlington due to University development and more trees will be removed from Darlington public school. Substituting trees for shrubs will not balance out. I wonder how the birds would feel donating their home to education?

Approval has already been gained for Darlington Lane to be one way. The laneway has always been unofficially shared and is very dangerous but not because of private residents, but from traffic generated by Sydney University that demonstrate a blatant disregard to safety, road rules and speed signs.

Living conditions and methods of education have changed since COVID-19 not too late to make changes to the development to avoid it becoming a white elephant in the future. This project is out of step with tomorrow's world.

Sincerely Yours,

John Biviano