

# Attachment F1

**Submissions**

**From:** [REDACTED]  
**Sent on:** Monday, June 24, 2024 12:03:50 PM  
**To:** City of Sydney <council@cityofsydney.nsw.gov.au>  
**CC:** [REDACTED]  
**Subject:** SUBMISSION regarding re-Notification - D/2023/878 - 1 Challis Avenue , POTTS POINT NSW 2011, 1 Tusculum Street , POTTS POINT NSW 2011  
**Attachments:** ST V WS AMENDED JUNE 24.pdf (14.45 MB)

**Caution:** This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Kind regards,

Bill Tulloch BSc[Arch]BArch[Hons1]UNSW RIBA Assoc RAlA  
[REDACTED]

On 14 Jun 2024, at 2:33 PM, Planning Systems Admin <planningsystemsadmin@cityofsydney.nsw.gov.au> wrote:

Documents will be available online from tomorrow onwards.

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14 June 2024

**Applicant name:**

ST VINCENT'S COLLEGE LIMITED

**Reference number:**

D/2023/878

**Site address:**

1 Challis Avenue , POTTS POINT NSW 2011, 1 Tusculum Street , POTTS POINT NSW 2011

**Proposed development:**

RENOTIFICATION due to the lodgement of amended plans and reports

The proposal is for alterations and additions to St. Vincent's College, including demolition/excavation works, tree removal and construction of new buildings. No change to the existing student or teacher population is proposed.

The City of Sydney has received the above application. As part of our assessment, we are notifying surrounding neighbours and property owners to seek their views on the proposal.

We are accepting comments on the proposal until **13 July 2024**. If this date is on a weekend or public holiday, the period is extended to the next working day.

We encourage you to review all documents to understand the details of the proposal.

View the full application and send us your comments by typing [cityofsydney/find-da](https://cityofsydney.nsw.gov.au/da) in the address bar on your browser. For more information, contact Julie Terzoudis on 02 9265 9333.

Bill MacKay  
Manager Planning Assessments

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# SUBMISSION

a written submission by way of objection

BILL TULLOCH BSC [ARCH] BARCH [HONS1] UNSW RIBA Assoc RAIA

prepared for

STEPHEN ODELL, LOTS 3 & 4, 12 ROCKWALL CRESCENT, POTTS POINT  
SUSIE SHARROCK, LOT 5, 1/14 ROCKWALL CRESCENT, POTTS POINT  
SUZANNE COLE & TONY CARGENLUTTI, LOT 6, 2/14 ROCKWALL CRESCENT, POTTS  
POINT

19 JUNE 2023

CITY OF SYDNEY  
TOWN HALL HOUSE  
LEVEL 2, 456 KENT STREET  
SYDNEY 2000

[council@cityofsydney.nsw.gov.au](mailto:council@cityofsydney.nsw.gov.au)

RE: D/2023/1289  
ST VINCENT'S COLLEGE, 1 CHALLIS AVENUE, POTTS POINT, NSW  
WRITTEN SUBMISSION: LETTER OF OBJECTION  
SUBMISSION: TULLOCH

Dear Sir,

This document is a written submission by way of objection lodged under Section 4.15 of the EPAA 1979 [the EPA Act].

I have been instructed by my clients to prepare an objection to this DA, and to the Re-Notification documentation referred to within Council's letter dated 14 June 2024.

I refer to my submission dated 23 October 2024 [attached]. That submission remains the basis of the objection.

Council's RFI dated 21 February 2024 was very clear. Unfortunately, the applicant has not fully responded to the requests made:

## 1. View Impact Analysis

No adequate View Impact Analysis assessment has been provided from my client's property.

I have previously requested height poles to be erected, to include the height of the top of netting @ RL 36.58 and the profile of all leading edges that will impact the viewing corridor. There are proposed trees in excessive of the height of the netting that also will need to be identified by height poles.

The applicant has only provided a selected set of viewpoints.

The applicant has not provided any verification of the processes that have been used to ensure the accuracy to photomontages provided to Council.

I previously stated:

- Incomplete View Loss Analysis from all my client's properties, to all levels, including views to Embarkation Park, Garden Island, Woolloomooloo Bay, Finger Wharf, Royal Botanic Gardens, Land/Water Interfaces, City Skyline, Sydney Harbour Bridge, Sydney Opera House and the North Sydney Skyline. The applicant has only provided a selected set of viewpoints. The applicant has not provided any verification of the processes that have been used to ensure the accuracy to photomontages provided to Council. I suggest that height poles must be erected so that a full assessment can be made;

Council will have no other option than to refuse the DA, if no adequate View Impact Analysis assessment is provided on the Amended Plan set of drawings from my client's property.

The 9.1m high MULTI PURPOSE COURT COMPLEX and the 5.0m high NETTING above, could be lowered, by further benching the section profile of the multi-purpose court complex and the 5.0m high netting further into the slope, to overcome poor view sharing outcomes. The new Bethania Building facing Rockwall Lane could be adjusted, with greater setbacks and reductions in height, to better share the views.

The controls in any DCP are not merely building envelope controls, but extend to specific controls concerning the increase of setbacks and heights to minimise view loss, as well as controls requiring the incorporation of design measures to facilitate view sharing.

I refer to Bondi Residence Pty Ltd v Waverley Council [2024] NSWLEC 1297, WC DA 9/2023, a dismissal of a Class 1 Appeal by NSWLEC Commissioner Gray on view loss grounds in June 2024. Commissioner Gray stated clearly that is indeed the case.

The failure to use any other design measures, such as benching the proposed development into the slope, further setbacks or decreasing excessive storey heights, to facilitate view sharing and minimise view loss, is of particular concern.

## **2. Solar Access**

The 'view from the sun' diagrams clearly show that my client's property in Rockwall Lane will be impacted, along with other neighbours.

The solar loss appears to be caused by the excessive storey height of the proposed BETHANIA LEVEL 2, Collaboration Room – Learning, that presents a storey height of 4.73m. [40.76 – 36.03]. This height must be substantially reduced.

An internal ceiling height of 2.7m to the Collaboration Room, with a storey height of 3.1m should be sufficient, to provide for a more reasonable outcome.

## **3. Visual Privacy**

External fixed privacy screens added to windows to permit diffused light but restrict views both into and out of the building has been provided to the Bethania building facing Rockwall Lane. I ask for the following notation or condition:

- o *All privacy screens facing Rockwall Lane are to have fixed louvre blades with a maximum spacing of 25mm, and shall be constructed of materials and colours that complement the finishes and character of the building.*

## **4. Acoustic Privacy**

Acoustic Privacy requirements identified within the Acoustic Report has not been added to the Architectural DA drawings facing Rockwall Lane. The Acoustic Report does not reference the requirement of double or triple glazed window units to deal with the Music Room location. The roof facing Rockwall Lane will also require additional acoustic requirements. These matters are not listed within the Acoustic Report.

## **5. Landscape**

The proposed 1.5m setback to Rockwall Lane is considered inadequate to support landscape to screen the proposed new Bethania Building. Landscape must be 6m high facing Rockwall Lane. A 3m setback should be provided, with no structures in this zone.

## **6. Mechanical Plant to the new Bethania Building**

There are no plant zones shown. These zones must be positioned within the proposed basement, and not above ground.

## CONCLUSION

I ask Council to consider all matters raised within my submissions in their assessment.

It is considered that the proposal is inappropriate on merit and unless amended plans are submitted, this DA must be refused for the following reasons:

- The application has not adequately considered and does not satisfy the various relevant planning controls applicable to the site and the proposed development.
- The proposed dwelling is incompatible with the existing streetscape and development in the local area generally.
- The proposed dwelling will have an unsatisfactory impact on the environmental quality of the land and the amenity of surrounding properties.
- The site is assessed as unsuitable for the proposal, having regard to the relevant land use and planning requirements.

It is considered that the public interest is not served.

The proposed development does not follow the outcomes and controls contained within the adopted legislative framework.

Having given due consideration to the matters pursuant to Section 4.15 of the Environmental Planning and Assessment Act, 1979 as amended, it is considered that there are multiple matters which would prevent Council from granting consent to this proposal in this instance.

The proposed development represents an overdevelopment of the site and an unbalanced range of amenity impacts all of which would result in adverse impacts on my clients' property. Primarily,

- The development compromises amenity impacts on neighbours
- The development does not minimise visual impact

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Inconsistent with the zone objectives of the LEP
- Inconsistent with the aims of the LEP
- Inconsistent with the objectives of the DCP
- Inconsistent with the objectives of the relevant EPIs
- Inconsistent with the objects of the EPAA 1979

The proposed development does not satisfy the appropriate controls. Furthermore, the proposal would result in a development which will create an undesirable precedent such that it would undermine the desired future character of the area and be contrary to the expectations of the community, and is therefore not in the public interest. The proposal therefore must be refused. It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have not been satisfactorily addressed.

I ask that if Council in their assessment of this application reveals unsupported issues, which prevent Council from supporting the proposal in its current form, and writes to the applicant describing these matters, I ask for that letter to be forwarded to me.

My clients trust that Council will support my clients' submission and direct the proponent to modify the DA plans, as outlined above. My clients ask Council Officers to inspect the development site from my clients' property so that Council can fully assess the DA.

It is requested that Council inform both myself, and my clients directly, of any amended plans, updates or Panel meeting dates. My clients request that they present to the Panel, should the DA proceed to the LPP.

Unless the Applicant submits Amended Plans to resolve all of the adverse amenity impacts raised within this Submission, my clients' ask Council to REFUSE this DA.

Yours faithfully,

A grey rectangular box redacting the signature of the sender.

Bill Tulloch BSc [Arch] BArch [Hons1] UNSW RIBA Assoc RAIA  
PO Box 440 Mona Vale NSW 1660



# SUBMISSION

a written submission by way of objection

BILL TULLOCH BSC [ARCH] BARCH [HONS1] UNSW RIBA Assoc RAIA

prepared for

STEPHEN ODELL, LOTS 3 & 4, 12 ROCKWALL CRESCENT, POTTS POINT  
SUSIE SHARROCK, LOT 5, 1/14 ROCKWALL CRESCENT, POTTS POINT  
SUZANNE COLE & TONY CARGENLUTTI, LOT 6, 2/14 ROCKWALL CRESCENT, POTTS  
POINT

23 OCTOBER 2023

CITY OF SYDNEY  
TOWN HALL HOUSE  
LEVEL 2, 456 KENT STREET  
SYDNEY 2000

[council@cityofsydney.nsw.gov.au](mailto:council@cityofsydney.nsw.gov.au)

RE: D/2023/1289  
ST VINCENT'S COLLEGE, 1 CHALLIS AVENUE, POTTS POINT, NSW  
WRITTEN SUBMISSION: LETTER OF OBJECTION  
SUBMISSION: TULLOCH

Dear Sir,

This document is a written submission by way of objection lodged under Section 4.15 of the EPAA 1979 [the EPA Act].

I have been instructed by my clients to prepare an objection to this DA.

I have been engaged by my clients to critically review the plans and documentation prepared in support of the above development application and to provide advice in relation to policy compliance and potential residential amenity impacts.

Having considered the subject property and its surrounds and the details of the development application currently before Council, I am of the opinion that the proposal, in its present form, does not warrant support. In addition, I am of the view that amendments would need to be made to the development proposal before Council was in a position to determine the development application by way of approval.

Unless the Applicant submits Amended Plans to resolve all of the adverse amenity impacts raised within this Submission, my clients ask Council to REFUSE this DA.

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### A. EXECUTIVE SUMMARY

The design of the proposed development does not ensure that the existing high levels of amenity to my clients' properties are retained.

My clients wish to emphasise the fact that my clients take no pleasure in objecting to their neighbour's DA.

The proposed DA has a deleterious impact on the amenity of their properties.

Having reviewed the documentation prepared in support of the application and determined the juxtaposition of adjoining properties I feel compelled to object to the application in its current form.

The subject site is zoned R1 General Residential under the LEP, and there is no reason, unique or otherwise why a fully compliant solution to LEP and DCP controls cannot be designed on the site.

The proposed development represents an overdevelopment of the site and an unbalanced range of amenity impacts that result in adverse impacts on my clients' property.

- Unacceptable Adverse View Loss Impacts
- Unacceptable Adverse Solar Loss Impacts
- Unacceptable Adverse Visual Privacy Impacts
- Unacceptable Adverse Acoustic Privacy Impacts
- Unacceptable Adverse Engineering Impacts
- Unacceptable Adverse Landscape Impacts

Council can note that Lots 3 and 5 are the ground floor and level 1, and these lots are more affected by overshadowing.

Council can note that Lots 4 and 6 are the upper floors at levels 3, 4 and 5 where view loss impacts are a greater concern.

The proposed development is incapable of consent, as there is a substantial list of incomplete information that has yet to be provided, including:

- Incomplete View Loss Analysis from all my client's properties, to all levels, including views to Embarkation Park, Garden Island, Woolloomooloo Bay, Finger Wharf, Royal Botanic Gardens, Land/Water Interfaces, City Skyline, Sydney Harbour Bridge, Sydney Opera House and the North Sydney Skyline. The applicant has only provided a selected set of viewpoints. The applicant has not provided any verification of the processes that have been used to ensure the accuracy to photomontages provided to Council. I suggest that height poles must be erected so that a full assessment can be made;
- Incomplete Solar Loss Analysis at hourly intervals, with view from the sun diagrams showing existing and proposed. The plan diagrams provided

- cannot clearly define the solar loss to my client's property that is positioned south of proposed development;
- Visual Privacy Analysis has not been undertaken. The applicant suggests obscured glass might be provided. The DA drawings do not show the privacy devices proposed to be deployed facing my client's property;
  - Acoustic Privacy requirements identified within the Acoustic Report has not been added to the Architectural DA drawings. The Acoustic Report does not reference the requirement of double or triple glazed window units to deal with the Music Room location;
  - Geotechnical Report does not have sufficient detail. The Report references a 2m deep excavation, whilst the Da drawings clearly shows an excavation exceeding 9m. There are incomplete geotechnical recommendations, incomplete geotechnical monitor plan, excessive vibration limits to heritage items, lack of full-time monitoring of the vibration, incomplete dilapidation report recommendations, incomplete attenuation methods of excavation, amongst other concerns
  - There is no roof or basement mechanical plant shown to buildings facing my client's property. Any future roof plant would potentially cause severe view loss and cause unacceptable acoustic problems
  - The architectural drawings are incomplete. The scale of the drawing require to be extended to a 1:100 scale. The drawings have incomplete dimensions and incomplete levels. There are no Registered Surveyors levels transferred to any DA drawing
  - The Landscape drawings do not show adequate landscape facing Rockwell Lane to screen the proposed development to 6m in height, as the SEE suggests

The proposal does not succeed when assessed against the Heads of Consideration pursuant to section 4.15 of the Environmental Planning and Assessment Act, 1979 as amended. It is considered that the application, does not succeed on merit and is not worthy of the granting of development consent.

Council should note that spot survey levels and contour lines from the Registered Surveyors drawings have not been adequately transferred to the proposed DA drawings of plans, sections, and elevations to enable an assessment of height and the relationship and impact to adjoining neighbours. Neighbour's dwellings have not been accurately located on plans, sections and elevations, including windows and decks, to enable a full assessment of the DA. The plans and documentation are misleading as they do not clearly portray the true extent of works proposed. The plans include inaccuracies and inconsistencies and insufficient information has not been provided in order to enable a detailed assessment, including incomplete dimensional set-out and incomplete levels on drawings to define the proposed building envelope. There is incomplete analysis provided including view loss, solar loss and privacy loss.

I ask Council to request that the applicant superimpose the Registered Surveyors plan detail with all spot levels and contours onto the Roof Plan, with all proposed RLs shown, so that a full assessment can be made on HOB.

My clients ask Council to seek modifications to this DA as the proposed development does not comply with the planning regime, by non-compliance to

development standards, and this non-compliance leads directly to my clients' amenity loss.

If any Amended Plan Submission is made by the Applicant, and re-notification is waived by Council, my clients ask Council to inform them immediately by email of those amended plans, so that my clients can inspect those drawings on the Council website.

## B. FACTS

### 1. THE PROPOSAL

The development application seeks approval for additions and upgrades to St Vincent's College, located at 1 Challis Avenue, Potts Point, NSW

Specifically, this DA seeks approval for:

- Site preparation and demolition of existing structures, removal of 12 trees and excavation works.
- Construction of a new partially sunken multi-purpose facility on the corner of Challis Avenue and Victoria Street.
- Construction of a new three storey music and administration building (the Bethania Building) interconnecting with the rear of the existing Garcia Building.
- Minor internal alterations to the existing boarding facilities including a new ramp and stairs.
- Tree planting and landscaping.
- A new pedestrian access and foyer structure from Challis Avenue.
- Two new school signs.
- Upgrades and augmentation of existing services to support the development including a new chamber substation fronting Challis Ave.

### 2. THE SITE

The site is located at 1 Challis Avenue and 1 Tusculum Street, Potts Point. The site is occupied by St Vincent's College, an independent Roman Catholic single-sex secondary school for girls. The site has an approximate area of 1.25ha, is irregular in shape and spans over 15 different allotments. The site has an approximate frontage of 165m to Victoria St to the east and an approximate frontage of 100m to Challis Avenue to the north. The site is located within the City East Special Character Area as defined by the Sydney Development Control Plan 2012 (SDCP).

### 3. THE LOCALITY

The existing character of the local area, including the immediate visual catchment (generally within 150 metres of the site) is of a well-established neighbourhood, made up of a heterogeneous mix of dwelling types within domestic landscaped settings.

My clients' property is immediately across Rockwall Lane to the subject site.

#### 4. STATUTORY CONTROLS

The following Environmental Planning Instruments and Development Control Plans are relevant to the assessment of this application:

- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulation 2021
- All relevant and draft Environmental Planning Instruments;
  
- SEPP (Transport and Infrastructure)
- SEPP (Industry and Employment) 2021
- SEPP (Building Sustainability Index: BASIX) 2004;
- SEPP (Resilience and Hazards) 2021;
- SEPP (Biodiversity and Conservation) 2021.
  
- Sydney Local Environmental Plan 2012 [referred to as LEP in this Submission]
- Sydney Development Control Plan 2012 [referred to as DCP in this Submission]

## C. CONTENTIONS THAT THE APPLICATION BE REFUSED

### 1. CONTRARY TO AIMS OF LEP

The proposal is contrary to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as it fails to satisfy the aims under the LEP.

- The development compromises amenity impacts on neighbours
- The development is not compatible with the desired future character of the locality in terms of building height and roof form.
- The development does not minimise the adverse effects of the bulk and scale of buildings

### 2. CONTRARY TO ZONE OBJECTIVES

The proposal is contrary to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as it fails to satisfy the objectives of the zone of the LEP.

- The development compromises amenity impacts on neighbours
- The development compromises views
- The development compromises solar
- The development compromises privacy: visual and acoustic
- The development does not minimise visual impact

### 3. IMPACTS UPON ADJOINING PROPERTIES: ADVERSE VIEW LOSS IMPACTS

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it fails to achieve an appropriate view sharing outcome to neighbours.

The development application should be refused as it results in unacceptable view loss from adjoining and nearby residential dwellings.

View Loss Analysis from all my client's property has yet to fully occur.

The views contain extensive views to Embarkation Park, Garden Island, Woolloomooloo Bay, Finger Wharf, Royal Botanic Gardens, Land/Water Interfaces, City Skyline, Sydney Harbour Bridge, Sydney Opera House and the North Sydney Skyline.

The applicant has only provided a selected set of viewpoints.

The applicant has not provided any verification of the processes that have been used to ensure the accuracy to photomontages provided to Council.

I suggest that height poles be erected so that a full assessment can be made.

There are spectacular views available from my client's property.

This night photo captures the essence of the view.

The viewpoints selected by the applicant are very selective, and do not capture the full views that are available from highly used rooms and entertainment decks.





PHOTOGRAPHY FROM THE RESIDENCE OF STEPHEN ODELL,  
LOTS 3 & 4, 12 ROCKWALL CRESCENT, POTTS POINT



PHOTOGRAPHY FROM THE RESIDENCE OF SUZANNE COLE & TONY CARGENLUTTI,  
LOT 6, 2/14 ROCKWALL CRESCENT, POTTS POINT

Level 3 Kitchen & Dining



PHOTOGRAPHY FROM THE RESIDENCE OF SUZANNE COLE & TONY CARGENLUTTI,  
LOT 6, 2/14 ROCKWALL CRESCENT, POTTS POINT

Level 4 Main Terrace



PHOTOGRAPHY FROM THE RESIDENCE OF SUZANNE COLE & TONY CARGENLUTTI,  
LOT 6, 2/14 ROCKWALL CRESCENT, POTTS POINT

Level 5 Study/Bedroom



I contend that:

- (a) The proposal is inconsistent with objectives of the DCP regarding views;
- (b) The proposal is inconsistent with objective and controls of the DCP regarding views and view sharing;
- (c) The proposal is inconsistent with the DCP, as the proposal fails under the fourth Tenacity Step, Point 3 [a]: *For complying proposals: (a) "whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours to bring about impact"*.
- (d) The application documentation has failed to accurately and comprehensively consider and document view loss impacts on affected neighbours;
- (e) The proposal is inconsistent with the Land and Environment Court Planning Principle contained in *Tenacity Consulting v Warringah Council* and in particular the "fourth step" regarding the reasonableness of the proposal in circumstances whether a more skilful design could reduce the impact on views of neighbours.
- [f] The proposal is inconsistent with the decision made by NSWLEC Commissioner Walsh in *Furlong v Northern Beaches Council [2022] NSWLEC 1208* in considering that if a more skilful design could be achieved arriving at an outcome that achieved 'a very high level of amenity and enjoy impressive views', and the proposal had not taken that option, then a proposal had gone too far, and must be refused.

In terms of view loss, I contend that the proposal fails under the fourth Tenacity Step, Point 3 [a]:

*Point 3 - For complying proposals: (a) "whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours to bring about impact"*.

I contend that the question to be answered is whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact upon views of neighbours.

I contend that the view impact is considered a moderate impact from the respective zones within the properties given the proportion of the views which are impacted.

The aspect is considered whole, prominent views, perhaps iconic views, which are certainly worthy of consideration and at least partial protection. The proposal to remove some of these views is considered overall to be a moderate view impact.

As Council will recall, in respect to Point 3, NSWLEC Commissioner Walsh in *Furlong v Northern Beaches Council [2022] NSWLEC 1208* referenced *Wenli Wang v North Sydney Council [2018] NSWLEC 122*, in considering that if a more skilful design could

be achieved arriving at an outcome that achieved 'a very high level of amenity and enjoy impressive views', then a proposed development has gone too far, and must be refused.

I contend that the proposed development has 'gone too far' and the 'more skilful design' solution identified in this Submission, achieves 'a very high level of amenity and enjoy impressive views' for the applicant.

The development results in a loss of private views enjoyed by the neighbouring properties.

The development does not satisfy the objectives and planning controls of the DCP in respect to view loss.

Height poles are to be erected and are to be certified by a registered surveyor.

In this instance, it must be strongly recommended that the proposed upper floor is redesigned to respond to, and address, principle four of *Tenacity Consulting v Warringah Council*, which would provide the Applicant with a similar amenity while also reducing the view impact to an acceptable level on adjoining properties. An alternative design outcome could be achieved involving a reduction or relocation to the internal floor space of the proposed upper level.

In this instance, alternative design outcomes are encouraged to appropriately and satisfactorily address the four-part assessment of *Tenacity Consulting v Warringah Council*.

The proposed development has not considered the strategic placement of canopy trees to avoid further view loss impacts upon existing view corridors.

The Applicant has not provided an adequate View Impact Analysis which details the extent to which existing views from my clients' properties, and other impacted dwellings, are obstructed under the current proposal. The existing documentation accompanying the application is insufficient to undertake a detailed analysis of the proposal against the relevant DCP and NSWLEC guidelines.

The proposal may also cause potential view loss of the views from the public road, and may cause potential view loss from other neighbours who have not been notified of this DA.

The SEE has not considered the loss of street view loss from the public domain. The impact on public domain views has not been assessed by the applicant. I refer to *Rose Bay Marina Pty Limited v Woollahra Municipal Council* 2013 NSWLEC 1046. My clients contend that some of the public domain street view might be lost.

I bring to Council's attention a number of recent dismissal of appeals on view loss grounds:

- FURLONG V NORTHERN BEACHES COUNCIL [2022] NSWLEC 1208
- DER SARKISSIAN V NORTHERN BEACHES COUNCIL [2021] NSWLEC

- WENLI WANG V NORTH SYDNEY COUNCIL [2018] NSWLEC 122
- REBEL MH NEUTRAL BAY V NORTH SYDNEY COUNCIL [2018] NSWLEC 191
- AHEARNE V MOSMAN MUNICIPAL COUNCIL [2023] NSWLEC 1013

I contend that the composite consideration from these NSWLEC dismissals, suggest that even when a compliant development causes view loss, and the view is across a side boundary, and when there is an alternative option open to avoid that view loss, and that alternative has not been taken, then the DA is unreasonable.

FURLONG V NORTHERN BEACHES COUNCIL [2022] NSWLEC 1208

I refer to a dismissal of a Class 1 Appeal by NSWLEC Commissioner Dr Peter Walsh on a nearby site in Dee Why on view loss grounds. I refer to Furlong v Northern Beaches Council [2022] NSWLEC 1208. [NBC DA 2021/0571, 55 Wheeler Parade Dee Why]

I represented the neighbour in this matter.

I include within this submission the view loss montages prepared by Pam Walls as a part of my submission to Council and the Court on this Appeal.

I raise the dismissal by NSWLEC of the Applicant's appeal. The case in question had many similarities to this DA.

NBC DDP refused this DA on 24 November 2021, with Panel members Rod Piggott, Rebecca Englund, Tony Collier and Liza Cordoba, following a Refusal Recommendation of NBC Development Assessment Manager, by the NBC Responsible Officer Jordan Davies, a very senior NBC Planning Officer, that Council as the consent authority refuses Development Consent to DA2021/0517 for Alterations and additions to a dwelling house on land at Lot B DP 338618, 55 Wheeler Parade Dee Why subject to the conditions that were outlined in the Assessment Report.

The assessment of DA 2020/0517 involved a consideration of a view loss arising from a proposed development that presented a generally compliant envelope to LEP and DCP controls.

The DDP agreed with the recommendation and refused this DA.

The Assessment Report found that:

*" A view assessment is undertaken later in this assessment report and the proposal is found to result in an unsatisfactory view sharing outcome and the application is recommended for refusal for this reason"*

The Assessment Report found that in respect to a compliant envelope:

*" the question to be answered is whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact upon views of neighbours."*

*The Assessment Report within the Tenacity Assessment concluded:*

*"the view impact looking south-east is considered both severe and devastating from the respective rooms given the significant proportion of the views which are*

*impacted. The aspect looking south and south-east are considered whole, prominent coastal views which are certainly worthy of consideration and at least partial protection. The proposal to remove the vast majority of these views is considered overall to be a severe view impact."*

The DA was recommended for refusal, and DDP refused the DA in full support of the NBC Responsible Officer's Assessment Report.

The severity of the view loss that was considered unacceptable by the DDP was clearly stated by the DDP. This level of view loss was considered as 'severe' by the assessing officers and the DDP.

The Applicant appealed this decision.

On 22 April 2022, the appeal on *Furlong v Northern Beaches Council* [2022] NSWLEC 1208, was dismissed by the NSWLEC Commissioner Dr Peter Walsh. The decision summarised the issues:

60 Council took me to the findings of Robson J in *Wenli Wang v North Sydney Council* [2018] NSWLEC 122 ('Wenli Wang').

I reproduce pars [70]-[71] below:

*"70 Applying the fourth step of Tenacity, I repeat that the proposed development complies with the development standards in the LEP and is therefore more reasonable than a development which would have breached them. However, I do also note that there is evidence in the form of the Colville plan that a similar amount of floor space could be provided by a design which reduces the effect on the view from the surrounding properties.*

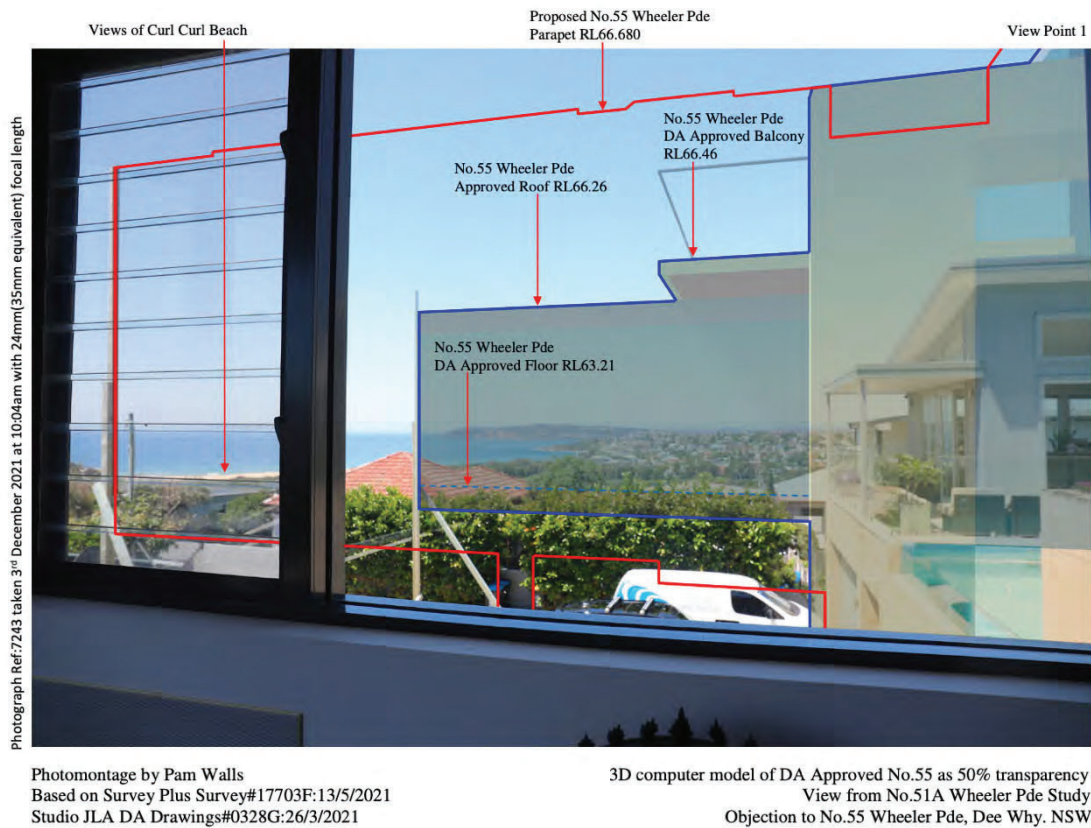
*71 I consider there is force in the submission of Council that the applicant has taken a circular approach to the fourth step of Tenacity which presupposes a right to the level of amenity achieved by the proposed development. Whilst it is true that a redevelopment similar to that provided in the Colville plan would not provide the same amenity as the proposed development, it would provide a very high level of amenity and enjoy impressive views."*

*61 In the matter before me, I am more inclined to the kind of conclusion expressed at [71] in Wenli Wang. While the proposed development, accommodating the alternative designs suggested by Council (either shifting the master bedroom westwards some 3.5m or sliding the master bedroom to the south to bring about the same view availability effect – see [43]), may not provide the same amenity outcomes as would be the case without such changes, the proposal would still enjoy a very high level of amenity, including in regard to the panoramic views available to the south, especially from living areas. The master bedroom would still enjoy superior views.*

*62 The proposal would bring about a severe view loss impact on 51A Wheeler Parade when there are reasonable design alternatives which would moderate this impact significantly. The proposal does not pay sufficient regard to cl D7 of WDCP which requires view sharing. The proposal before the Court does warrant the grant of consent in the circumstances.*



The key issues in this case considered that the proposal would bring about a greater than moderate view loss impact, across a side boundary, on a Study/Bedroom when there was a reasonable design alternative which would moderate this impact significantly. The proposal did not pay sufficient regard to cl D7 of WDCP which requires view sharing.



### The NSWLEC Furlong View Loss

In light of the guidance given in Tenacity, side boundary views have been considered difficult to protect for homeowners who will suffer from view loss from a proposed development.

However, the decision by Commissioner Walsh in *NSWLEC Furlong* has clarified that although the decision in Tenacity makes it so that views across side boundaries are more difficult to protect than front and rear boundary views, that:

*"does not mean the protection of views across side boundaries is not appropriate in some circumstances"*.

Furlong has therefore extended the reach of the second step set out in Tenacity in circumstances where a proposed development would bring about moderate, severe or devastating view loss to side boundary views.

In Furlong, 'severe view loss' was taken to occur when a proposed development would block views that are of a 'high value' and not replicated in other areas of the property, even if those view were perceived from the side boundaries of a property.

The key-takeaway from this decision is that views that are not perceived from the front and rear boundaries of a property can still be protected if they are of 'high value' and not replicated in other areas of the property. In such circumstances, the loss of 'high value' views could be considered to cause severe view loss and may be able to be protected.

I contend that the decision in *Furlong* refines the steps in *Tenacity* and gives stronger protection to neighbouring properties who might suffer from view loss.

Further, a design alternative which reduces the view loss is more likely to be accepted. This goes to the reasonableness of a proposal under the fourth step in *Tenacity*.

Since *Tenacity*, side boundary views were considered difficult to protect for home owners who will suffer from view loss from a proposed development.

However, *Furlong* suggests that for side boundary views which are of a high value and not replicated in other areas of the property, it is appropriate to protect those views and refuse the proposed development. In this way, *Furlong* refines the planning principle in relation to view loss by placing greater emphasis on the perceived value of the view.

#### DER SARKISSIAN V NORTHERN BEACHES COUNCIL [2021] NSWLEC 1041

I refer to a dismissal of a Class 1 Appeal by NSWLEC Commissioner Dr Peter Walsh on a nearby site in Curl Curl on view loss grounds. My clients refer to Der Sarkissian v Northern Beaches Council [2021] NSWLEC 1041. [NBC DA 2019/0380, 72 Carrington Parade, Curl Curl]

I raise the dismissal by NSWLEC of the Applicant's appeal. The case in question had many similarities to this DA.

- The main view loss concern was to a neighbour immediately behind 72 Carrington Parade, Curl Curl. My clients are in a similar position immediately behind the subject site.
- The view loss involved side setback controls.
- The view loss at Curl Curl was severe – my clients' loss would be also be greater than moderate: my clients would have significant loss of land/water interface from my clients' living spaces

The key matters within the Commissioner's Conclusion:

- the determinative issue in this case is view loss
- the proposal would significantly change the amenity enjoyed for the worse.
- both policy controls and view sharing principles suggest the proposal goes too far.
- proposal attempts to achieves too much on a constrained site.
- a reasonable development at the upper level in regard to view sharing and setback policy,

- with good design, there is scope for this to occur while also providing for reasonable floor space on this level.

It is clear that the view loss, on this DA, occurs through a poor consideration on wall height, building height and side boundary envelope controls.

My commentary on this DA is very similar to Commissioner Walsh in *Der Sarkissian v Northern Beaches Council* [2021] NSWLEC 1041

- the determining issue in this case is view loss – in my clients' case a water and water/land interface view loss
- the proposal would significantly change the amenity enjoyed for the worse.
- policy controls of building height, wall height, side boundary envelope non-compliances and view sharing principles suggest the proposal goes too far.
- proposal attempts to achieves too much on a constrained site.
- a reasonable development at the upper level in regard to view sharing building height, wall height, side boundary envelope policy, would share the view
- with good design, there is scope for view sharing to occur while also providing for reasonable floor space on all levels

My clients contend that there is no reasonable sharing of views amongst dwellings.

The new development is not designed to achieve a reasonable sharing of views available from surrounding and nearby properties.

The proposal has not demonstrated that view sharing is achieved through the application of the Land and Environment Court's planning principles for view sharing.

#### WENLI WANG V NORTH SYDNEY COUNCIL [2018] NSWLEC 122

I refer to a dismissal of a Class 1 Appeal by NSWLEC Commissioner Robson on 22 August 2018, *Wenli Wang V North Sydney Council* [2018] NSWLEC 122  
This decision, and referenced in *FURLONG*, gives consideration to the assessment of a complaint development.

The view loss was a devastating loss from highly used rooms, across a rear boundary, and where considered an iconic view. In general terms, the Commissioner considered that there was that a more skilful design available to the applicant that although *'would not provide the same amenity as the proposed development, it would provide a very high level of amenity and enjoy impressive views.'*

The key stated was that it was necessary to provide the same amenity, but a very *high level of amenity and enjoy impressive views.*

The judgement read:

*68. I repeat that the proposed development complies with the development standards in the LEP and is therefore more reasonable than a development*

which would have breached them. However, I do also note that there is evidence in the form of the Colville plan that a similar amount of floor space could be provided by a design which reduces the effect on the view from the surrounding properties.

69. I consider there is force in the submission of Council that the applicant has taken a circular approach to the fourth step of Tenacity which presupposes a right to the level of amenity achieved by the proposed development. Whilst it is true that a redevelopment similar to that provided in the Colville plan would not provide the same amenity as the proposed development, it would provide a very high level of amenity and enjoy impressive views.

70. Given the importance placed upon view "sharing" by the DCP, I have given some weight to the fact that the site as currently developed enjoys iconic and panoramic views. The reasonableness of the proposed development should be seen in that light and I find that it is a factor which makes the DA less reasonable in the terms envisaged by the fourth step of Tenacity. Whilst it is true that a redevelopment similar to that provided in the Colville plan would not provide the same amenity as the proposed development, it would provide a very high level of amenity and enjoy impressive views.

#### REBEL MH NEUTRAL BAY PTY LTD V NORTH SYDNEY COUNCIL [2018] NSWLEC 191

As noted by his Honour, Justice Moore of the Court in Rebel MH Neutral Bay Pty Ltd v North Sydney Council [2018] NSWLEC 191 (Rebel),

*"the concept of sharing of views does not mean, for the reasons earlier explained, the creation of expansive and attractive views for a new development at the expense of removal of portion of a pleasant outlook from an existing development. This cannot be regarded as "sharing" for the purposes of justifying the permitting of a non-compliant development when the impact of a compliant development would significantly moderate the impact on a potentially affected view"*.

This is a key consideration, and one that parallels the forementioned NSWLEC decisions.

#### AHEARNE V MOSMAN MUNICIPAL COUNCIL [2023] NSWLEC 1013

As noted by Commissioner Espinosa of the Court in Ahearne v Mosman Municipal Council [2023] NSWLEC 1013 that the view sharing objectives and controls were minimised through the appropriate distribution of floor space and landscaping.

The importance of this decision reinforces the issues of landscaping in view loss assessment, and the consideration that the composite outcome of appropriate distribution of floor space and landscaping is relevant to view sharing principles.

## TENACITY CONSULTING V WARRINGAH COUNCIL 2004

I have been unable to consider the impact of the proposal on the outward private domain views from my clients' property.

Height poles has yet to be provided by the Applicant.

An assessment in relation to the planning principle of Roseth SC of the Land and Environment Court of New South Wales in *Tenacity Consulting v Warringah* [2004] NSWLEC 140 - Principles of view sharing: the impact on neighbours (Tenacity) is made, on a provisional basis ahead of height poles being erected by the Applicant.

The steps in Tenacity are sequential and conditional in some cases, meaning that proceeding to further steps may not be required if the conditions for satisfying the preceding threshold is not met.

### STEP 1 VIEWS TO BE AFFECTED

The first step quoted from the judgement in Tenacity is as follows:

*The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

An arc of view is available when standing at a central location in the highly used zones including entertainment decks, highly used rooms, and private open spaces on my clients' property.

The proposed development will impact upon expansive water views, and water views in which the interface between land and water is visible. The views include whole views.

The composition of the arc is constrained over the subject site boundaries, by built forms and landscape. The central part of the composition includes the subject site. Views include scenic and valued features as defined in Tenacity. The proposed development will take away views for its own benefit. The view is from my clients' highly used rooms towards the view. The extent of view loss exceeds moderate and the features lost are considered to be valued as identified in Step 1 of Tenacity.

### STEP 2: FROM WHERE ARE VIEWS AVAILABLE

This step considers from where the affected views are available in relation to the orientation of the building to its land and to the view in question. The second step, quoted, is as follows:

*The second step is to consider from what part of the property the views are*

*obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*

The views in all cases are available across the boundary of the subject site, from standing and seated positions. An arc of view is available when standing at highly used zones on my clients' property.

In this respect, I make two points: My clients have no readily obtainable mechanism to reinstate the impacted views from my clients' high used zones if the development as proposed proceeds; and all of the properties in the locality rely on views over adjacent buildings for their outlook, aspect and views.

### STEP 3: EXTENT OF IMPACT

The next step in the principle is to assess the extent of impact and the locations from which the view loss occurs.

Step 3 as quoted is:

*The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*

As I rate the extent of view loss is above moderate in my opinion the threshold to proceed to Step 4 of Tenacity is met.

### STEP 4: REASONABLENESS

The planning principle states that consideration should be given to the causes of the visual impact and whether they are reasonable in the circumstances.

Step 4 is quoted below:

*The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the*

*impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

*NSWLEC Commissioner Walsh in Balestriere v Council of the City of Ryde [2021] NSWLEC 1600 in relation to the Fourth Step:*

*There are three different points to the fourth Tenacity step, concerned with assessing the reasonableness of the impact, which I summarise as follows:*

*Point 1 - Compliance, or otherwise, with planning controls.*

*Point 2 - If there is a non-compliance, then even a moderate impact may be considered unreasonable.*

*Point 3 - For complying proposals: (a) "whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours to bring about impact", and (b) "if the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable".*

*In respect to Point 3, NSWLEC Commissioner Walsh in Furlong v Northern Beaches Council [2022] NSWLEC 1208 referenced Wenli Wang v North Sydney Council [2018] NSWLEC 122, in considering that if a more skilful design could be achieved arriving at an outcome that achieved 'a very high level of amenity and enjoy impressive views', then a proposed development has gone too far, and must be refused.*

In my opinion the extent of view loss considered to be the greater than moderate, in relation to the views from my clients' highly used zones of my clients' dwelling. The view is from a location from which it would be reasonable to expect that the existing view, particularly of the view that could be retained especially in the context of a development that does not comply with outcomes and controls. The private domain visual catchment is an arc from which views will be affected as a result of the construction of the proposed development. The proposed development will create view loss in relation to my clients' property. The views most affected are from my clients' highly used zones and include very high scenic and highly valued features as defined in Tenacity. Having applied the tests in the Tenacity planning principle I conclude that my clients would be exposed to a loss greater than moderate from the highly used rooms. The non-compliance with planning outcomes and controls of the proposed development will contribute to this loss. Having considered the visual effects of the proposed development envelope, the extent of view loss caused would be unreasonable and unacceptable.

The proposed development cannot be supported on visual impacts grounds. The siting of the proposed development and its distribution of bulk does not assist in achieving view sharing objectives. My assessment finds that view sharing objectives have not been satisfied.

There are architectural solutions that maintains my clients' view.

As noted by his Honour, Justice Moore of the Court in Rebel MH Neutral Bay Pty Ltd v North Sydney Council [2018] NSWLEC 191 (Rebel),

*“the concept of sharing of views does not mean, for the reasons earlier explained, the creation of expansive and attractive views for a new development at the expense of removal of portion of a pleasant outlook from an existing development. This cannot be regarded as “sharing” for the purposes of justifying the permitting of a non-compliant development when the impact of a compliant development would significantly moderate the impact on a potentially affected view”.*

The same unreasonable scenario in Rebel applies to the current DA. The proposed breaching dwelling will take away views from my clients' property (and possibly other adjoining properties) to the considerable benefit of the future occupants of the proposed dwelling. This scenario is not consistent with the principle of View Sharing enunciated by his Honour, Justice Moore in Rebel. The adverse View Loss from my clients' property is one of the negative environmental consequences of the proposed development. The proposed development cannot be supported on visual impacts grounds.

These issues warrant refusal of the DA.

My clients ask Council to request that the Applicant position 'Height Poles/Templates' to define the non-compliant building envelope, and to have these poles properly measured by the Applicant's Registered Surveyor. The Height Poles will need to define: All Roof Forms, and all items on the roof, Extent of all Decks, Extent of Privacy Screens. Height Poles required for all trees. The Applicant will have to identify what heights and dimensions are proposed as many are missing from the submitted DA drawings.

In conclusion, as the dwelling proposed will impact views from my clients' property, the erection of height poles is required to allow an accurate assessment of view impact. The height poles should provide a delineation to identify any elements of the proposed built form that breaches the envelope controls of height and setbacks.

My clients contend that the proposed development when considered against the DCP and the NSW Land and Environment Court Planning Principle in *Tenacity Consulting Pty Ltd v Warringah Council (2004) NSWLEC* will result in an unacceptable view impact and will not achieve appropriate view sharing.

My clients contend that the proposal is contrary to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979* in that it does not satisfy the view sharing controls of the DCP.

#### 4. IMPACTS UPON ADJOINING PROPERTIES: VIEW LOSS CAUSED BY POOR STRATEGIC POSITIONING OF TREE CANOPY

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it fails to strategically locate new tree canopy to avoid amenity loss.



My clients are concerned that new trees are positioned within the Tenacity Viewing Corridors to my clients' view.

At the recent NSWLEC case, *Hong v Mosman Municipal Council [2023] NSWLEC 1149* decision dated 31 March 2023, view loss caused by excessive landscape was a key issue. Commissioner Walsh summarised the matter in cl 30 of his decision:

*In regard to landscaping and tree protection, I note again that in Court and to some degree of detail, I worked through with the experts the various points of concern raised. This resulted in a number of further agreed alterations to the landscape plan. The Revision C drawings, based on the evidence of the experts but also in my own reading, now provide that appropriate balance between retaining and sometimes enhancing Middle Harbour views, while also providing for a valuable local landscape contribution.*

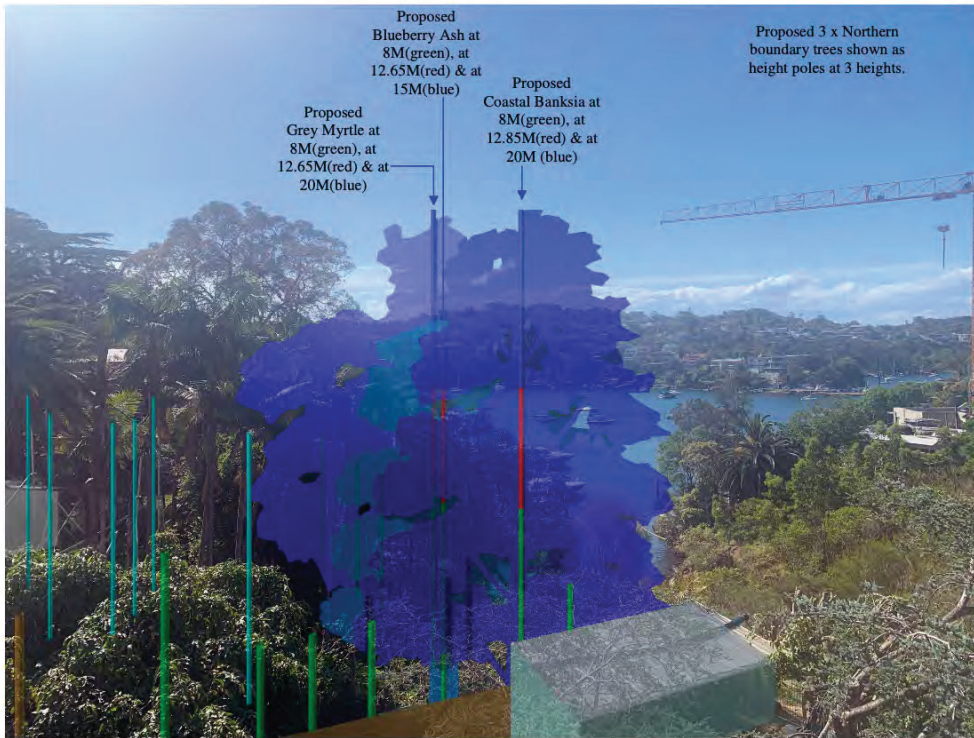
The Revision C drawings required 9 high canopy trees to be deleted and replaced by 3m high species. The condition of consent required a further four transplanted palms to be deleted from the Landscape Plans.

I represented the neighbour in this matter.

I include within this submission the view loss montages prepared by Pam Walls as a part of my submission to Council and the Court on this Appeal.

I add the montage prepared to support the neighbour's submission in these respects.

Photograph Ref:7253-taken 13 Dec 2022 at 11:19am with 35mm focal length



Photomontage by Pam Walls  
Based on S.J.Surveying Services Height Pole Sketch#247319:24/10/2022  
Selena Hanna Landscape Drawings#LP03-B:22/02/2022

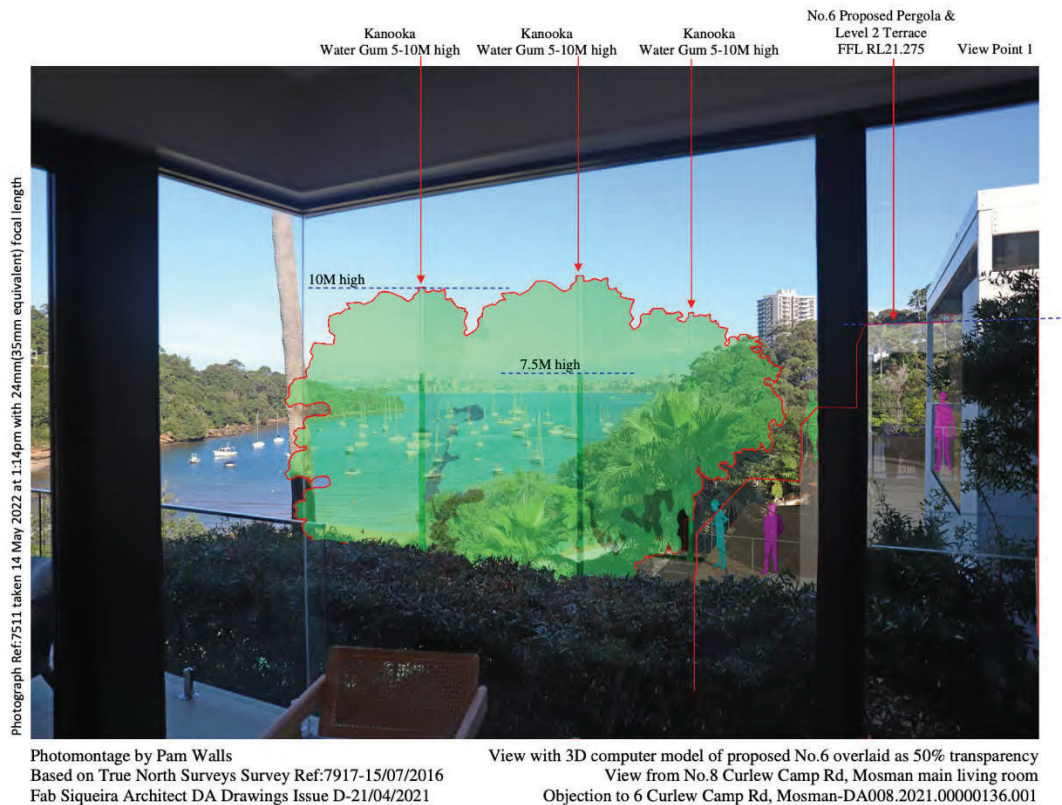
Proposed 3 x boundary trees shown as 50% transparency  
View from No.12 main living balcony  
Objection to 10 Julian St, Mosman

*Hong v Mosman Municipal Council [2023] NSWLEC 1149  
View Loss caused by excessive landscape in the harbour viewing corridor zone*

At the recent NSWLEC case, *Zubani v Mosman Municipal Council [2022] NSWLEC 1381*, decision dated 19 July 2022, clearly identifies that under *Tenacity*, Council must be mindful to restrict landscape heights to ensure views are adequately protected. Commissioner Morris referred to the matter in 47 and 49.

I represented the neighbour in this matter.

I include within this submission the view loss montages prepared by Pam Walls as a part of my submission to Council and the Court on this Appeal.



*Zubani v Mosman Municipal Council [2022] NSWLEC 1381*  
 View Loss caused by excessive landscape in the street setback zone

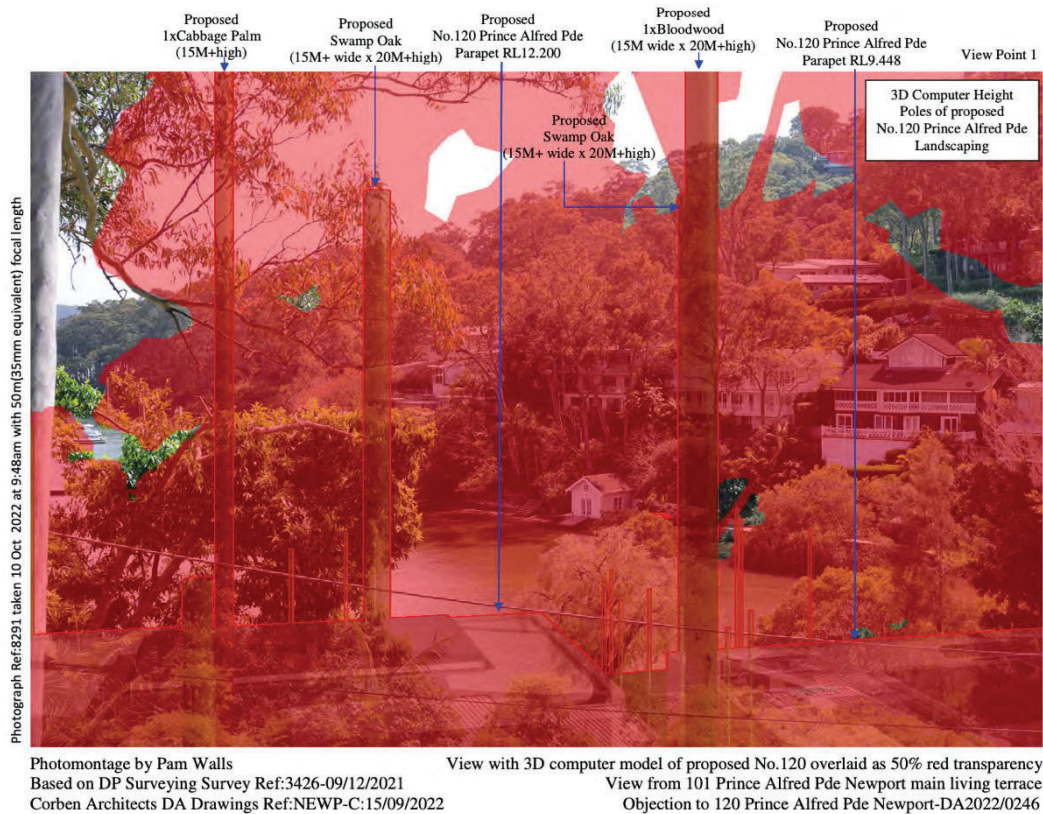
At the recent NSWLEC case, *Petesic v Northern Beaches Council [2022] NSWLEC*, decision dated 30 May 2022, view loss caused by excessive landscape was a key issue. Northern Beaches Council's SOFAC filed 16 September 2021, prepared by Louise Kerr, Director Planning and Place at NBC, in B2 Item 7, called for '*strategic positioning of canopy trees*' to avoid view loss. Proposed Trees were lowered and repositioned as a result. Commissioner Chilcott referred to the matter in 49[5].

At the recent NBLPP decision, DA 2022 0246 at 120 Prince Alfred Parade, Newport on 8 December 2022, the Panel agreed to delete trees higher than 8.5m in the viewing corridor as recommended by Council's assessment Report, and imposed the

additional condition that the trees “shall be maintained so that they do not exceed 8.5 metres in height measured from the ground at the base of the tree”

I represented the neighbour in this matter.

I include within this submission the view loss montages prepared by Pam Walls as a part of my submission to Council and the Court on this Appeal.



NBLPP: DA 2022 0246 120 Prince Alfred Parade, Newport on 8 December 2022  
View Loss caused by excessive landscape

At the recent NBC DDP decision, DA 2022 2280 at 47 Beatty Street Balgowlah in July 2023, the Panel agreed to delete trees higher than 6.0m in the viewing corridor as recommended by Council's Assessment Report. The NBC DDP Panel Members were Daniel Milliken, Maxwell Duncan and Neil Cocks.

The condition imposed stated that the trees:

“...shall be replaced with a species with a maximum mature height of 6m.”

The Panel also deleted a roof terrace that obstructed harbour views.



Photograph Ref:9178 taken 8 March 2023 at 9:29am with 50m(35mm equivalent) focal length

Photomontage by Pam Walls  
Based on True North Survey Ref:1091-17/02/2022  
ESS Lifestyle DA Drawings Ref:0158-25/05/2022

View with 3D solid block computer model of proposed No.47 and indicative landscaping  
View from 18 Tutus St, Balgowlah main external living balcony  
Objection to 47 Beatty St, Balgowlah-DA2022/2280

*The roof terrace, retractable awning, stairs, balustrading, stairwell wall and raised parapet wall shall be deleted from the roof level. The roof level shall consist of roof planting, with species consistent with the submitted landscape plan, and have no structures exceeding RL 36.2 placed on the roof (apart from landscaping).*

I represented the neighbour in this matter.

I include within this submission the view loss montages prepared by Pam Walls as a part of my submission to Council.

I am concerned that proposed trees to be planted on elevated platforms and terraces may remove important views.

## 5. IMPACTS UPON ADJOINING PROPERTIES: OVERSHADOWING

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it will have unacceptable impacts upon the amenity of neighbours' property, specifically with regard to overshadowing.

The Applicant has not provided adequate Solar Access Diagrams, at one hourly intervals, in plan and elevation of my clients' property, to assess the loss of solar access at mid-winter, of my client's windows, private open space, and PV Solar Panels to accord with DCP controls and NSWLEC planning principles

My clients believe that further assessment of the shadow impacts through the production of elevational shadow diagrams or a "View from the Sun" assessment are critical in order to understand the potential future impacts and necessary for Council's reasonable assessment.

Shadow diagrams have not included the additional shadow cast by the non-complaint envelope, in plan and elevation. The elevational shadow diagrams must show the position of windows on adjoining properties.

The proposed development should be refused as it will have unacceptable impacts upon the amenity of adjoining properties, specifically with regard to overshadowing.

The proposed development will result in unreasonable overshadowing of the windows of my clients' property and the private open space of my clients' property, resulting in non-compliance with the provisions of DCP.

A variation to the DCP is not supported as the objectives of the clause are not achieved.

In *The Benevolent Society v Waverley Council* [2010] NSWLEC 1082 the LEC consolidated and revised planning principle on solar access is now in the following terms:

*"Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours."*

The Applicant has not submitted hourly solar diagrams to fully assess the solar loss. My clients ask Council to obtain these diagrams.

The planning principle *The Benevolent Society v Waverley Council* [2010] NSWLEC 1082 is used to assess overshadowing for development application. An assessment against the planning principle is provided as follows:

- *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. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*

The density of the area is highly controlled.

- *The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.*

The solar diagrams are not complete, but what has been provided shows that the proposed development will overshadow the adjoining dwellings. The amount of sunlight that will be lost will only be able to be fully considered once solar elevational

drawings are submitted. What has been submitted gives the very clear indication that the outcome is not in accordance with controls

- *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.*

The proposed development has been designed without considering the amenity of the neighbouring properties. It is considered that a more skilful design, could have been adopted that would have reduced the impact on the neighbouring properties. What has been submitted gives the very clear indication that the outcome is not in accordance with controls

- *To be assessed as being in sunlight, the sun should strike a vertical surface at a horizontal angle of 22.5o or more. (This is because sunlight at extremely oblique angles has little effect.) For a window, door or glass wall to be assessed as being in sunlight, half of its area should be in sunlight. For private open space to be assessed as being in sunlight, either half its area or a useable strip adjoining the living area should be in sunlight, depending on the size of the space. The amount of sunlight on private open space should be measured at ground level.*

This can only be fully assessed once elevational solar drawings at hourly intervals are submitted. What has been submitted gives the very clear indication that the outcome is not in accordance with controls

- *Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.*

There is no major overshadowing as a result of vegetation

- *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 area is not currently undergoing change, the LEP and DCP controls have not altered for many years.

The assessment of the development against the planning principal results in the development not complying with the solar access controls and therefore amended plans should be requested to reduce the overshadowing impact on the adjoining neighbour. It is suggested that a more skilful design of the development, would result in less impact in regard to solar access. It is requested that Council seek amended plans for the development to reduce the impact of the development, and these matters are addressed elsewhere in this Written Submission.

My clients object to solar loss to my clients' private open space, and to my clients' windows that fails to allow mid-winter solar access into highly used room by non-compliant development controls.

## 6. IMPACTS UPON ADJOINING PROPERTIES: PRIVACY

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it will have unacceptable impacts upon the amenity of neighbours' property, specifically with regard to visual privacy.

The proposed development should be refused as it will have unacceptable impacts upon the amenity of my clients' property, specifically with regard to visual privacy.

The proposed development will result in unacceptable overlooking of the adjoining dwelling and associated private open space, resulting in inconsistency with the provisions of the DCP and the objectives of the DCP.

The location and design of the proposed glazed windows facing the boundary will result in unacceptable visual and acoustic privacy impacts to adjoining properties.

The Applicant has not provided an adequate Privacy Impact Analysis which details the extent to which privacy at my clients' property will be adversely impacted by the proposal.

An assessment of the privacy impact against the planning principle *Meriton v Sydney City Council* [2004] NSWLEC 313 follows:

*Principle 1: The ease with which privacy 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 private open space will remain private. At high-densities it is more difficult to protect privacy.*

Response: The development is located in a R1 Zone area.

*Principle 2: Privacy can be achieved by separation. The required distance depends upon density and whether windows are at the same level and directly facing each other. Privacy is hardest to achieve in developments that face each other at the same level. Even in high-density development it is unacceptable to have windows at the same level close to each other. Conversely, in a low-density area, the objective should be to achieve separation between windows that exceed the numerical standards above. (Objectives are, of course, not always achievable.)*

Response: The proposed development results in a privacy impact with the proposed windows facing neighbours without sufficient screening devices being provided, considering the proposed windows are directly opposite my clients' windows and balconies.

*Principle 3: The use of a space determines the importance of its privacy. Within a dwelling, the privacy of living areas, including kitchens, is more important than that of bedrooms. Conversely, overlooking from a living area is more objectionable than overlooking from a bedroom where people tend to spend less waking time.*

Response: The windows in question are windows of highly used offices and music rooms, it is considered that the living areas will result in an unacceptable privacy



breach. The proposed windows and decks face the rear private open spaces for the neighbouring dwelling and will result in an unacceptable level of privacy impact.

*Principle 4: Overlooking of neighbours that arises out of poor design is not acceptable. A poor design is demonstrated where an alternative design, that provides the same amenity to the applicant at no additional cost, has a reduced impact on privacy.*

Response: The proposed development is a new development and the proposed windows have been designed without any consideration to the privacy of the neighbouring property.

*Principle 5: Where the whole or most of a private open space cannot be protected from overlooking, the part adjoining the living area of a dwelling should be given the highest level of protection.*

Response: It is considered that the private open space of the neighbouring dwellings could be better protected. My clients ask Council to consider the most appropriate privacy screening measures to be imposed on windows and decks facing my clients' property, including landscaping

*Principle 6: Apart from adequate separation, the most effective way to protect privacy is by the skewed arrangement of windows and the use of devices such as fixed louvres, high and/or deep sills and planter boxes. The use of obscure glass and privacy screens, while sometimes being the only solution, is less desirable.*

Response: As mentioned above, the use of privacy devices would reduce the impact of the dwelling.

*Principle 7: Landscaping should not be relied on as the sole protection against overlooking. While existing dense vegetation within a development is valuable, planting proposed in a landscaping plan should be given little weight.*

Response: Additional 6m high landscaping may assist in addition to privacy devices.

*Principle 8: In areas undergoing change, the impact on what is likely to be built on adjoining sites, as well as the existing development, should be considered.*

Response: The area is not undergoing change that would warrant privacy impact such as the one presented.

Comment: As the development is considered to result in an unacceptable privacy impact due to the design, it is requested that the proposed development be redesigned to reduce amenity impact on the neighbouring properties.

In the context of the above principles, the application can be considered to violate the reasonable expectation that the habitable rooms and private open space at my clients' property will remain private. It is therefore reasonably anticipated that the application does not comply with the DCP.

The above non-compliance will give rise to unreasonable amenity impacts upon the adjoining properties. In this instance, the proposal is not considered to achieve compliance with this control.



*Proximity of private open space and apartments.*

## 7. IMPACTS UPON ADJOINING PROPERTIES: ENGINEERING

### EXCESSIVE EXCAVATION & GEOTECHNICAL CONCERNS

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it fails to provide minimal excavation, with excavation proposed too close to the neighbours' property.

The quantum of excavation has not been identified by the applicant, nor the method of how the calculations were identified.

Insufficient information has been submitted to demonstrate that the proposed development will not adversely impact the structural integrity of the surrounding properties.

The Applicant has not provided adequate protection to my clients' property by the submission of an incomplete Geotechnical report, including:

- appears to be assessing a significant shallower excavation at 2m than is proposed in the architectural design of 9m, potentially making the recommendations and design parameters of the report invalid/unsuitable.
- does not provide suitable assessment to meet the Council Geotechnical Risk Management Policy requirements.
- inadequate geotechnical investigations,
- incomplete geotechnical recommendations,
- conservative parameters for design of retention systems.
- incomplete geotechnical monitor plan,
- excessive vibration limits, maximums of 3mm/sec should be considered due to the age and fragility of neighbouring properties
- lack of full-time monitoring and control of the vibration,
- incomplete dilapidation survey report recommendations,
- incomplete attenuation methods of excavation,
- exclusion of excavation in the setback zone,
- incomplete consideration of battering

The maximum excavation depth appears to be up to 7m greater than that indicated in the geotechnical report. This would be expected to alter the risk levels assessed in the report and the recommendations for support systems.

it is impossible to confirm from hand auger and DCP tests the strength rock exists on site

The Safe Excavation Batters for excavations of >3.0m depth continuous batter slopes in soils or weak rock are generally unsafe.

Safe batter slopes are not possible in many locations with respect to boundary stability, and therefore pre-excavation support is needed.

As such, a more detailed investigation into sub-surface conditions is required to confirm geological sequences and determine and provide recommendations for support systems.

The report also appears to be assessing a significant shallower excavation than is proposed in the architectural design, potentially making the recommendations and design parameters of the report invalid/unsuitable.

Based on the apparent potential for excavation of deep excavation within proximity of property boundaries, it is considered that the geotechnical report does not provide suitable assessment to meet the Council Geotechnical Risk Management Policy requirements.

In simple terms, the Geotechnical Report is not sufficient in detail, as it fails to provide adequate information on the following:

1. Details of all site inspections and site investigations.
2. Plans and sections of the site and related land from survey and field measurements with contours and spot levels to AHD.
3. Photographs and/or drawings of the site and related land adequately illustrating all geotechnical features referred to in the Detailed Geotechnical Report, as well as the locations of the proposed development.
4. Presentation of an interpreted geological model of the site and related land showing the proposed development, including an assessment of sub-surface conditions, taking into account thickness of the topsoil, colluvium and residual soil layers, depth to underlying bedrock, and the location and depth of groundwater.
5. An assessment of the risk posed by all identifiable Geotechnical Hazards that have the potential to either individually or cumulatively affect people or property upon the site or adjoining properties
6. A conclusion as to whether the site is suitable for the development proposed to be carried out.
7. Details of all geotechnical conditions or information that are required for the different stages of development, including the following:
8. Development Approval:
  - Footing levels and supporting rock quality (where applicable)
  - Extent of earth and rock cut and fill (where applicable)
  - Recommendations for excavation and batters (where applicable)
  - Parameters, bearing capacities and recommendations for use in the design of all structural works with geotechnical components, including footings, retaining walls, surface and sub-surface drainage.
  - Recommendations for the selection of building structure systems consistent with the geotechnical risk assessment
  - Any other conditions required to ensure the proposal can achieve the acceptable risk management
  - Any other conditions required to remove geotechnical risks that can reasonably and practically be addressed.

9. Details of all geotechnical conditions or information that are required for the following stages of development

I have numerous concerns:

- o A mass failure of the slope that falls across the property and continues above at moderate angles failing and impacting on the proposed works.
- o The vibrations produced during the proposed excavation impacting on the surrounding structures.
- o The excavation collapsing onto the work site before retaining structures are in place.
- o The proposed basement excavation undercutting the footings of the adjacent property causing failure.
- o Excessive vibration recommendations considering the age and fragility of neighbours' properties

I have other concerns:

- o The geotechnical report does not reference the relevant Council policy or the sites landslip hazard zoning providing no certainty that the site zoning or policy was considered in its preparation
- o The geotechnical report references "only shallow 2m excavations will be required" however bulk excavations of up to approx. 9m depth are proposed across the site extending to within proximity of both side property boundaries and neighbouring dwellings
- o The geotechnical report shows limited investigation upon which the report is based and is limited to visual inspection and the conducting of limited DCP test and limited boreholes that extended through soils before being terminated at shallow depth within soils without identification of bedrock.
- o The geotechnical report provides no potential landslide hazards and no treatment options
- o The geotechnical report provides no description of adjacent properties or conditions/hazards with these properties that could be impacted by or impact upon the development (ie. boulders, stabilised outcrops)
- o The geotechnical report provides no recommendations for excavation support systems, provides no parameters for design and assessment of retention systems

The geotechnical report supplied does not meet the Council's policy requirements or objectives and as such should not be accepted by Council with the Development Application.

The geotechnical report provides limited assessment which does not appear site or development specific, provides no design or construction recommendations to maintain stability within the "Acceptable Risk Management" criteria and involved very limited and shallow investigation for what are deep excavations into the hill slope that have high potential for detrimental impact on adjacent properties and structures.

As such, should approval of the proposed development occur based on the supplied geotechnical report, then serious concerns should be held for the stability and protection of my client's property and house.

My clients have geotechnical concerns.

- Stability of the natural hillside slope; upslope of the proposed development, beneath the proposed development, downslope of the proposed development and to all neighbour's land.
- Stability of existing retaining walls that will remain;
- Stability of proposed retaining walls to support the excavations for the proposed residence, and external landscaping walls.
- Incomplete consideration of landslip hazards
- Incomplete consideration of Natural Hillside Slope
- Incomplete consideration to create a Large-Scale Translational Slide
- Incomplete consideration of Existing Retaining Walls
- Incomplete consideration of Proposed Retaining Walls
- Incomplete consideration of partial excavation of large boulders
- Incomplete consideration and inadequate identification of 'floaters' across neighbour's boundary
- Incomplete consideration of Surface Erosion
- Incomplete consideration of potential Rock Fall
- Incomplete consideration of landslip of soils from excavation

My clients have concerns regarding the lack of extensive recommendations in respect to the following:

- Incomplete Conditions Recommended to Establish the Design Parameters
- Incomplete Conditions Recommended to the Detailed Design to be Undertaken for the Construction Certificate
- Incomplete Conditions Recommended During the Construction Period
- Incomplete Conditions Recommended for Ongoing Management of the Site/Structure(s)
- Incomplete Geotechnical Risk Management Forms

The Geotechnical report does not contain the full extent of conditions normally associated with this type of deep excavation on a slope. Some of these matters are partially addressed but not all.

Concern is raised that the Geotechnical report has not fully addressed these matters

- Comprehensive site mapping conducted - inadequate
- Mapping details presented on contoured site plan with geomorphic mapping
- Subsurface investigation required
- Geotechnical model developed and reported as an inferred subsurface type-section
- Geotechnical hazards identified
- Geotechnical hazards described and reported

- Risk assessment conducted in accordance with the Geotechnical Risk Management Policy; Consequence analysis & Frequency analysis
- Risk calculation
- Risk assessment for property conducted in accordance with the Geotechnical Risk Management Policy
- Risk assessment for loss of life conducted in accordance with the Geotechnical Risk Management Policy
- Assessed risks have been compared to “Acceptable Risk Management” criteria as defined in the Geotechnical Risk Management Policy
- Opinion has been provided that the design can achieve the “Acceptable Risk Management” criteria provided that the specified conditions and recommendations presented in the Report are achieved recommendations presented in the Report are adopted.
- Design Life Adopted:100 years
- Geotechnical Conditions to be applied to all four phases as described in the Geotechnical Risk Management Policy
- Additional action to remove risk where reasonable and practical have been identified and included in the report.

The Applicant has not provided adequate protection to my clients' property from excessive excavation and potential land slip and damage to my clients' property, including intrusive geotechnical investigations, incomplete geotechnical recommendations, incomplete geotechnical monitor plan, excessive vibration limits, lack of full-time monitoring of the vibration, incomplete dilapidation report recommendations, incomplete attenuation methods of excavation, exclusion of excavation in the setback zone, exclusion of anchors under my clients' property, and incomplete consideration of battering in the setback zone.

My clients ask for the Geotechnical Report to be updated to include all these matters, and the recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report.

#### 8. PRECEDENT

The Development Application should be refused because approval of the proposal will create an undesirable precedent for similar inappropriate development in the area.

#### 9. PUBLIC INTEREST

The proposal is contrary to the public interest pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*. The proposed development is not in the public interest as the development is inconsistent with the scale and intensity of development that the community can reasonably expect to be provided on this site by nature of the applicable controls. The development does not represent orderly development of appropriate bulk, scale or amenity impact in the locality and approval of such a development would be prejudicial to local present and future amenity as well as desired future character and therefore is not in the public interest.

#### D. CONTENTIONS THAT RELATE TO INSUFFICIENT & INADEQUATE INFORMATION

The applicant has not submitted sufficient and/or adequate information as requested by Council under Part 6, Division 1 Clause 54 of the EPA Regulation 2000 to enable a reasonable assessment under the applicable legislation.

The application lacks sufficient detail to make an informed assessment particularly with respect to determining the extent of the following matters and the relationship and impact to adjoining neighbours.

##### View Impact Analysis

The Applicant has not provided an adequate View Impact Analysis which details the extent to which existing views from my clients' property are obstructed under the current proposal, from the proposed built form and the proposed trees, to accord with DCP controls and NSWLEC planning principles

My clients ask Council to request that the Applicant position 'Height Poles/Templates' to define the non-compliant building envelope, and to have these poles properly measured by the Applicant's Registered Surveyor. The Height Poles will need to define: All Roof Forms, and all items on the roof, Extent of all Decks, Extent of Privacy Screens. Height Poles required for all trees. The Applicant will have to identify what heights and dimensions are proposed as many are missing from the submitted DA drawings.

##### Solar Access Diagrams

The Applicant has not provided adequate Solar Access Diagrams, at one hourly intervals, in plan and elevation of my clients' property, to assess the loss of solar access at mid-winter, to accord with DCP controls and NSWLEC planning principles

My clients believe that further assessment of the shadow impacts through the production of elevational shadow diagrams or a "View from the Sun" assessment are critical in order to understand the potential future impacts and necessary for Council's reasonable assessment.

##### Privacy Impact Analysis

The Applicant has not provided an adequate Privacy Impact Analysis, to accord with DCP controls and NSWLEC planning principles.

##### Existing and Finished Ground Levels

Spot levels and contour lines from the Registered Surveyors drawings have not been transferred to the proposed DA drawings of plans, sections, and elevations to enable an assessment of height and the relationship and impact to adjoining neighbours. Neighbour's dwellings have not been accurately located on plans,



sections and elevations, including windows and decks, to enable a full assessment of the DA.

## Geotechnical

The Applicant has not provided adequate protection to my clients' property from excessive excavation and potential land slip and damage to my clients' property, including excessive vibration limits, lack of full-time monitoring of the vibration, incomplete dilapidation report recommendations, incomplete attenuation methods of excavation, exclusion of excavation in the setback zone, exclusion of anchors under my clients' property, and incomplete consideration of battering in the setback zone. The geotechnical requirements referred to earlier must be added to the Geotechnical Report. My clients ask for the Geotechnical Report to be updated to include these matters, and the recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report are to be incorporated into the construction plans. In Medium Strength Rock the use of better techniques to minimise vibration transmission will be required. These include: Rock sawing the excavation perimeter to at least 1.0m deep prior to any rock breaking with hammers, keeping the saw cuts below the rock to be broken throughout the excavation process; Limiting rock hammer size to 300kg, with a 5t excavator as a maximum; Rock hammering in short bursts so vibrations do not amplify. Rock breaking with the hammer angled away from the nearby sensitive structures; Creating additional saw breaks in the rock where vibration limits are exceeded; Use of rock grinders (milling head). Should excavation induced vibrations exceed vibration limits after the recommendations above have been implemented, excavation works are to cease immediately.

## E. REQUEST FOR AMENDED PLANS TO BE SUBMITTED TO BETTER ADDRESS IMPACTS UPON ADJOINING PROPERTIES

Prepare and submit further supporting information and amendments to the assessing officer directly addressing the issues.

Reduce the proposed development as follow:

### 1. REDUCTION OF BUILT FORM

- Reduce the built form to resolve view loss and solar loss impacts
- No roof mechanical plant to the top of Bethania Building

### 2. PRIVACY DEVICES

- All windows in the Bethania Building facing my client's property to have privacy screening to be fixed obscured glazing or fixed panels or battens or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.
- The new windows in the Bethania Building music classroom levels to be fixed (non-openable) and utilise acoustic glass. Acoustic seals and triple glazed systems must be used.

### 3. LANDSCAPING

- Tree planting shall be located to minimise impacts on view loss, with no trees over 3m in the viewing corridor
- new trees and screening trees be increased to 400 Litre pots, so that a more mature landscape outcome is achieved.
- Additional 6m high planting for screening along the street boundaries adjacent to the proposed built form, to reduce the built form and establish an appropriate setting

### 4. CONDITIONS OF ANY CONSENT

My client asks for a complete set of Conditions to be included within any consent, including, but not limited to, the following:

Conditions which must be satisfied prior to the demolition of any building or construction

- Acoustic Certification of Mechanical Plant and Equipment
- Arborists Documentation and Compliance Checklist
- BASIX Commitments
- Checking Construction Certificate Plans – Protecting Assets Owned by Sydney Water
- Construction Certificate Required Prior to Any Demolition
- Demolition and Construction Management Plan

- Electric vehicle circuitry and electric vehicle charging point requirements
- Engineer Certification
- Establishment of Tree Protection Zone (TPZ) Fence
- Geotechnical and Hydrogeological Design, Certification and Monitoring
- Ground Anchors
- Identification of Hazardous Material
- Light and Ventilation
- No Underpinning works
- Noise Control - Acoustic Protection of adjoining residential units-Operation of Air Conditioning Plant
- Noise Control - Swimming pool/spa pool pumps and associated equipment
- Parking Facilities
- Payment of Long Service Levy, Security, Contributions and Fees
- Professional Engineering Details
- Public Road Assets Prior to Any Work/Demolition
- Road and Public Domain Works
- Soil and Water Management Plan – Submission and Approval
- Stormwater Management Plan
- Swimming and Spa Pools – Backwash
- Swimming and Spa Pools – Child Resistant Barriers
- Tree Management Plan
- Ventilation - Internal Sanitary Rooms
- Utility Services Generally
- Waste Storage – Per Single Dwelling

Conditions which must be satisfied prior to the commencement of any development work

- Adjoining Buildings Founded on Loose Foundation Materials
- Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)
- Compliance with Building Code of Australia and insurance requirements under the
- Dilapidation Reports for Existing Buildings
- Erosion and Sediment Controls – Installation
- Establishment of Boundary Location, Building Location and Datum
- Home Building Act 1989
- Notification of Home Building Act 1989 requirements
- Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection
- Site Signs
- Toilet Facilities
- Works (Construction) Zone – Approval and Implementation

Conditions which must be satisfied during any development work

- Asbestos Removal Signage

- Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum
- Classification of Hazardous Waste
- Compliance with Australian Standard for Demolition
- Compliance with BCA and Insurance Requirements under the Home Building Act 1989
- Compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works, Road Works and, Work within the Road and Footway
- Critical Stage Inspections
- Disposal of Site Water During Construction
- Disposal of Asbestos and Hazardous Waste
- Dust Mitigation
- Erosion and Sediment Controls – Maintenance
- Footings in the vicinity of trees
- Hand excavation within tree root zones
- Hours of Work –Amenity of the Neighbourhood
- Installation of stormwater pipes and pits in the vicinity of trees
- Level changes in the vicinity of trees
- Notification of Asbestos Removal
- Maintenance of Environmental Controls
- Placement and Use of Skip Bins
- Prohibition of Burning
- Public Footpaths – Safety, Access and Maintenance
- Replacement/Supplementary trees which must be planted
- Requirement to Notify about New Evidence
- Site Cranes
- Site Waste Minimisation and Management – Construction
- Site Waste Minimisation and Management – Demolition
- Support of Adjoining Land and Buildings
- Tree Preservation
- Vibration Monitoring

Conditions which must be satisfied prior to any occupation or use of the building (Part 6 of the Act and Part 8 Division 3 of the Regulation)

- Amenity Landscaping
- Certification of Electric Vehicle Charging System
- Commissioning and Certification of Public Infrastructure Works
- Commissioning and Certification of Systems and Works
- Occupation Certificate (section 6.9 of the Act)
- Letter Box
- Swimming and Spa Pools – Permanent Child Resistant Barriers and other Matters
- Swimming Pool Fencing

Conditions which must be satisfied prior to the issue of the Occupation Certificate for the whole of the building

- Fulfillment of BASIX Commitments – clause 154B of the Regulation
- Landscaping
- Positive Covenant and Works-As-Executed Certification of Stormwater Systems
- Removal of Ancillary Works and Structures
- Road Works (including footpaths)

Conditions which must be satisfied during the ongoing use of the development

- Maintenance of BASIX Commitments
- Noise Control
- Noise from mechanical plant and equipment, including swimming pool plant
- Ongoing Maintenance of the Onsite Stormwater Detention (OSD) System, Rain Garden and Rainwater Tank
- Outdoor Lighting – Residential
- Outdoor Lighting – Roof Terraces
- Swimming and Spa Pools – Maintenance

Advising

- Asbestos Removal, Repair or Disturbance
- Builder's Licences and Owner-builders Permits
- Building Standards - Guide to Standards and Tolerances
- Commonwealth Disability Discrimination Act 1992
- Criminal Offences – Breach of Development Consent and Environmental Laws
- Dial Before You Dig
- Dilapidation Report
- Dividing Fences
- Lead Paint
- NSW Police Service and Road Closures
- Pruning or Removing a Tree Growing on Private Property
- Pruning or Removing a Tree Growing on Private Property
- Recycling of Demolition and Building Material
- Release of Security
- Roads Act 1993 Application
- SafeWork NSW Requirements
- Workcover requirements

## F. REASONS FOR REFUSAL

My clients ask Council to refuse the DA as the proposal is contrary to the Environmental Planning and Assessment Act:

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of the Environmental Planning and Assessment Act 1979
2. Adverse visual impacts to adjoining properties. The proposal raises the potential for adverse visual impacts and associated view impacts to the adjoining properties. In this regard, the proposal is contrary to the provisions of the aims of the LEP
3. Adverse solar impacts to adjoining properties. The proposal raises the potential for adverse visual impacts and associated solar impacts to the adjoining properties. In this regard, the proposal is contrary to the provisions of the aims of the LEP.
4. Adverse visual and acoustic privacy impacts to adjoining properties. The proposal does not demonstrate effective mitigation of overlooking to adjoining properties from balconies and windows.
5. The extent of excavation is excessive. The proposal is contrary to the objective of the DCP, in that it does not minimise excavation and has potential adverse impacts on existing and proposed vegetation.
6. The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it fails to satisfy objectives and planning controls of LEP:
  - o Aims of Plan
  - o Zone Objectives
  - o Geotechnical Hazards
7. The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it fails to satisfy objectives and planning controls of DCP:
  - o Poor Strategic Positioning of Tree Canopy
  - o Excessive Excavation & Geotechnical Concerns
  - o Impacts Upon Adjoining Properties: View Loss
  - o Impacts Upon Adjoining Properties: Overshadowing
  - o Impacts Upon Adjoining Properties: Privacy
  - o Impacts Upon Adjoining Properties: Visual Bulk

8. The proposal is contrary to Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* in that the plans and documentation are misleading as they do not clearly portray the true extent of works proposed. The plans include inaccuracies and inconsistencies and insufficient information has been provided in order to enable a detailed assessment. Dimensions to boundaries have not been shown in all locations of all proposed built elements. Levels on all proposed works have not been shown.
9. The proposal is contrary to Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* in that the proposal would not satisfy the matters for consideration under Biodiversity & Conservation SEPP 2021 and Resilience & Hazards SEPP 2021
10. The proposal is contrary to Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* in that it will have an adverse impact through its bulk, scale and siting on the built environment, and through lack of landscape provision, and adverse impact on the natural environment. The proposed development will have a detrimental impact on the visual amenity of the adjoining properties by virtue of the excessive building bulk, scale and mass of the upper floor.
11. The site is not suitable for the proposal pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979* in that this area of the site is unsuitable for a development of such excessive bulk and scale.
12. The proposals are unsuitably located on the site pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*.
13. The proposal does not satisfy Section 4.15(1)(d) of the *Environmental Planning and Assessment Act 1979* in that the proposal does not adequately address the amenity of neighbours
14. The proposal is contrary to the public interest pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*. The proposed development is not in the public interest as the development is inconsistent with the scale and intensity of development that the community can reasonably expect to be provided on this site by nature of the applicable controls. The development does not represent orderly development of appropriate bulk, scale or amenity impact in the locality and approval of such a development would be prejudicial to local present and future amenity as well as desired future character and therefore is not in the public interest. The proposed development will have a detrimental impact on the amenity of adjoining residential properties, and for this reason is contrary to the public interest.

## G. CONCLUSION

The proposed development is not consistent with the intent of the LEP standards and DCP controls as they are reasonably applied to the proposal.

Commissioner Moore revised the NSWLEC planning principle for assessing impacts on neighbouring properties within *Davies v Penrith City Council* [2013] NSWLEC 1141

*“The following questions are relevant to the assessment of impacts on neighbouring properties:*

*How does the impact change the amenity of the affected property? How much sunlight, view or privacy is lost as well as how much is retained?*

*How reasonable is the proposal causing the impact?*

*How vulnerable to the impact is the property receiving the impact? Would it require the loss of reasonable development potential to avoid the impact?*

*Does the impact arise out of poor design? Could the same amount of floor space and amenity be achieved for the proponent while reducing the impact on neighbours?*

*Does the proposal comply with the planning controls? If not, how much of the impact is due to the non-complying elements of the proposal?”*

My clients contend that the proposed development impacts my clients' property, and in terms of amenity, there is excessive sunlight, view or privacy loss. The loss is unreasonable. My clients' property is not vulnerable to the loss that is presented. The loss arises out of poor design, through poorly located built form.

It is considered that the proposal is inappropriate on merit and unless amended plans are submitted, this DA must be refused for the following reasons:

- The application has not adequately considered and does not satisfy the various relevant planning controls applicable to the site and the proposed development.
- The proposed dwelling will have an unsatisfactory impact on the environmental quality of the land and the amenity of surrounding properties.
- The site is assessed as unsuitable for the proposal, having regard to the relevant land use and planning requirements.

It is considered that the public interest is not served.

The proposed development does not follow the outcomes and controls contained within the adopted legislative framework.

Having given due consideration to the matters pursuant to Section 4.15 of the Environmental Planning and Assessment Act, 1979 as amended, it is considered that there are multiple matters which would prevent Council from granting consent to this proposal in this instance.

The proposed development represents an overdevelopment of the site and an unbalanced range of amenity impacts all of which would result in adverse impacts on my clients' property. Primarily,



- o The development compromises amenity impacts on neighbours
- o The development compromises private views and solar loss
- o The development does not minimise visual impact

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- o Inconsistent with the zone objectives of the LEP
- o Inconsistent with the aims of the LEP
- o Inconsistent with the objectives of the DCP
- o Inconsistent with the objectives of the relevant EPIs
- o Inconsistent with the objects of the EPAA 1979

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have not been satisfactorily addressed.

We ask that if Council in their assessment of this application reveals unsupported issues, which prevent Council from supporting the proposal in its current form, and writes to the applicant describing these matters, we ask for that letter to be forwarded to us.

My clients trust that Council will support my clients' submission and direct the proponent to modify the DA plans, as outlined above. My clients ask Council Officers to inspect the development site from my clients' property so that Council can fully assess the DA.

Unless the Applicant submits Amended Plans to resolve all of the adverse amenity impacts raised within this Submission, my clients' ask Council to REFUSE this DA.

Yours faithfully,



Bill Tulloch BSc [Arch] BArch [Hons1] UNSW RIBA Assoc RAIA  
PO Box 440 Mona Vale  
NSW 1660

**From:** [REDACTED]

**Sent on:** Sunday, June 30, 2024 4:59:02 PM

**To:** council@cityofsydney.nsw.gov.au

**Subject:** Feedback on Development Application - reference D/2023/878

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Sir/ Madam,

Thank you for the opportunity to provide views on this proposal.

We are the owners [REDACTED] Tusculum Street which adjoins the eastern border of St Vincent's College.

We would like our names and apartment details to be treated as confidential.

Having reviewed the amended architectural plans, we wish to express our concerns/ objection about the new lift on the southern border of the Boarders residential courtyard.

It is not apparent from the plans of this new lift shaft exceeds the existing height of the roof profile. If it does, we object to the height increase which detrimentally impacts the western and only view from our apartment.

Please acknowledge receipt and advise the outcome of our objection.

Yours sincerely,

[REDACTED]

[REDACTED]

**From:** John Izzo [REDACTED]

**Sent on:** Thursday, July 11, 2024 3:03:08 PM

**To:** dasubmissions@cityofsydney.nsw.gov.au

**Subject:** D/2023/878 Site address 1 Challis avenue Potts Point

**Caution:** This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Julie,

I and my wife are the owners of Unit 2, 6-8 Rockwall Crescent Potts Point.

I submitted an objection on 30 October 2023, the previous notification period, to M/s Gordon at the Council who was then assessing this DA, which you are now assessing.

The objections as to Loss of Views addressed in the objection I then lodged have not been addressed by the amended plans lodged.

As advised Table 5 at the top of page 9 of the Ethos Urban report does not accurately reflect the iconic view we have from our bedroom of the Harbour Bridge.

As the invitation to Council to come and see the devastating loss of view the proposed building will cause our unit has not been taken up by Council I attach below a photo of the view taken today from our bedroom window which will be completely obliterated if the amended plans are approved.

Kind regards,

**John Izzo** for

**John and Francesca Izzo**

P.O. Box 1677,  
Potts Point, NSW, 1335

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**From:** John Izzo [REDACTED]

**Sent:** Thursday, 11 July 2024 11:26 AM

**To:** John Izzo [REDACTED]

**Subject:** View from Bedroom Unit 2, 8 Rockwall Crescent



Sent from my iPhone

**From:** Lois Diamond [REDACTED]  
[REDACTED]  
**Sent on:** Thursday, July 11, 2024 2:57:45 PM  
**To:** dasubmissions@cityofsydney.nsw.gov.au  
**Subject:** Submission - Amended D/2023/878 - 1 Challis Avenue POTTS POINT NSW 2011 - Attention Julie Terzoudis  
**Attachments:** Amended D 2023 878 St Vincents College.docx (43.12 KB)

**Caution:** This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Please find attached my submission in response to the amended D/2023/87, alterations and additions to St Vincent's College in Potts Point.

Regards  
Lois Diamond  
Owner/resident, 6 Challis Ave Potts Point

## **COMMENTS IN RELATION TO AMENDED D/2023/878**

Address: 1 Tusculum St and 1 Challis Avenue Potts Point NSW 2011

Applicant: St Vincent's College Ltd

I am a long-term owner/resident of 6 Challis Ave, a multi-story residential dwelling maintained to the north of the project site, on Challis Avenue. 6 Challis Ave directly faces the Garcia Centre, the sports courts, and the current swimming pool with an extended, distance view through the centre of the whole St Vincent's site.

I have previously submitted comments to Council in relation to the proposed development of St Vincent's, and subsequently had an onsite appointment with Julie Terzoudis on 7 March 2024.

A number of my previous concerns remain, that have not been answered from my reading of the amended Development Application (DA), noting also that I found it extremely difficult to determine what amendments had been made as there was no complete summary of changes.

### **PREVIOUS CONCERNS**

#### **ISSUE 1: LACK OF CONSIDERATION OF THE IMPACT ON THE NORTH SIDE OF CHALLIS AVE**

I previously raised concerns that there had been no engagement from St Vincents College with properties on the northern side of Challis Ave.

I note that the Redevelopment Engagement Report from September 2023, which contained a number of misleading references to engagement with neighbours, has not been superseded so the issues of appropriate communications still remain.

The letter from Council to St Vincents, dated 21 February 2024, while comprehensive in relation to the planned development, does not further address the issue.

Given that residents have now had the opportunity to comment on the original DA and the amendments, the issue remains that there is nothing in place to ensure that communication about the building process will be appropriate and allow residents to find ways to live with the construction as it occurs.

**As previously submitted: If the DA is approved, I request that Council requires:**

- **clear and regular communication with ALL neighbouring properties so that owners/residents are aware of what is happening and when and have the opportunity to respond and/or make arrangements to avoid the resultant construction noise.**

#### **ISSUES 2, 4, 5: VIEW LOSS, STREETScape, HERITAGE IMPACT**

I note that the View Loss Assessment document in the original DA sets has also not been superseded, but that amendments have been made to a number of documents relating to Architecture, Structure, Survey, Heritage Impact and Landscape.

All of these documents have direct bearing on the changes to the immediate view of the St Vincents site from the north side of Challis Ave, and what will be a loss of greenery and of distance and the addition of a building not sympathetic to the Challis Ave historic precinct.

I note that Council supports the removal of a number of trees within the Tree Protection Plan, in order to facilitate the development. However, given that Council had to request really basic requirements in relation to landscape plans, soil volume and tree planter designs, I am concerned that the proposed replacement landscaping will be inadequate and not well planned or managed.

In particular, I note that the façade of the hall and pool building has been modified to be more in keeping with the nature of the immediate area, particularly in the colour palette and building materials chosen. However, this change does not continue to the end of Challis Ave where the glazing extends around into Victoria St, and the black window framing stands out strongly.

Additionally, even with the proposed changes, the pool and hall building will be modern, significantly reducing the open distance that is the current view from the northern side of Challis Ave and diminishing the heritage aspects of Challis Ave.

**As previously submitted: f the DA is approved, I request that Council requires:**

- **a reconsideration of the removal of the trees that have been classified as of high or moderate retention value: and additionally**
- **a further examination of the design of the pool and hall building so that the heritage aspects of Challis Ave and Victoria St are not diminished.**

### **ISSUE 3: NOISE IMPACT**

I note that the Noise Impact Assessment document in the original DA sets has also not been superseded, and that my building at 6 Challis Ave remains tagged as a Sensitive Receiver R2). Accordingly, my concerns about increased noise levels remain the same.

#### Noise from Internal Hall Multipurpose Court

The new documents with the modified design do not indicate whether the changes to the pool and hall building will have impact on what was previously listed as appropriate glazing on the side facing Challis Ave, nor do they indicate if the changes will impact the noise levels which were originally said to meet the NSW Educational SEPP noise emission requirements.

I repeat from my earlier submission that, as there is currently no facility approximating the internal hall multipurpose court, any noise from this new space (hall multipurpose court and stage area) will be in addition to that which currently is heard from the outside courts and the swimming pool.

I also repeat that meeting noise requirements is not just being met by the building design but is said to be contingent on the school and staff remembering to close various doors/and windows at certain times.

#### **As previously submitted: If the DA is approved, I request that Council requires:**

- **an internal school management plan for the use of the new Internal Hall Multipurpose Court outlining activities, times, noise control and staff roles.**

#### Construction Noise

My concerns are exactly the same as my original submission.

The original document states that Challis Ave (R2) will be subject to Highly Affected Noise Levels and notes that 'strong community reaction to noise is expected' and makes recommendations relating to management controls and appropriate communication with the community.

#### **As previously submitted: If the DA is approved, I request that Council requires:**

- **construction to occur within Council Guidelines for work in the local government area,**



- **clear and regular communication with ALL neighbouring properties as to when building works will occur,**
- **the recommended Construction Noise and Vibration Management Plan to be prepared and implemented, to minimize the noise impact on all neighbouring properties.**

## **CONCLUSION**

I have read the submissions from residents and the letter from Council relating to the original DA for the development of the St Vincent's College site. In addition, I have read the amended documents submitted by the College, as well as revisiting some of the original documents which have not been superseded.

It can be seen through the documents that St Vincent's has undertaken a number of significant changes that impact on the Challis Ave side of the College, and I am appreciative of those changes.

However, if the DA is approved, more direction needs to come from Council to ensure that the development is undertaken in the best possible manner:

- to maximize communication about the work,
- to undertake best practice in relation to ongoing and construction noise management, and
- to minimize the impact on the neighbourhood while achieving the broad aims of the upgrade of St Vincent's College.

If needed, I can be contacted via the details below to speak further to this response to the amended D/2023/878.

Regards

Lois Diamond

11/6 Challis Ave

POTTS POINT NSW 2011

m) [REDACTED]

email) [REDACTED]

**From:** Glenda Shirbin [REDACTED]

**Sent on:** Friday, July 12, 2024 12:40:56 PM

**To:** City of Sydney <council@cityofsydney.nsw.gov.au>

**Subject:** D/2023/878 in respect of Site address: ! Challis Avenue, Potts Point 2011

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I wish to object to the removal of any trees from the site, particularly on the Rockwall Lane frontage. These trees provide important green screening of the College buildings, they also help reduce the noise of girls playing netball and other activities which can often be very loud.

G Shirbin  
1603/7 Rockwall Crescent  
Potts Point 2011

**From:** Inez Mikkelsen-Lopez [REDACTED]  
**Sent on:** Friday, July 12, 2024 10:43:30 PM  
**To:** dasubmissions@cityofsydney.nsw.gov.au  
**CC:** Michael Roset <mdroset@me.com>  
**Subject:** Submission - D/2023/878 - 1 Challis Avenue POTTS POINT NSW 2011 - Attention Julie Terzoudis  
**Attachments:** Resident Response\_DA St Vincents Potts Point\_R2.pdf (520.53 KB)

**Caution:** This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Julie

I hope you are well. Please find attached my response to the revised DA application from St Vincent's College. I am currently away for the rest of the month but if you would like to have another site visit I can organize for Michael Roset to let you in.

Thank you

Inez

City of Sydney  
Town Hall House  
456 Kent Street  
Sydney NSW 2000.

Inez Mikkelsen-Lopez  
6/6-8 Rockwall Crescent  
Potts Point  
NSW 2011

12 July 2024

**Subject: Objection to DA Reference# D/2023/878**

Dear Ms Terzoudis

I am writing to express my objection to the revised proposed DA #D/2023/878 submitted by *St Vincent's College* on 27 September 2023. I am a resident of 6-8 Rockwall Crescent, one of the residences facing Rockwall Lane that is seriously impacted by the proposed project. Having carefully reviewed the revised proposal, I maintain my objection on the basis of the following:

**[1] Objection to height (5-metre high) and colour of poles and netting, and any night lights**

First, the proposed 5-metre-high poles and netting in the revised Development Application surrounding the roof court of the multi-purpose building will significantly impact my view of iconic features, including the opera house and the harbour bridge. There is a contradiction between the architectural drawings and the landscape report in terms of what material the nets and poles will be constructed from; the latter shows these nets will be in black with black poles (Figure 1). This will have a significant view impact and continues to be 'poorly integrated' as highlighted by Council's comments (see 2.Urban design). Further, I cannot see any response in the amended plans to Council's concerns (9.Proposed illumination) on outdoor lights. Additionally, there is no compelling response or justification about why the net height needs to be increased from the existing 3m to 5m "tennis court fence" (landscape report). According to Tennis Australia the recommended net height is 3.6m in club environment and 3.0m in community settings. This increase in net height together with the increase in building height from current levels will significantly impact my line of sight to the iconic views. Any proposed night lights would clearly destroy my evening/night view of the iconic elements.

⇒ **I request that the height of these poles be lowered to the current 3 metres above the playing surface, that the material of the poles and nets be constructed from transparent or light coloured materials and that there are no night lights incorporated into the court surface and structure.**

**Figure 1: Black netting and poles**



Court fence will be 5 m high and will typically be a PVC coated chainwire fence or equivalent with structural support posts.

## **[2] Loss of views due to proposed construction of south-west corner of Bethania building**

Second, I note that the revised proposal has reduced the size and scope of the south-west corner on levels 1-4 of the Bethania building, which is welcome. However, the roof on level 5 still protrudes beyond the building and will obstruct my view of iconic elements. This proposed roof of the Bethania building exacerbates the loss of view that I will incur yet does not appear to serve any purpose (see Figure 2). There is no compelling argument made in the architects amended plans about why this design is necessary. I note that this proposed roof design is also at odds with Council's request to ensure a more sympathetic design and has not simplified the roof form, as claimed by the architects in their response to Council.

### **Figure 2: Amended Bethania level 5**



⇒ I request that the revised design of the Bethania building be updated to remove the enlargement of the south west corner roof thereby reducing the impact on my view by reducing the width of the roof of the building. I cannot see that here will be any impact on the proposed amenity.

**[3] Bethania building design is inconsistent with character, aesthetics and heritage of the area**

Third, while the revised design of the proposed Bethania building is better integrated with the surrounding buildings with the change in facade colour, the level 4, which will face directly into my main living spaces and bedrooms, is still proposed to be in obtrusive black cladding . This will dominate the aspect from my property and retain heat. Again, this proposed cladding colour is at odds with the Council’s request for a more sympathetic design. There is also a lack of detail on the windows on level 4 whether they will be amended to a more sympathetic design like the lower floors. The amended proposal also does not respond to Council’s request for details on proposed privacy treatments and finishes such as frosted glass to maintain privacy.

**Figure 3: Proposed Bethania building design**



⇒ I request that a revised design of the Bethania building be prepared to replace the black cladding material on level 4 with light coloured stone to respect the heritage nature of the surrounding buildings. And that further details are provided on the window size and material for level 4.

#### [4] Removal of large, established trees and loss of green space

Fourth, the proposed Bethania building will require the removal of 12 existing trees to be replaced by only 2 minor trees and some shrubs. These established trees are greatly cherished in our urban neighbourhood for the green aspect they provide, together with the bird life that they attract. The surrounding lawn areas reinforce the 'green' aspect of the neighbourhood and considerably enhance the outlook of the neighbourhood along Rockwall Lane. There has been no effort in the amended plans to save these trees. The footprint of the proposed Bethania building would encompass this *entire* parcel of greenspace. In total 18 trees will be removed by the proposed development to be replaced by minor trees in pots and some low shrubs. The proposed removal of trees is at odds with the City of Sydney's intention to increase tree canopy and green cover to help reduce the impacts of rising urban temperatures and improve community wellbeing. The amended plans also does not respond to Council's concern to create opportunities for nature play. Also, the proposed plantation of a hedge along Rockwall Lane will be insufficient to lessen the overall impact of the building on the aspect currently enjoyed by residents of the terraces. I remind Council that the back of the terraces along Rockwall Lane is our main living area with views. Rather than plant a low hedge, a much more effective screening solution is required if established trees are to be removed, for example fast growing bamboo plants or something similar. This solution would have the effect of lowering the overall visual impact of the Bethania building and provide a neat, low-maintenance alternative to the loss of green space that is proposed.

⇒ I request that Council preserve this green space by increasing the setback of the proposed Bethania building by a sufficient amount to allow for retaining trees or larger tree

**plantation and growth. Increasing the setback by another 1.5 – 2.0 metres would not affect the proposed use of the rooms facing Rockwall Lane and would allow existing established trees like the European Oak and Coast Banksia to remain in place.**

**[5] Significant negative impact on privacy, and ongoing noise pollution**

Fifth, there appears to be no change in setback of the proposed Bethania building which remains only 1.52m from the fence. In fact this is closer than the original 1.66m. setback of the proposed Bethania. In addition the amended plans have significantly reduced the height of the barrier fence along Rockwall Lane. This will not only have an impact on privacy, but will also increase the likelihood of rubbish being thrown (and uncollected) along the fence. The proposed Bethania will be looking directly into my private living spaces, including kitchens, bedrooms and bathrooms. This proximity, together with the extensive windows and lack of privacy details proposed for levels 1 – 4 will have a substantial impact on my family's privacy and ability to circulate freely at home. There is also no mention on the noise protection from the 10 music rooms which have the potential to create significant noise pollution. It is also unclear whether use of the music rooms will be limited to certain hours.

⇒ **It is essential that any window facing Rockwall Lane is treated with frosted glass and covered by external shades. This must be in addition to making it mandatory for all windows in all music rooms to be acoustically sealed and use of the music rooms limited to weekday hours. I also request that the height of the fence along Rockwall Lane be increased.**

**[6] Other matters**

Public interest the amended plans have not responded to Council's request to consider provision of school facilities for public use.

Lack of innovative refurbishment where there continues to be little apparent consideration to refurbish the existing buildings to convert them into music rooms appropriate to the school's needs. There is no mention of how the vacated areas in the existing Garcia will be used. The amended plans have not responded to Council's concerns on the potential of surplus of office space and the risk that this DA is indeed a foundation to increasing student numbers. As a resident of Rockwall Crescent – we already make concessions for increased traffic during drop off and pick up time and also on weekends when events are being held at the school.

In light of the aforementioned concerns, I request that the City of Sydney Development Proposal Review Board deny approval of this project in its revised form. I believe there are better alternative options which respect the points I have made above. I look forward to hearing from you. Please do not hesitate to contact me if you require any additional information or wish to arrange a further site visit.

Yours sincerely,  
Inez Mikkelsen-Lopez



**From:** Michael Roset <mdroset@icloud.com> on behalf of Michael Roset <mdroset@icloud.com> <Michael Roset <mdroset@icloud.com>>

**Sent on:** Saturday, July 13, 2024 2:06:19 PM

**To:** dasubmissions@cityofsydney.nsw.gov.au

**Subject:** Submission - D/2023/878 - 1 Challis Avenue POTTS POINT NSW 2011 - Attention Julie Terzoudis

**Caution:** This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Ms Terzoudis,

**REFERENCE NO. D/2023/878**

**SITE ADDRESS: 1 CHALLIS AVENUE, POTTS POINT NSW 2011, 1 TUSCULUM STREET, POTTS POINT NSW 2011**

I refer to the amended documents filed by the developer on 14 June 2024 and the detailed and reasonably crafted letter to the developer by Sydney City Council dated 21 February 2024.

The Council raised many points for which I am grateful. Regrettably, many of the clear guidance given by the Council has been simply rejected/ignored in the response, for example:

1. The response to Council regarding height poles not being installed to assess the bulk/view loss (in addition I submit photo/montages after installation of height poles would help to properly assess the bulk effect on and view loss from each apartment). It is difficult to assess the Tenacity principles without these additional references. Transparency and the ability of all parties to make an informed visual assessment is ultimately in everyone's interests.
2. The failure to properly consider a further stepped or less bulky extension to Rockwall Lane which continues to encroach on heritage terraces, all private residences of many apartments, and fails to accept the interference with an obvious Tenacity iconic view from pylon to pylon of the Harbour Bridge and of the Sydney Opera House. The latter is only very partially screened by a sparse tree. There are no more iconic views than such world known and world heritage sites.
3. The failure to properly address public access (principle 3 of SEP) as other schools do. I note the school houses outside boarders from SCEGGS and am told, on occasion, provides study residential use during school holidays so presumably has year round adequate security and supervision.
4. The Council suggested reduction in height over the indoor pool and is now met with the indoor swimming pool to be a competition standard water polo pool which suggests intensification of use and over-use in visitor competitions etc.
5. The failure to adequately address the "no increase in student numbers" after the large current assembly hall and administrative areas are vacated and available for other use. The Bethania extension from the Garcia Centre could be reduced by height and bulk if administration offices intended to be located in this extension be housed in the vacated very large assembly hall. The storage rooms proposed in the proposed extension be located in the vacated admin offices. I note the increase in student numbers in very recent years has been substantial and with no notification to residents in any event.
6. I accept that the Council may not have the power of enforcement on many of its suggested reconsiderations or amendments but the failure to reasonably respond to Council must weigh heavily in the areas of discretionary decisions of Council.
7. I note the submitted traffic report refers to Victoria Street as a wide street. This is clearly not correct as there is angled parking and garden chicanes. In addition, in mornings and afternoons, many vehicles are double parked dangerously both for other vehicles and for pedestrians and students etc. Rockwall Crescent, a cul de sac, carries heavy morning and afternoon traffic to the school with dozens of vehicles parking in the "No Stopping" zone blocking turning traffic and

posing danger, again to pedestrians and school students. In addition commercial deliveries to Woolworths and restaurants and, of course, garbage and recycle vehicles, are also in morning hours. Any intensification can only increase such danger.

### **Conditions on Grant**

1. Rockwall Lane cannot be blocked. All off street parking for Rockwall Crescent, Macleay Street and Challis Avenue properties that adjoin the lane can only be accessed through the narrow lane.
  2. Dilapidation Reports should be required on all terraces facing Rockwall Lane and the Challis Hotel before any works commence.
  3. The sports areas on roof of the Challis Avenue building should be lowered and no shelter or trees be in such areas that would further encroach on the Tenacity principles. The Trees (Disputes Between Neighbours) Act 2006 covering trees interfering with views and light would, if not dealt with as a condition, separately and unnecessarily exacerbate the future relationship between neighbouring properties.
  4. The air-conditioning unit, to be built for the Garcia extension, was proposed by the Council to be moved to a basement but was not so moved in the amended documents. No reasonable explanation for not so moving was provided. It should be moved as suggested for noise and sight reasons
  5. Lighting should not be permitted on roof spaces and courts. Time conditions must be imposed for use of courts and pool so that intensification of use from current daylight use of courts and pool not be permitted and the indoor pool not result in intensification of visitors and traffic in narrow streets. The elevated courts will now cause noise to be carried further to residences. No external lighting of buildings or the grounds should be allowed unless "masked" so as not flow into residential areas.
5. A condition be imposed preventing increase in student numbers as the developer promised.

Michael Roset  
3/8 Rockwall Crescent  
Potts Point 2011

Sent from my iPad

**From:** Julie Terzoudis <JTerzoudis@cityofsydney.nsw.gov.au> on behalf of Julie Terzoudis <JTerzoudis@cityofsydney.nsw.gov.au> <Julie Terzoudis <JTerzoudis@cityofsydney.nsw.gov.au>>  
**Sent on:** Monday, July 15, 2024 9:27:39 AM  
**To:** DAsubmissions <DAsubmissions@cityofsydney.nsw.gov.au>  
**Subject:** FW: Reference No.D2023/878 Site Address 1Challis Avenue Potts Point NSW2011 ( the Amended Plans)

Please find submission for registering, thank you.

-----Original Message-----

From: Christine Paul [REDACTED]  
Sent: Sunday, July 14, 2024 6:34 PM  
To: Julie Terzoudis <JTerzoudis@cityofsydney.nsw.gov.au>  
Subject: Reference No.D2023/878 Site Address 1Challis Avenue Potts Point NSW2011 ( the Amended Plans)

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

## INTRODUCTION

Dear Ms Terzoudis,

I am a resident of 3/8 Rockwall Crescent Potts Point.

On 24 October 2023, I made a submission in relation to DA/2023/878 ( the DA).

As very little has changed between the DA and the Amended Plans , I ask that you take my earlier comments into consideration when reviewing these Amended Plans.

I also continue to stress the following matters in relation to the Amended Plans.

## THE DEVELOPER'S OBJECTIVE

To intensify the use of the school site to accommodate 2 new multi- storey buildings, including a competition standard water polo swimming pool and several music rooms.

## THE RESIDENTS' OBJECTIVE

To preserve as much of their residential amenity as is reasonably possible.

## THE COUNCIL'S ROLE

To balance these competing objectives.

## THE DIFFICULTY FACED BY RESIDENTS and THE COUNCIL- INSUFFICIENT INFORMATION

Examples of insufficient Information:-

1. The developer's photo montages fail to accurately represent the iconic views from the heritage Rockwall Terraces ( see for example View Loss Assessment Document, Section 7 - views from heritage terraces 3/8 and 6/6 Rockwall Crescent ).

It is hoped that in considering this, the Council will rely on its own photographs taken at the site visit.

Even so, without realistic photomontages the residents as well as Council, are left without precision as to what percentage of the iconic harbour views are being taken away.

Can the Council make an informed decision without more realistic photomontages? Photo montages are standard practice and are easily developed by computer- a task with which the developer should readily be able to comply.

2. The developer's failure to comply with the Council's and residents' request for the erection of height poles.

Given the size, bulk and height of the two multi storey buildings proposed, the developer's refusal to comply with the request for height poles is not justified and at the very least lacks any spirit of co- operation and transparency.

3 The Air Conditioning System

It is inexplicable why the developer, despite Council's request, fails to relocate air conditioning (notorious for its noise and ungainly appearance) to the basement instead of keeping it on the roof.

#### COMPLIANCE DOES NOT ALLEVIATE THE NEED FOR SKILFUL DESIGN

The developer relies heavily on the fact that much of what is proposed falls within the the relevant regulatory parameters- albeit in most cases at the very upper limits.

Just because something is compliant it does not mean it is acceptable.

The substantial impact this development will have on the row of heritage listed terraces cannot be overlooked. The need for skilful design cannot be ignored. For example:-

1.The setback proposed between Bethinea and the heritage terraces it will look into, remains too minimal.

2. The separation distance between Bethinea and these heritage terraces makes no allowance for the narrowness of Rockwall Lane.

<http://scanmail.trustwave.com/?c=16815&d=7Y2T5qKhN8O9WboGqOz0bLkoyBmHLLpR3U11N-fYxw&s=115&u=http%3a%2f%2f3%2eTo> bring this point home, I have measured the width of Rockwall Lane to be 4.88 metres kerb to kerb. Anecdotally, my small Hyundai cannot pass another car without having to cling to the very edges of Rockwall lane and manoeuvring very slowly.

4. This narrowness of Rockwall Lane makes the separation the developer proposes between Bethinea and the heritage listed terraces less than adequate and certainly ineffective in preserving the residential rights of privacy; sufficient light; minimal noise impact ; and the retention of iconic harbour views

5. In relation to iconic harbour views, I refer to the Tenacity Principles. It is my understanding that the essence of these principles is that even if there is compliance , skilful designing is necessary.

The amended plans have made a minimal concession , namely, the reduction of one level of Bethinea and the introduction of a pitched roof. However, the height and bulk of the proposed buildings and, in particular , the minimal set back of Bethinea, impacting on heritage listed terraces , scream out for more skilful design.

The substantial impact this development will have on heritage listed terraces cannot be too strongly emphasised.

#### SUGGESTED DEVELOPMENT CONSENT CONDITIONS

Regrettably, all attempts by residents to engage in co- operative dialogue have been rebuffed by the developer.

See for example the reference to and inclusion of, the letter of 26 June 2023, in the Submission dated 26 October 2023 from Mecone ( Town Planners who act for SP 45495 6-8 Rockwall Crescent).

Given this prior history and to avoid future disputes, I urge the council to implement detailed and extensive conditions to facilitate the smooth running of the building phase and the implementation of the resulting development.

For example, conditions requiring:-

1. Dilapidation Reports prior to building works commencing;

2. Requirements as to entry and exit from the building site other than through Rockwall Lane. The residents of approximately 40 residences use Rockwall Lane to enter and exit their homes.

3. Provision to assist residents for increased cleaning that will be required to outdoor areas of the heritage terraces during construction . Perhaps the developer could provide a weekly cleaning service.

4. Relocate Air Conditioning to basement .

7. Restrict student numbers to current level.

8 Share School facilities with the community e.g tennis courts, swimming pool.

As a school, St Vincent's College, the developer, enjoys a reprieve from local, State and Federal taxes and receives many State and Federal subsidies.

Through this development the School will be enhancing and intensifying its market appeal as a competitor in the commercial, private school sector . Surely it could open its gates ( as indeed many private boarding schools have done) to its local community who will be so impacted by the commercial gains the School seeks to make.

Thank you for the opportunity to make these submissions

Regards

Christine Paull

Sent from my iPhone

Sent from my iPhone

**From:** David Charles  
**Sent on:** Monday, July 15, 2024 9:25:32 AM  
**To:** DASubmissions <DASubmissions@cityofsydney.nsw.gov.au>  
**Subject:** Submission - D/2023/878 1 Challis Avenue POTTS POINT NSW 2011 - Attention Julie Terzoudis

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Ms Terzoudis,

Set out below is our submission for the revised plans.

Regards

David and Eveline Charles  
5/6-8 Rockwall Crescent Potts Point 2011  
Sent from my iPhone

We the undersigned are the owners of unit 5/6-8 Rockwell Crescent, Potts Point and as members of the Body Corporate support the submissions prepared on our behalf by Mecone.

We purchased the unit in 1998 and have followed closely developments in the neighbourhood and in particular at St Vincent's College which occupies the area to our north on the other side of Rockwall Lane.

When we purchased the unit we had iconic views of the Sydney Harbour Bridge and the Opera House. Gradually over time the trees planted by St Vincent's College on their land obscured our iconic views. The offsetting benefit for us was the enhanced greenery and the birdlife it attracted.

Because of the large set back of the school buildings we had no issues with overshadowing or loss of privacy. We did notice increasing traffic in Rockwall Crescent as school numbers built up and parents dropped off and picked up their children.

The current plans for St Vincent's expressed in the Bethania Building represent a step change in height and bulk of school buildings placed along the boundary with Rockwall Lane. The lack of separation of the Bethania building means, among other things, that there is very little space for greenery to be grown to a sufficient height to act as a buffer and attract significant bird life.

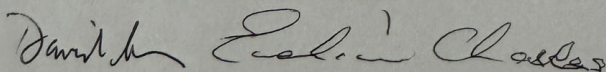
The style and materials proposed to be used in the Bethania Building are out of sympathy with the heritage terraces in Rockwall Crescent which are an outstanding feature of Potts Point.

Our submission is that:

There should be significantly reduced height and bulk in the Bethania Building;

There should be a much enhanced set back of the Bethania Building from Rockwall Lane; and

St Vincent's College should be required to provide equivalent greenery and habitat for birdlife than is now the case.



David Charles      Eveline Charles

15 July 2024

**From:** [REDACTED]  
**Sent on:** Thursday, July 11, 2024 6:06:38 AM  
**To:** dasubmissions@cityofsydney.nsw.gov.au  
**CC:** [REDACTED]  
**Subject:** Submission - D/2023/878 Re-Exhibition - St Vincents College DA, 1 Challis Avenue, Potts Point (from 6 Challis Avenue)  
**Attachments:** Submission St Vincents School from 6 Challis Avenue July 2024.pdf (549.31 KB)

**Caution:** This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Attention: Ms. Julie Terzoudis

Please find attached a submission regarding the DA proposal (as amended) cites above, on behalf of No. 6 Challis Avenue. The submission includes constructive and reasonable changes and conditions to the proposal to manage and mitigate impacts and I/we hope and trust they are seriously considered.  
If you have any queries, please contact me on [REDACTED]

Regards  
Jason Perica  
Director



**Date: 11 July 2024**

Ms Monica Barone  
CEO  
City of Sydney  
456 Kent Street  
Sydney NSW 2000

Attention: Julie Terzoudis, Senior Planner

**Re: Submission – D/2023/878 Re-Exhibition – St Vincents College DA, 1 Challis Avenue, Potts Point (from 6 Challis Avenue)**

Dear Ms Terzoudis

This submission is on behalf of the owners of No. 6 Challis Avenue, Potts Point, being a residential townhouse/unit development containing 14 dwellings, within Strata Plan 32735, located directly to the north of the proposal, across Challis Avenue and opposite the proposed "multi-purpose" building, with rooftop tennis court, to the west of the Garcia Building at 1 Challis Avenue, Potts Point.

This submission should also be read in conjunction with a previous submission dated 1 November 2023 on behalf of No. 6 Challis Avenue. That previous submission, and concerns raised therein, remains valid.

It is understood from the information available on Council's DA Tracker website that the original DA proposal has been amended, although a full list of changes is not made apparent, apart from a response to Council's urban design comments by the architect.

It is also apparent that the Council has provided a detailed 22-page Request for Information letter ("RFI") to the applicant, dated 21 February 2024. Given the nature and tenor of that letter, and the intended constructive nature of the previous submission dated 1 November 2024 on behalf of the owners of No. 6 Challis Avenue, Potts Point, this submission concentrates on recommended changes and conditions to the amended proposal, in a constructive and reasonable way.

An overview of requested changes to the amended proposal and conditions is below, followed by elaboration on those matters.



**Recommended Changes and Conditions:**

1. Ensure the building height proposed complies with the Building Height Standard, including rooftop fencing/structures.
2. Council to confirm and ensure FSR compliance.
3. Require the applicant to list changes and amendments made for clarity and to meet requirements of the EPA Regulation 2021.
4. Reduce the height by review of the internal ceiling heights, including to the indoor pool (as previously requested by Council).
5. Require a masonry element to the corner of the building on Challis Avenue/Victoria Street, for heritage reasons and to avoid excessive glazing.
6. Increase the width of rooftop planter bed to Challis Avenue (consistent with Council requests), particularly to the west of the tennis court.
7. Remove the proposed new high fence to the west of the rooftop area, by increasing the height of the planter bed to act as a compliant balustrade, in turn reducing adverse visual impacts of rooftop fencing to the street and improving soil volume to sustain planting.
8. Enforce a height limit (RL) to the top of rooftop tennis court fence, so it is not made higher later.
9. Ensure the landscape plan and planting schedule and details support vines along the northern side of the rooftop tennis court, to grow within the tennis court fence.
10. Impose conditions of consent to regulate the rooftop area to be ancillary to the school use, with reasonable operating hours (e.g. no later than 8pm) and other conditions.
11. Limit the size of signage by a DA condition.
12. Impose a DA condition(s) stating there is no approval of illumination without separate approval by Council, and that lighting should consider and reduce amenity impacts on neighbours, including any future lighting.
13. Impose other reasonable conditions to manage and mitigate construction activities (hours, limits on noisy equipment, CMP, pollution, dilapidation, neighbour liaison, noise generally, protect trees etc.)

## Height and FSR compliance (Points 1-2)

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The height of the proposed “multi-purpose” building fronting Challis Avenue should be confirmed against survey levels. The previous SEE stated the proposal opposite my client’s property is stated to be 9m (SEE, Ethos Urban pg. 21). This is incorrect, in my view and has not been corrected.

Building height is measured vertically from existing ground level to the topmost portion of a building.

There are some exclusions to this Building Height measurement for minor projections of skinny or small ancillary items on the rooftop, as contained in the definition of Building Height, as relevantly extracted below:

*...including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like*

It would be inappropriate to exclude the significant tennis court fencing on the rooftop from the Building Height measurement on the basis that it is “and the like” to the items cited in the definition above.

The RL to the top of the tennis court fencing is RL 36.58. It is acknowledged this is 2m lower than the original DA, which is a positive change. The RL of the fence to the corner of Challis Avenue and Victoria Street is RL 33.5.

These RLs need to be reconciled with the surveyed ground levels at the lowest point immediately below these points to ensure compliance, given no variation request has been made, and given concerns raised by Council about height and scale.

Similarly, the FSR is stated to comply and this matter was raised by Council and has apparently not been addressed and reconciled.

If the DA exceeds either the Building Height or FSR, the DA cannot legally be determined in the absence of a Clause 4.6 Contravention Request(s). This document is also important and should also be made publicly available for comment, as it seeks to justify why a building should be permitted to reasonably exceed a LEP development standard.

## List of Changes (Point 3)

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It is very difficult to understand the changes that have been made within the amended proposal. There is no list of changes, as required by Clause 37(6) of the EPA Regulation 2021, which relates to the making of an amendment to a Development Application (“DA”) after lodgement, and states:

*(6) If the amendment will result in a change to the development, the application must contain details of the change, including the name, number and date of any plans that have changed, to enable the consent authority to compare the development with the development originally proposed*

There is a table done by the architect responding to urban design issues within Council's RFI, but there must be a concise yet comprehensive and clear list of changes, as the application is being renotified and finding changes should not be an exercise akin to "Where's Wally".

### Reduce Height/Ceiling Heights

The height of the proposed development to Challis Avenue (except for a decrease in tennis court fencing and increase in fencing to the west of the rooftop tennis court) has not changed. The Council's RFI letter in February 2024 stated:

*The building should minimise floor to ceiling heights to the minimum required for BCA compliance. The necessity of an 8m ceiling height for a pool and multipurpose court is to be robustly justified as it contributes to the bulk and scale of the development.*

This concern is shared by my client and in our previous submission.

The internal height has not been reduced and the 8m internal height for the pool, which could and should be reduced, and has not.

### Require a Masonry Element to the Corner of Challis Avenue and Victoria Street

There have been some positive changes to the façade composition to Challis Avenue, reducing the extent of glazing, giving some depth to the façade and greater verticality.

However, the deletion of a corner masonry element, at the corner of Challis Avenue and Victoria Street, is a negative and retrograde change. This is illustrated in the applicant's own comparative montages:



3D view - Aerial View - Original DA



3D view - Aerial View - Proposed



3D view - Cor Challis & Victoria - Original DA



3D view - Cor Challis & Victoria - Proposed

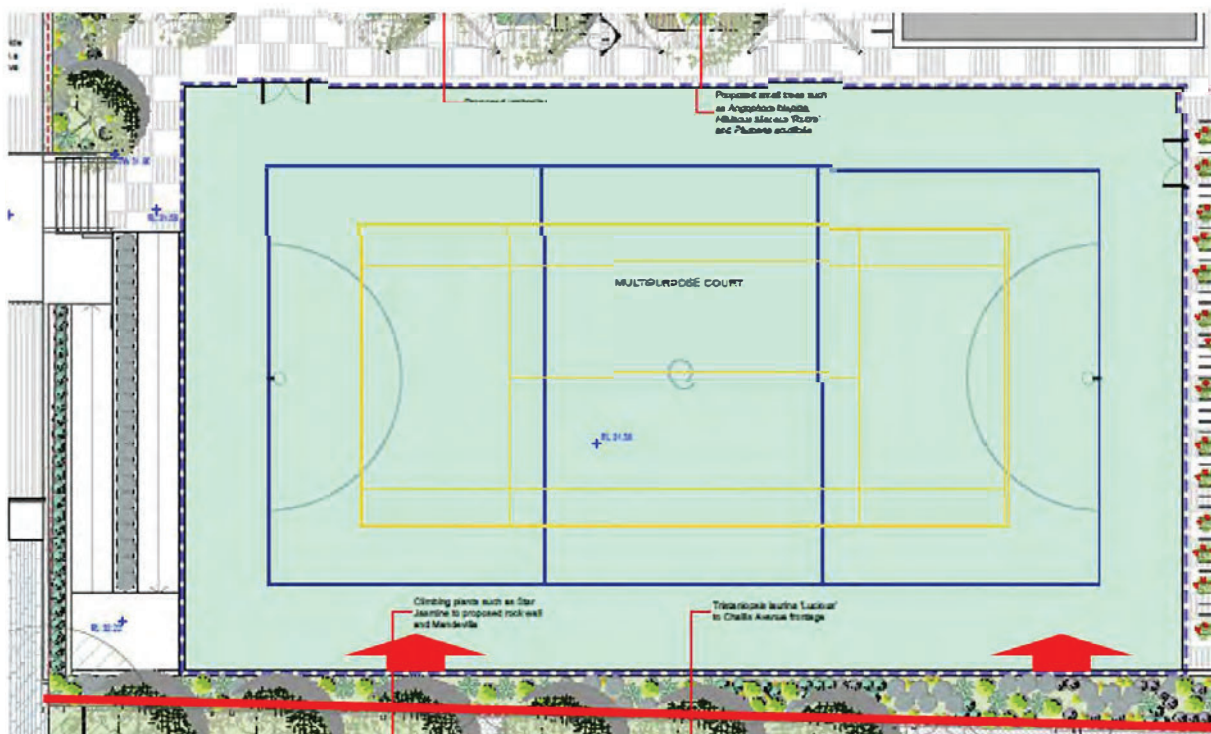
The previous proposal (left in the comparisons above) provided better framing of the façade to Challis Avenue and greater vertical rhythm, appropriate for the Heritage Conservation Area. This corner change, rather than decreasing the horizontal emphasis of the proposal (to favour vertical bays and composition in the Heritage Conservation Area) has done the opposite by increasing the horizontality of the corner, further exacerbated by the black window framing.

Council should insist this is reviewed and changed.

### Recommended Design and Changes to the Rooftop (Points 6-10)

#### Increase width of rooftop planter bed, particularly west of the tennis court (Point 6)

The width of the rooftop planter bed to the west of the tennis court should be increased. This could be increased by 0.5m-1m, while still allowing a functional court (noting the primary circulation space around the court is to the south), as shown below:



It is noted there has been some review of the tennis court and landscaped bed, by removal of a perimeter circulation area to the north of the tennis court. However, rather than any significant change to the landscaped bed, the internal circulation space around the court has been increased.

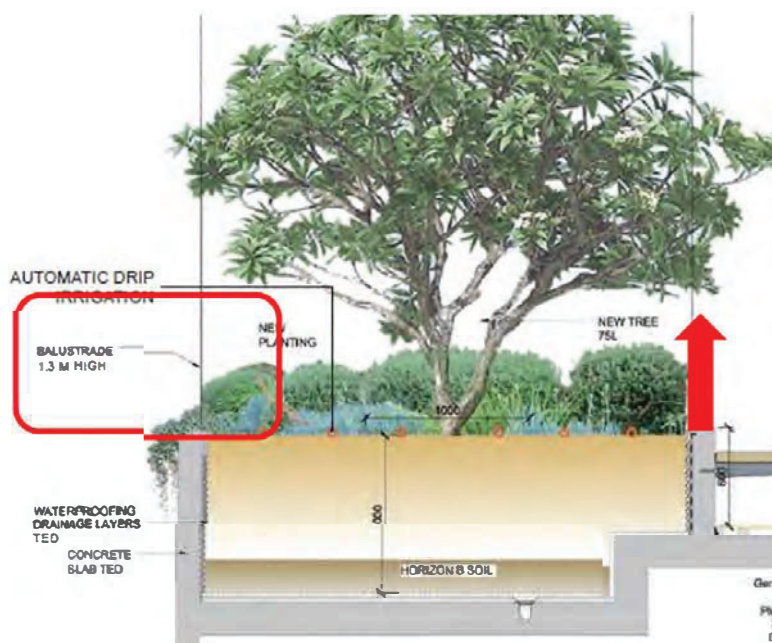
The requested change would help provide greater landscaped screening of the very high tennis court fence (5m), to help screen this negative streetscape element, without compromising functionality of the court (given the northern tennis court circulation area was previously narrower).

### Remove Fencing to the edge of the Rooftop planter bed (Point 7)

As previously recommended/requested in our prior submission (1/11/2023), there should be no need for a balustrade to the edge of the rooftop landscaped bed. It would be better to provide deeper soil for sustaining planting by having the landscaped bed act as the balustrade to meet the BCA requirements, while also reducing streetscape impacts of the fencing to the rooftop edge to the street.

Instead, the applicant is proposing a “balustrade”/fence above the planter bed. Leading to an effective fence at the rooftop edge fronting the street of 1.9m.

Instead, either the internal height of the planter bed (facing the internal rooftop area) could be increased to be BCA-compliant, or the whole planter bed be made higher/deeper so an outer balustrade is not needed. This would have landscaping and visual benefits.



This change would also help contain any balls in the western rooftop outdoor area used by students.

### Enforce a height limit (RL) to the top of rooftop tennis court fence (Point 8)

This is self-explanatory and reasonable and would stop the fence being made higher later or during construction. The constructed tennis court fence should be verified by a surveyor, also noting the building height compliance issue.

### Ensure details to support vines along the northern side of the rooftop tennis court (Point 9)

There is an opportunity for the planter bed to the north of the tennis court to provide vines which grow within the northern side fence of the tennis court, facing Challis Avenue.

This would be a minor change of little/no cost and have multiple benefits:

- (a) Increase apparent landscaping to the edge of the high fence structure, to Challis Avenue;
- (b) Reduce streetscape impacts;
- (c) Improve outlook for neighbours across Challis Avenue;
- (d) Provide increased privacy for students from surrounding buildings; and
- (e) Provide a better playing experience in the courts, especially if vines were perennial and fragrant (e.g. Star Jasmine).

If this is not embraced by the applicant (it should) then it should be imposed as a condition by Council, including amendment to the landscape plan and ongoing maintenance.

**Impose conditions of consent to regulate the rooftop area to be ancillary to the school use, with reasonable operating hours (e.g. no later than 8pm/sunset) – Point 10**

This is reasonable and needs little explanation.

The elevated rooftop area should not be used as functions and will have obvious potential amenity impacts on neighbours given its elevated position. It should be used for the use intended and this should be enforced by a DA condition(s), including reasonable hours until darkness.

Other reasonable conditions (as previously requested) should include:

- The tennis court fencing should not have any signage, screening or additional mesh attached;
- limits on lighting of the tennis court and operating hours.

**Signage, Lighting and Construction Conditions – Points 11-13**

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- The proposed top-hamper wall sign on Challis Avenue is proposed to be illuminated. Instead of any LED light box, this should be back-lit to be more sympathetic to the design quality of the building and the heritage characteristics of the area.
- A DA condition(s) should state there is no approval of illumination without separate approval by Council, and that lighting should consider and reduce amenity impacts on neighbours, including any future lighting.
- Council should Impose other reasonable conditions to manage and mitigate construction activities (hours, limits on noisy equipment, a Construction Management Plan, pollution and run-off minimisation, dilapidation reports, neighbour liaison, noise limits generally, protection of street trees etc.).
- Dilapidation reports should be required for adjoining buildings and a copy provided to Council and neighbours.
- Noisy construction activities (rock saws, pile hammering and rock breaking and angle-grinding) should not occur on weekends or prior to 9am weekdays.

- Sandstone removed from the site should be reused in landscaping as much as possible and conditions imposed regarding truck movements to not occur in early morning hours.

In summary, the proposed development and design is, in parts, of a high quality. However, there are aspects of the proposal that should not be approved, and the proposal should be refined and redesigned as outlined in this submission, generally consistent with an earlier submission on 1/11/2023. These changes are consistent with feedback already given by Council to the applicant and are entirely reasonable.

This submission has sought to be constructive about suggestions to mitigate impacts on my client and the area generally, by redesign and by conditions of consent, and we trust this submission will be carefully and earnestly considered.

I would be happy to discuss or clarify any of the above with Council and can be contacted on 0448 413 558.

Yours sincerely



Jason Perica  
**Director**

**From:** Suzanne cole [REDACTED]  
**Sent on:** Monday, July 15, 2024 4:41:02 PM  
**To:** DASubmissions <DASubmissions@cityofsydney.nsw.gov.au>  
**Subject:** Submission - D/2023/878 - 1 Challis Avenue POTTS POINT NSW 2011 - Attention Julie Terzoudis  
**Attachments:** St.Vincent's DA 2 copy.docx (18.83 KB)

**Caution:** This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Attached is our objection to these amended plans by St. Vincent's College Limited.

As the date for comments was Saturday 13th. we are submitting on the first working day Monday 15th.

I do not have confidence that the formatting of the attachment is going to survive - please let us know if there is a problem.

Kind regards,

Suzanne Cole and Antonino Cargnelutti

Sent from my iPad



Dear Ms Terzoudis,

**RE: Amended plans for D/2023/878: 1 Challis Avenue/1 Tusculum Street, Potts Point.**

We are the owners and residents of 2/14 Rockwall Cres., Potts Point and we are directly seriously affected by this proposed development by St.Vincent's College Limited.

We lodged a personal objection for our home, and a professionally prepared objection to the original DA. The latter was on behalf of 1/12, 2/12, 1/14 & 2/14 Rockwall Cres.

We are extremely concerned that the amended plans do not address, and certainly do not stop nor overcome the serious impacts this development would have on our property and our lives.

We have had a second objection to these amended plans professionally prepared and submitted, this objection was again a group objection together with the owners of 1/14, 2/12 and 1/12 Rockwall Cres.

Again we feel the need to object individually and ask the Council to look at our specific concerns. Unfortunately, very little in the way of changes has been made with these amended plans. Consequently, our comments and concerns listed in our original objection still apply and we ask that they again be considered.

The school, beyond box ticking information sessions where residents were not given full nor comprehensible information, has not attempted to treat us with respect, and certainly not as neighbours and residents with rights. They have not engaged in co-operative conversation, they have not listened and clearly do not care. This is particularly disappointing when we had hoped there might have been a more current and reasonable acknowledgement of an increased societal expectation that private schools, while accepting government subsidies and remaining non-tax paying businesses, should be and be seen to be good citizens and neighbours, showing respect for others and demonstrating sound environmental concerns.

**Our concerns continue to be based on on the reduction of our residential amenity.**

From the initial plans prior to the first DA, the school either neglected to include our row of houses, or then to include them as insignificant and unimportant buildings. In their recent submission it seems that we have become people whose homes face a back lane opposite the proposed development. Yes, we are across the rather narrow lane, a very important part of the problem, we are also quite clearly 5 storey historic homes with their orientation to the rear with large glass areas, open-air garden terraces, and views to the harbour with the bridge and opera house, and to North Sydney, the Botanic Gardens, the city, the finger wharf and navy wharves and

the harbour at Woolloomooloo. We also see to the green of Embarkation Park and the houses and trees of Victoria Street. This removal of our outlook and views has not been considered.

We would also lose the view across to the garden of the school. Now we appreciate that this belongs to the school and they could in fact pave it or asphalt it, however, they claim to take pride in their environmental credentials and concerns so this does seem to be another example of lack of social conscience in an area that needs to maintain green spaces however small.

This also makes us again feel frustrated that the question raised by residents as to why they did not consider the option to build in the paved open area beyond the Rockwall Cres. entrance as that would potentially have minimal impact on surrounding buildings was never addressed.

With the amended plans we would still lose amenity based on the location, the size and bulk of the buildings and the rooftop use, in particular:

- Light to all levels of our home
- Privacy on all levels of our home – requests for height poles have been ignored
- Loss of Views – the developer and school have not responded honestly and accurately despite our requests. The design of the buildings has not addressed the problem
- Increased noise from the courts (currently the greatest school noise levels come from the courts at ground level) plus air conditioning units.

We trust the Council will carefully consider our concerns and requests.

Suzanne Cole and Antonino Cargnelutti

13.7.24

**From:** Jordan Faeghi [REDACTED]  
**Sent on:** Monday, July 15, 2024 2:26:42 PM  
**To:** City of Sydney <council@cityofsydney.nsw.gov.au>; Julie Terzoudis <JTerzoudis@cityofsydney.nsw.gov.au>  
**CC:** [REDACTED]  
**Subject:** Att: Julie Terzoudis - Submission to DA2023-878 - 1 Challis Avenue and 1 Tusculum Street, Potts Point  
**Attachments:** DA2023-878 - Mecone Submission - Post Exhibition.pdf (176.31 KB)

**Caution:** This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Julie,

We act on behalf of the Owners Corporation SP45495 at 6-8 Rockwall Crescent, Potts Point.

Please find attached our submission to 2023/878 in relation to the St Vincent's College redevelopment at 1 Challis Avenue and 1 Tusculum Street, Potts Point.

Thank you in advance of your consideration. We look forward to hearing from you in relation to the attached as well as any further opportunities to review amended plans and the outcomes of your assessment.

If you require any further information, please do not hesitate to contact me or Ian Cady (cc'd in this email).

Regards

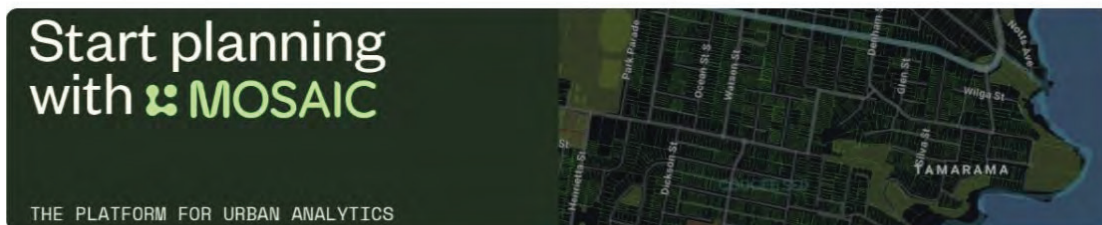
**JORDAN FAEGHI**  
Associate Director

---

02 8667 8668 | [REDACTED]  
Level 12, 179 Elizabeth St, Sydney NSW 2000  
[mecone.com.au](http://mecone.com.au)



**Mecone** Based in Sydney CBD, Western Sydney, Melbourne, Brisbane & Regional Australia



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15 July 2024

City of Sydney  
Town Hall House  
Level 2, 456 Kent Street  
Sydney NSW 2000

**Attention: Julie Terzoudis**

Via email: [council@cityofsydney.com.au](mailto:council@cityofsydney.com.au)

Dear Julie

---

**RE: DEVELOPMENT APPLICATION REF. DA/2023/878: 1 CHALLIS AVENUE AND 1 TUSCULUM STREET, POTTS POINT, NSW 2011**

**SUBMISSION ON BEHALF OF OWNERS CORPORATION SP45495  
6-8 ROCKWALL CRECENT, POTTS POINT**

This submission has been prepared by Mecone Group (**Mecone**) on behalf of Owners Corporation (the **client**) of 6-8 Rockwall Crescent, Potts Hill in relation to DA/2023/878.

This submission relates to the exhibition of amended plans associated with the alterations and additions to St. Vincent's College, including demolition/excavation works, tree removal and construction of new buildings. We thank City of Sydney Council (**Council**) for the opportunity to provide further comment on the proposal.

Mecone provided a submission to Council on 2 November 2023, outlining a range of concerns associated with the construction of the *Bethenia Building*. Specifically, the concerns raised in the submission included:

- *Privacy impacts with respect to the immediate proximity of the Bethenia Building and the introduction of large windows, which will directly look into bedrooms, living areas, bathrooms and private open spaces.*
- *Overshadowing impacts as a result of the bulk and scale of the Bethenia Building and its minimal setback to Rockwall Lane, potentially impacting residential living areas and bedrooms, which already receive limited sunlight.*
- *Visual impacts including the need for additional assessment to determine loss of harbour views and views to the Sydney Harbour bridge from additional viewpoints.*
- *Landscaping impacts including the minimal deep soil provided for the Bethenia Building setback to Rockwall Lane to provide an additional level of screening between the building and existing residents.*



Following review of the amended plans, our client acknowledges that some changes to the materials and windows have partially addressed privacy concerns. However, our client maintains their objection to the amended proposal.

While the amended plans make minor concessions on the roof form (flat to a pitched roof), there has been no notable change to the form and scale of this building. A general reduction in the form of the *Bethania Building*, such as an increased landscaping setback would more directly address the concerns previously raised and provide improved outlook and relief to the owners of 6-8 Rockwall Crescent.

## **Recommendations**

Notwithstanding the above, the proposal is still unacceptable to our client and we request:

### **1. Updated Visual Impact Assessment Required**

The amended plans lack an updated visual assessment, which is essential for determining the proposal's visual impact. We also note that our client retains significant concerns in relation to both view loss and visual impact.

Specifically, an analysis of the lower ground units is necessary, as they are vulnerable to view loss. Several units at or near ground level could experience a significant visual impact due to the buildings close proximity to the Rockwall Lane boundary.

### **2. Fixed, Angles Louvres Required**

The amended plans have redesigned the previous upper level (Level 2) windows, notably including external screening.

While this treatment is supported in principle, the louvres should be fixed to 45 degrees to prevent direct sight lines into any habitable room or private open space on the opposite side of Rockwall Lane.

### **3. Bethania Upper Level to be Face Brick, Not Dark Panelling**

The amended plans depict the replacement of face brick in-lieu of metal cladding. This treatment is supported.

However, the upper level setback is retained as metal cladding. This should be face brick consistent with the lower levels, which will provide a more compatible built form response to the terraces backing onto Rockwall Lane and the surrounding heritage context.

### **4. Delete Unnecessary Corner Feature to South-West of Bethania**

The amended plans increase the pitch of the Level 2 roof, such that it's eave to Rockwall Lane is now RL 36.03 compared to the previous height of RL 37.51 (i.e. a 1.48 metre reduction).



While this reduction is supported, the design now includes an additional raised feature element at the southwestern corner of the building at RL 37.56 - taller than the original eave height. This corner element lacks an apparent functional or design purpose and only increases the visual impact on the lower levels of 6-8 Rockwall Crescent, particularly obstructing oblique or angled views to the harbour. This should be amended to continue the prevailing Rockwall Lane Street elevation at RL 36.03

#### **5. Relocate Plant from Roof of Bethania to Basement**

The amended plans depict the air conditioner units located within parapeted area of the existing Garcia roof and in a screened enclosure on the roof of the *Bethania Building*.

Consistent with the comments provided by Council and given the sensitive interface of the *Bethania Building* to adjacent residential properties, air conditioner units on the roof should be relocated to the basement. This will help reduce visual bulk and unsightliness arising from louvre screens around the condensers.

#### **6. Dense Lilly Pilly or Viburnum Hedge Planting to a Height of at Least 1.6 Metres**

The amended plans have removed the previous 1.6 metres setback and 1.8 metre high palisade fence and have introduced a 1.5 metre setback and lowered palisade fence.

While it is acknowledged the previous 1.6 metre setback was intruded into by projections and features, the setback is not considered sufficient to support vegetation capable of visually screening the building. This is evidenced by the submitted elevations and sections, which depict minimal ground cover planting at this location.

Dense hedge planting to a height of at least 1.8 metres is required to adequately screen the Bethania Building. An increased landscape setback at this location would also assist with the provision of suitable landscape planting, which would assist with mitigating the form and scale of the proposal. Any condition of consent must specify the type of planting at this location, the size and requirements for its ongoing maintenance. We recommend either Lilly Pilly or Viburnum.

On behalf of the owners of 6-8 Rockwall Crescent, further design refinement is needed to the bulk and scale of the *Bethania Building* to more directly address interface, visual and privacy issues. Our client requests that any amendments made to the plans as a result of this exhibition period be made publicly available for comment prior to determining the DA.

We trust the above information will assist Council in their assessment of the application. Should you require any further information do not hesitate to contact me on 02 8667 8668 or [icady@mecone.com.au](mailto:icady@mecone.com.au).

Ian Cady  
Director

**From:** John Izzo <[REDACTED]> on behalf of John Izzo  
<[REDACTED]> <John Izzo <[REDACTED]>  
**Sent on:** Monday, October 30, 2023 5:59:02 PM  
**To:** dasubmissions@[REDACTED]  
**Subject:** D/2023 878 1 Challis Avenue Potts Point, 1 Tusculum Street Potts Point  
**Attachments:** Nameless.msg (145 KB)

**Caution:** This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear M/s Gordon,

I together with my wife Francesca Izzo are to owners of Unit 2, 8 Rockwall Crescent Potts Point which also fronts Rockwall Lane.

I am writing to you to voice our strong objections to the current development application in its current form. Our objections are based on Loss of Views, Loss of Light, Air and Overshadowing, Visual Impact and Overdevelopment of the Site, Loss of Green Space and Birdlife and Privacy Concerns.

#### **Loss of Views**

We have a wonderful view of the Harbour Bridge from our bedroom both during the day and at night when the bridge is lit up.

The view is superior at night as during the day the view is sometimes partially obscured by the tree branches of some small trees in the school grounds, as it is at present, as the trees which are regularly pruned to reveal a much fuller day time view, have not been pruned lately due no doubt to the impending application. Of an evening however the bridge lights can be clearly seen through the branches.

Table 5 at the top of page 9 of the Ethos Urban report accompanying the DA application does not accurately reflect the view we have which is closer to the picture attached taken from our bedroom.

The Bethania building which is proposed along the Rockwall Lane boundary will **completely** eliminate any view we have and we invite Council to come to our unit to see the devastating loss of view it will cause as our unit is on ground level.

#### **Loss of Light Air and Overshadowing**

The position of our unit on the ground floor makes it particularly susceptible to the loss of light, air and overshadowing the proposed Bethania building will have on our unit.

The loss of light and air does not just affect our bedroom which faces Rockwall Crescent but the whole of our unit as our unit is to some extent an open plan unit as we always leave our internal doors open and the light and air from Rockwall Lane extend as far as our lounge room at the front on Rockwall Crescent.

The problem could be alleviated by Council requiring the applicant to set the Bethania building back from the Rockwall Lane boundary and lowering the height of the building or approving a stepped building.

Once again a site view of our unit would greatly assist Council in appreciating our position.

#### **Visual Impact and Overdevelopment of the Site**

The colour scheme for the building to have black cladding is extremely unattractive and totally out of character with the lighter colours and sandstone of the buildings around it.

It is also totally inconsistent with the heritage character of the surrounding buildings.

The tall monolithic Bethania building is quite unsightly and as mentioned earlier stepping the building would mitigate this.

The building also constitutes an overdevelopment of the site.

#### **Loss of Green Space and Birdlife**

The construction of the large Bethania building will cause the loss of a very beautiful green space enhanced by a very large lawn and dotted with trees of varying shapes and sizes including some very mature trees, visible from the photo attached. The trees and green space bring birdlife to the area, which will completely disappear if the large Bethania building is approved in its present form.

This would seem to fly in the face of assertions made by the City of Sydney Council about its concerns to increase green spaces.

#### **Privacy Concerns**

The Bethania building situate as close as it does to Rockwall Lane will face directly into our bedroom thus considerably

impinging on our privacy.

It is requested that Council if it approves the Bethania building require the applicant to have it set back further from the Rockwall Lane boundary than is presently proposed and with any windows facing north or towards Victoria Street, rather than Rockwall Lane.

Please do not hesitate to contact us if you require further information or to conduct a View from our unit.

Regards,

John Izzo for John and Francesca Izzo

2/8 Rockwall Crescent,

Potts Point N.S.W. 2011

MOB: 



**From:** John Izzo <[REDACTED]> on behalf of John Izzo <[REDACTED]> <John Izzo <[REDACTED]>

**Sent on:** Sunday, October 29, 2023 5:17:09 PM

**To:** John Izzo <[REDACTED]>

**Subject:**

Sent from my iPhone



From: Christina Paull [mailto:christina.paull@vancouver.ca] on behalf of Christina Paull [mailto:christina.paull@vancouver.ca]  
Sent: Monday, October 20, 2025 12:45:05 PM  
To: DA@vancouver.ca  
Subject: D-2025-1476-0 Chalks Ave. Park Point

Caution: This email came from outside the organization. Don't click links or open attachments unless you know the sender, and were expecting this email.

Attention: Ms. Gordon  
I refer the proposed Development Application D-2025-1476-Chalks Avenue Park Point 2011  
1. Transition Street from Street (On-Proposed Development).

I am a resident of 316-8 Rockwell Crescent, Park Point.

I write to ask the Council to impose realistic conditions to accommodate the services advance impact the Proposed Development in current form) will have on the amenities of the community that resides in the residential area directly abutting the St Vincent's College (the school).

It is also for this to be done as ON: SITE INSPECTION is required prior to any administration.

**SUMMARY OF THE MATTERS THAT OVERLAP WITH THE AMENITIES OF RESIDENTS -**

- Destruction of some heritage views
- Unacceptable increase of student numbers
- Destruction of residential privacy
- Destruction of residential light
- Unacceptable increase of noise
- Unacceptable increase of use exceeding site capacity
- Considerable damage to the ground school of development to these facilities with the community

**A. THE PROPOSED DEVELOPMENT**

In the Proposed Development site plan, 7 years.

Part 1 proposes to demolish the existing tennis courts and retaining pool and to replace them with a 7-story building, reducing the pool below ground and the tennis courts on the roof of the new building.

Council must ensure that the "tennis courts" have a multi-purpose function and are regularly used for softball and other sports.

Part 2 proposes to build a second building behind the existing Garcia Centre. This new building (Building - will also be 7 stories, and will extend from the Garcia Centre to a point 1 metre short of Rockwell Lane.

Rockwell Lane separates the school and a street of heritage listed houses (the Terrace) Council should be aware that the school serves 245.

Both Part 1 and Part 2 proposals will result in a net loss of ground level open space to the school grounds.

**B. WHAT IS THE PURPOSE OF THE PROPOSED DEVELOPMENT?**

At the second working held on 11 July 2025 (the second working) (the school principal) was asked this question.

In response, Ms. Fry advised that it is necessary to increase the size of, and to upgrade, the school facilities, in keeping with the trend currently taking place in the private school sector.

What else is part of the proposed development aimed to increase student numbers. Ms. Fry is very general and repeated response was "that is not my intention".

When Ms. Fry was asked if the student numbers have increased by approximately 100 over the last five years she replied "I don't know how many".

The various responses are only to be taken as a "yes" to the increased student numbers over the last five years.

The students who live in the abutting residential zone have never been notified of any introduction of use over the last five years.

While the proposed development specifically states no increase in student numbers, it clearly says the ground work for increased student numbers, drives the track.

I ask Council to require into the current student numbers and any increase over the last five years, and impose a condition limiting the school's use to the current numbers.

If it is the case that the school's operations have expanded for the school site, then any conditions for other options. Many private schools are now having learning areas "off campus".

The school is surrounded by residential commercial buildings that are vacant.

The school is not aware of existing commercial businesses. It provides hearing accommodations to SENSORS (DeafBlind) (another private school) and accommodations to other persons during vacation periods.

**C. DESTRUCTION OF "SUNSHINE" HERITAGE VIEWS**

At the rear of Terrace 6/8 and 7/8 are windows, open glass balconies that extend from the terrace, kitchen and living rooms.

These open glass balconies function as dining rooms.

The views facing from the balcony areas of 7/8 Rockwell Crescent and the kitchen of 6/8, 6/9 within what established legal principles describe as "sunshine" heritage views, meaning as they do from one place of the Heritage Building to the other and including the Open Space.

The proposed development has completely damaged this view and will result in a number of other views that will be lost to the current, visible exposure of the Sydney Heritage Bridge and Open Space and create a broad effect, having only glimpses of the Heritage Bridge, which will be compromised by the bulky Building building.

This contrary to the legal principles associated in Tenacity Consulting's Working Paper 2006 (NORRICK) 14 and adopted in subsequent case law.

**D. SEVERE ADVERSE IMPACT ON THE RESIDENTIAL AMENITIES OF ADJACENT COMMUNITY**

Part 1 is a 7-story, bulky Building building, proposes an excessive number of windows that will directly face and back into the balconies, balconies and living areas of the Terrace. In particular those of Terrace 6 and 7. This severely impacts on the privacy of the residents who occupy the Terrace.

The developer has made no real attempt to address this. For example, by the use of fixed shutters that would address the school's objectives and give some way to preserving the privacy of residents.

The developer says the privacy of the residents who live in the Terrace will be preserved by inserting other blinds that will be kept pulled down.

This clearly can make with the developer's intent to cause privacy issues.

Above all, it affects light that the residents' privacy to be disrupted on young school girls existing that the blinds are pulled down.

There are other activities in a mixed above-floor and more strategically placed windows; the installation of fixed shutters.

Light  
The Building building will come within approximately a metre of the boundary of Rockwell Lane, thus impacting directly on the southern light of the Terrace. As you will be aware, the only other source of light for the Terrace is the windows in the.

The developer says it needs the southern light. The Terrace says we need our southern light.

Once again the developer has made no realistic attempt to derive a suitable solution, for example, the use of glass bricks.

Open Space  
Part 2 is one of the most densely populated areas in Sydney and open space is a premium.

The proposed development will destroy a considerable exposure of foliage and significant trees that serve not only the community but the students of the school.

The foliage present privacy serves as a noise buffer and gives the benefits of organic living growing plant life to all.

It is clear that the developer needs to regulate not only the community but the very students who attend the school of its methods and heretofore safety.

An amenity that serves as the built-upon climate change and is the well-being of all.

Noise  
At school hours, the tennis courts have a multipurpose-use are used for tennis, softball, the school site and other sports.

The privacy of these activities is safeguarded and the noise emanating from them, is buffered by the trees and foliage that envelops the area concerned.

To relocate these multipurpose sports playing fields on top of a 7-story building will certainly increase the noise emanating from the various sports activities and invade the students' privacy.

The proposed Building building will operate as a noise source (in addition to the existing Garcia Centre) and administration area.

This will affect the noise levels and protection already operating from the Garcia Centre. It will certainly the noise levels at Building will be built to approximately 1 metre of Rockwell Lane and the current foliage that acts as a buffer will be destroyed to make way for Building.

**E. DESIGN OF PROPOSED DEVELOPMENT AT ODDS WITH THE HERITAGE LISTED TERRACES**

The Building Building will be sited on a school site and will directly place a residential zone. To its site, such height and design make no allowance for the sensitivity of this location.

A more sympathetic design is required to address the adverse impacts the proposed development will have on the Terrace and other areas respect for the heritage value of the terrace.

For example, a greater setback between Building and Rockwell Lane which will preserve open space and the existing tree cover and foliage, scaling down of the bulk and height of the Building building.

As the developer maintains it is not increasing school numbers, why are two, bulky three-story buildings required? What use will be made of the existing Assembly Hall, once the two proposed buildings are erected? Could the current Assembly Hall be used as the additional music facility?

**F. THE SCHOOL'S OBLIGATION TO SHARE FACILITIES WITH THE COMMUNITY**

No attempt has been made by the developer to open up the school's facilities to the surrounding community.

This is in stark contrast with the usual happenings between other private schools and the community with which they interact.

The community that surrounds St Vincent's is a central, strategic, three-quarters open space to many student studies and use facilities and includes the breathing connection area of Westcombe.

Yet the developer has made no attempt to address student issues to the facilities the School is eager to enlarge and upgrade.

One would have to wonder why?

**G. OPERATIONAL MATTERS**

I would ask Council to:

1. Conduct a site visit as soon as possible to fully grasp the impact the proposed development will have on the residential situation of the surrounding area.

2. Require mitigation measures before the developer commences construction near the Terrace.

3. Schedule the building project to operate from one of the largest open spaces (Chalks Avenue, Victoria Street or Terrace Street).

Rockwell Lane currently from 2001 onwards in writing the residents, health officers and members of Rockwell Crescent and Chalks Avenue.

**CONCLUSION**

The proposed development:

1. Is incompatible with the zone function between the school on which the development will be located and the abutting residential zone.

2. Shows no respect for the historic heritage views it will destroy.

3. Does not acknowledge the heritage value of the Terrace on which it will detrimentally impact and so, undermines the heritage value of these terraces.

4. The Building building, as proposed, poses the significant risk and height concerns and so, severely impacts the privacy, light and open space of the Terrace.

5. Represents the destruction of open space and represents a net loss of ground level open space on the school site and grounds in a significant impact change and as a measure for some control.

6. A adding two 7-story buildings, which clearly allow for the potential increase of student numbers, when the school's current impact on traffic, noise and air parking, is already at breaking point.

7. Makes no provision for community access at a time when regulatory authorities and the community at large, have recognized the need for privately funded schools to give back to the community in which they operate and on which they depend.

8. Has failed to adopt design principles to respect the abutting residential zone - thus disregarding the conservation value on which it will adversely impact.

In particular, what is needed is a redesign of the Building Building to allow a reduction in height and bulk, sufficient setback in respect of the abutting residential zone, and minimization of the impact on the already limited natural light of the abutting Terrace.

Christina Paull  
My phone number is registered in the visit to [redacted]

4 Day 10 of the Rockwell Lane

**From:** Christine Paull <[REDACTED]> on behalf of Christine Paull <[REDACTED]>  
<[REDACTED]> <Christine Paull <[REDACTED]>  
**Sent on:** Sunday, October 29, 2023 4:12:21 PM  
**To:** DASubmissions <DASubmissions@[REDACTED]>  
**Subject:** D/20/2023/878/Challis Ave Potts Point  
**Attachments:** IMG\_5486.MOV (9.98 MB)

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Further to my written submission forwarded earlier today, please see photos and video below of current “tennis court”  
Christine Paull  
[REDACTED]





Sent from my iPhone

**From:** Michael Roset <[REDACTED]> on behalf of Michael Roset <[REDACTED]> <Michael Roset <[REDACTED]>>

**Sent on:** Sunday, October 29, 2023 4:21:03 PM

**To:** DASubmissions <[REDACTED]>

**Subject:** D/2023/878 1 Challis Ave Potts Point St Vincent's School

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Download Attachment  
Available until 28 Nov 2023



Ms Gordon,

Further to my submission I forward two short videos showing the site, iconic view and sounds from courts ( I have no current complaint) which will become greater with elevation.

I look forward to your site visit

Regards

Michael Roset

[Click to Download](#)

[IMG\\_3310.MOV](#)

0 bytes

[Click to Download](#)

[IMG\\_5485.MOV](#)

0 bytes

Sent from my iPad

**From:** Joshua Bishop <[REDACTED]> on behalf of Joshua Bishop  
<[REDACTED]> <Joshua Bishop <[REDACTED]>  
**Sent on:** Sunday, October 29, 2023 6:02:53 PM  
**To:** council@[REDACTED]  
**Subject:** D/2023/878 @ 1 Challis Avenue, Potts Point NSW 2011; Attention Rebecca Gordon

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

We would like to comment on the development application # D/2023/878 by St Vincent's College Limited, at 1 Tusculum Street and 1 Challis Avenue, Potts Point NSW 2011. Please refrain from publishing my name or email address when you post this comment on your website.

We have lived next door to St. Vincent's College for over ten years, in a building adjacent to the school. During that time, we have observed almost continuous renovations and construction work taking place at the school, with all the associated noise and disruption.

We do not begrudge the desire of the College administration to invest and improve their facilities. However, we do feel it is about time the College made a positive contribution to the local community. The proposed development project offers an opportunity for the College to look beyond its boundaries and to invest in the neighbourhood as a whole.

Two possibilities that we would support are:

- Hosting cell phone towers on the school roofs (because the west side of Rockwall hill is in a tele-communications 'shadow' due to the Icon building and the 7 Rockwall Crescent building), and
- Installing (and maintaining) a lift next to the McElhone Stairs.

Please consider, as a condition of approving the above development application, requesting some substantial investment by the College in neighbourhood amenities. A consultation on this question would no doubt generate many ideas from other local residents.

Many thanks,  
Friendly neighbours

**From:** Felicity Waters <[REDACTED]> on behalf of Felicity Waters  
<[REDACTED]> <Felicity Waters <[REDACTED]>

**Sent on:** Wednesday, November 1, 2023 11:32:22 AM

**To:** dasubmissions@[REDACTED]

**Subject:** Submission - D/2023/878 - 1 Challis Avenue POTTS POINT NSW 2011

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Dear Ms Gordon,

I reside at 52 Victoria Street, (cnr Challis Avenue) Potts Point, with my husband and three children. The main portion of our property is on Challis Avenue, with all windows along this boundary facing directly onto the proposed development site.

Our main concerns regarding the property are:

- Reduced privacy and noise. With elevation of the building along Challis avenue, and the proposed rooftop area in particular, will look directly into our bathrooms, bedrooms and living spaces. Creating a multi-purpose sporting area of top of the 3 story building will very significantly impact on our privacy and increase noise levels.

- Traffic and increased congestion - both during the construction phase and in the context of the school entrance being moved to Challis Ave. There is already very significant congestion and dangerous traffic conditions along Victoria St, and especially at the intersection of Victoria Street and Challis Avenue. Cars are already double parked at times of school drop off and pick up. As a direct result, on many occasions, I have narrowly avoided cars running into my car. I have also witnessed near miss pedestrian-car accidents relating to school traffic. Our driveway constantly has reduced access because of vehicles obstructing our driveway, which is in Challis Avenue. The No Stopping zones, immediately outside our front door, and on the corner of Victoria Street and Challis avenue, always have vehicles parked there during school hours. Any development approval should take into account the importance of reducing these hazards.

- Community Access. In keeping with the school's social licence and commitment to community, access of the grounds/pool facilities should be provided to the community, for example during extended school holidays. Of note, Sydney Grammar School have recently agreed to community access after school hours and on weekends for 8 hours/week, as part of their recent development proposal in Edgecliff.

-Environmental concerns - in particular tree removal and reduced green zones have been proposed. Increased landscape buffer zones and preservation of open space and greenery should be considered essential.

Regards,  
F Waters

**From:** Rebecca Gordon <[REDACTED]> on behalf of Rebecca Gordon <[REDACTED]> <Rebecca Gordon <[REDACTED]>  
**Sent on:** Friday, November 3, 2023 1:35:36 PM  
**To:** DAsubmissions <DAsubmissions@[REDACTED]>  
**Subject:** FW: (Case Ref: AG51514)  
**Attachments:** D 2023 878 1 Challis Ave Potts Point REP 231102.rbl.pdf (240 KB)

**Attention: DA submissions**

Please register the attached submission to:

D/2023/878.001 - Submissions - D/2023/878

Kind regards

Rebecca

Rebecca Gordon  
Senior Planner  
Planning Assessments



Telephone: +612 9288 5842



The City of Sydney acknowledges the Gadigal of the Eora nation as the Traditional Custodians of our local area.

---

**From:** Alex Greenwich MP <sydney@[REDACTED]>  
**Sent:** Thursday, November 2, 2023 2:53 PM  
**To:** OLM Reception Mailbox <[REDACTED]>  
**Cc:** Pamela Aleixo <[REDACTED]>  
**Subject:** (Case Ref: AG51514)

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Hi folks

Please find attached a copy of Alex's representations about the St Vincent's College DA D/2023/878.

Thank you

Roy Bishop  
Electorate Officer



**Roy Bishop JP (He/Him)**  
Senior Electorate Officer

+61 2 9267 5999  
Gadigal Country  
21 Oxford Street  
Darlinghurst NSW 2010

We acknowledge the Australian Aboriginal and Torres Strait Islander peoples as the first inhabitants of the nation and the Gadigal people of the Eora nation, traditional custodians of the lands where we live, learn and work.

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Do you want to have Alex's weekly email Update?

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2 November 2023

Clr Clover Moore  
Lord Mayor  
City of Sydney  
GPO Box 1591  
SYDNEY NSW 2001

Dear Clover

## **D/2023/878 – 1 Challis Avenue Potts Point**

I write on behalf of constituents who have raised concerns about this St Vincent's College redevelopment, which proposes demolition, tree removal, excavation, new construction and landscaping. Constituents who have contacted me are concerned about loss of privacy for adjacent residents, loss of views, impacts on local heritage and removal of trees.

Adjacent residents tell me that they will lose iconic Sydney views as a result of this development. They are concerned about privacy and overlooking of their homes, challenging the reports provided with the proposal about these impacts. Residents also say that the design of the proposed Bethania building is inconsistent with the streetscape and has heritage impacts.

Constituents raise concerns about the removal of 19 existing trees, stating that many of these are large established trees that provide important local habitat, with mostly low level shrubs planted in place of trees. Those who have contacted me say that this proposal will remove existing open green space in the precinct when there is greater need for green landscaping.

Some adjacent residents have also raised concerns about light spill and the visual impact of proposed poles and netting. They are concerned that there be acoustic protection from noise impacts on adjacent residents, including time limits on use of elevated courts.

Some residents have proposed that recreation facilities be made available to the local community outside school hours as a public benefit measure and I note that this was included in consent conditions for the Sydney Grammar School Weigall development.

Constituents who have contacted me about this proposal support the school operating but seek redesign of the proposal to prevent these impacts, including the proposed Bethania building cladding.

***Could you please ensure that adjacent community concerns are assessed and alternative design options reviewed when council considers this proposal?***

Yours sincerely



Alex Greenwich  
**Member for Sydney**



**From:** Anthony Boskovitz <[REDACTED]> on behalf of Anthony Boskovitz  
<[REDACTED]> <Anthony.Boskovitz@[REDACTED]>  
**Sent on:** Wednesday, November 1, 2023 3:29:23 PM  
**To:** dasubmissions@[REDACTED]  
**Subject:** Coudounaris objection to DA/2023/878  
**Attachments:** Jennifer Hill Heritage Objection.pdf (960.41 KB), Objection.pdf (174.41 KB)

**Caution:** This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear General Manager

Please see attached letter of objection and supporting heritage objection.

Regards,

Anthony Boskovitz  
Boskovitz Lawyers  
Suite 110, 203-233 New South Head Road  
EDGECLIFF NSW 2027  
Tel: [REDACTED]  
Fax: 8711-0955  
Mobile: [REDACTED]  
Email: [REDACTED]  
Website: [www.boskovitzlawyers.com](http://www.boskovitzlawyers.com)  
<https://au.linkedin.com/in/anthony-boskovitz-1679154>



***We have changed our contact details. All mail should be sent to PO Box 305, Edgecliff NSW 2027***

***Check out our new website [www.boskovitzlawyers.com](http://www.boskovitzlawyers.com)***

*Like us on Facebook*  
<https://www.facebook.com/boskovitzlawyersau/>



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2153/JH:ef  
01 November 2023

Chief Executive Officer  
City of Sydney  
456 Kent Street  
Sydney NSW 2000

**2153 – PROPOSED DEVELOPMENT AT 1 CHALLIS AVENUE, POTTS POINT & 1 TUSCULUM STREET, POTTS POINT – DA/2023/878.**

Architectural Projects were commissioned by Hotel Challis at 21-23 Challis Avenue, Potts Point to assess the Heritage Impact of the proposal related to DA/2023/878 . Hotel Challis is located directly to the east of the Portion of the subject site.

The Development Application by St Vincent’s College relates to the site of 1 Challis Avenue, Potts Point and 1 Tusculum Street, Potts Point.

**HERITAGE SENSITIVITY**

The site is listed as a Heritage Item in Sydney LEP 2012.

Two LEP listings apply to the College, St Vincent’s Convent Group and former Bethania and Carmelita, Items I1121 and I1122 respectively.

The site lies within the Potts Point Heritage Conservation Area.

Potts Point Heritage Conservation Area specifically mentions the importance of landscaping at rear of school and the need to reinforce this. (refer attached)

Heritage Items and Conservation Areas within the vicinity include:

- Sydney Harbour Naval Precinct, including Garden Island (I1116);
- 2 and 4 Challis Avenue – Terrace group “Korein” and “Maroura” (I1123);
- 2A Challis Avenue - Flat building “Camelot Hall” (I1124);
- 8 Challis Avenue – Terrace house “Belgravia” (I1125);
- 21-23 Challis Avenue – Terrace group “Byrock” and “Uralla”(I1126);
- 25-27 Challis Avenue – Terrace group “Highclere” and “Romney Hall”(I1127);
- 29 Challis Avenue – Terrace house “Saraville”(I1128);
- 55 MacLeay Street – Terrace house “Santa Fe”(I1139);
- 57-59 MacLeay Street – Former artists’ studio “The Yellow House”(I1140);
- McElhone Stairs (I1148);
- 2-4 Rockwall Crescent – Terrace group (I1152);
- 5 Rockwall Crescent – House “Rockwall” (I1153);
- 6-16 Rockwall Crescent – Terrace group “Brunswick Terrace”(6–14 Rockwall Crescent) (I1154);
- 10-20 Rockwall Crescent – Terrace group “Pamela Terrace”(16-20 Rockwall Crescent) (I1155);
- 46-52 Victoria Street – Terrace group (I1164);

- 55-69 Victoria Street – Terrace house (55 Victoria Street) (I1165);
- 55-69 Victoria Street – Terrace group (57-59 Victoria Street) (I1166);
- 55-69 Victoria Street – Terrace group “Hortonbridge Terrace”(61–69 Victoria Street) (I1167);
- 75-99 Victoria Street – Terrace house “Edina”(75 Victoria Street) (I1168);
- 75-99 Victoria Street – Terrace house “Hordern House” (77–79 Victoria Street) (I1169);
- 75-99 Victoria Street – Terrace house (81 Victoria Street) (I1170);
- 75-99 Victoria Street – Terrace group (83-85 Victoria Street) (I1171);
- 75-99 Victoria Street – Terrace house (97-99 Victoria Street) (I1172); and
- 80-102 Victoria Street – Terrace group (I1173).

### SIGNIFICANCE

The Potts Point Heritage Conservation Area is highly significant.

The following statement of significance is taken from the State Heritage Inventory listing sheet for the Potts Point Heritage Conservation Area:

*The Potts Point Conservation Area provides evidence of the subdivision of the early land grants and the consolidation of development in Potts Point during the nineteenth and twentieth centuries, reflecting the evolution of the locality from a district of substantial nineteenth century villas, to one characterised by terraces of late nineteenth and early twentieth century interspersed with early to mid-twentieth century apartment housing and several surviving grand houses. Together with adjoining Elizabeth Bay and Rushcutters Bay, nowhere else in Australia were apartments built to this height or level of density. This creates streetscapes of strong urban form and Victorian, Federation and Inter - war character.*

*The area provides building types which represents the last 150 years of development and coexist in a harmonious way. Despite the intrusive nature of later high rise towers, whose impact is disproportionate to their proportion of built area, the area provides a highly cohesive character although the towers visually dominate the background of low scale streetscapes.*

*The commercial strip along Darlinghurst Road, together with Fitzroy Gardens and the El Alamein Fountain, provide a continuing civic and visual focus for the area.*

The site and building are highly significant.

The following statement of significance is taken from the State Heritage Inventory listing sheet for St Vincent’s Convent Group including buildings and their interiors and grounds:

*St Vincent’s College is of historic significance for its long association with the historical development of Potts Point and with Tarmons, one of the earliest residences, and with the Sisters of Charity, the founding order of the school.*

*There are early historical associations with Sir Maurice O’Connell and Sir Charles Nicholson the first and second owners of the original Tarmons House.*

*The site is associated with a number of architects of note. The 1886 building was designed by prominent architects Sheering and Hennessey. The 1863 building was possibly designed by*

*Government Architect Mortimer Lewis. The Chapel was transposed to Gothic details by Sydney architect Arthur Polin. The 1938 College Building was designed by Clement Glancy Senior, an architect who designed a number of institutional buildings for the Catholic Church.*

*The Victoria street frontage of the buildings on the site have high aesthetic significance and landmark qualities, in particular the main 1866 building, smaller 1886 building on the southern and the 1938 building.*

*The main 1886 Victorian Gothic style building and the Small School Hall in the same style, and the 1901 Federation Gothic Revival Style red brick and sandstone building have high significance for their architecture.*

*Bethania (now Garcia) on Challis Avenue has high aesthetic significance as a terrace group of building built in 1910 transitional from the Victorian Italianate architecture to the front façade to the Art Nouveau Interiors.*

*The 1938 building has medium significance for its inter-war architecture which references the Gothic Revival style of the 1886 school building and interpreted this style through modernist architectural influences.*

*St Vincent's College has strong associations with students and their families, staff, and the Sisters of Charity and with numerous significant events over the years in its operation as a school. St Vincent's School has strong association with the Sisters of Charity and with educational philosophy associated with the order which contributes to the contemporary esteem held by the college.*

*St Vincent's College, its site and fabric as an institution is important in demonstrating the development of the school founded by the Sisters of Charity that had its origins in 1853 and that has been operating as St Vincent's College since 1882.*

## **DESCRIPTION**

The main northern elevation of Garcia Building faces Challis Avenue. The building appears as rows of grand white three storey terrace dwellings of the Federation Free Classical style with rendered stucco finish.

There is an open space that links Challis Avenue to the internal courtyard and including 2 trees of high significance, brush box and liquid amber, 3 trees of moderate significance, and 2 frangipanis.

The Statement of Heritage Impacts (SOHi) prepared by Vivian Sioutas include the following key points regarding the history of the site.

*The Sisters of Charity have a long association with this site at Potts Point, having purchased the Tarmons Estate in 1856.*

*The current subdivision pattern along Challis Avenue was formed from the subdivision of two larger estates or original land grants to Dr HG Douglas and John Busby. .*

*Garcia building (formerly known as Bethania and Carmelita) were completed in 1910*

*Only minor changes have been made to the buildings since their construction. These changes include refurbishment of bathroom areas, enclosure of fire stairs, demolition of rear wings, changes to room division.*

Demolition of 3-storey rear wings is not considered a minor change and there is huge scope to interpret the form of these rear wings in any new development.

The heritage impact statement report notes:

*The proposed new building on the corner of Challis Avenue and Victoria Street will have minimal impact on the Potts Point Conservation area.*

*With respects to the Potts Point Heritage Conservation Area, the (new) Bethania Building is considered to have a negligible impact as it replaces the rear wings with a new building of similar bulk, scale and form and is sufficiently setback. The multi-purpose and sporting facility will also have a minimal impact on the Potts Point Heritage Conservation Area as it will not significantly affect views, retains the sandstone wall that defines the corner and contributes to the character of the area and will be sunken and recessed to reduce the expansiveness perceived from the street.*

*Sandstone boundary wall*

*The existing sandstone boundary wall will be replaced like for like for the base of the new building. Sandstone will be sourced to match and will be sized, finished and fixed to match the existing wall.*

The new building is not of similar bulk, scale, form and setback.

The footprint of the original building provided a minimum setback of 3m, which should guide any new development in terms of impact to retain a garden buffer to adjacent heritage item, scope exists to interpret the footprint of the original building which will enhance its interpretation.

The sandstone wall that defines the corner and contributes to the character of the area is not retained but rebuilt.

## **IMPACT ASSESSMENT**

A review DA/2023/878 submitted to City of Sydney Council raises the following key issues:

1. Loss of Landscape setting
2. Bulk and Scale of the new Bethania building
3. Lack of adequate setback
4. The lack of contextual fit
5. Building Height non-compliance

1. Loss of Landscape setting

The proposed Bethania building will be located in an area which currently has substantial planting and landscape setting to the large extent of development within the grounds of the school. Substantial planting to the perimeter is removed which impacts on the adjacent heritage items and heritage conservation area. The loss of all mature landscaping and the retention of an area of deep soil which is not compatible with the provision of any reasonable landscaping is not considered appropriate. There is no significance grading of trees that are proposed to be removed in the Heritage Impact Statement.

Trees of high significance, brush box and liquid amber, 3 trees of moderate significance, and 2 frangipanis are removed.

The development results in a loss of mature tree canopy on the Eastern side of the block which is an important element in the visual softening of the site and restricts visibility to the internal landscape courtyard of the school.

2. Bulk and Scale of the new Bethania Building

The proposed new Bethania building has the appearance of a five (5) storey and reduces the setback off both boundaries and is visible to the HCA from Rockwell Lane and within the site of St Vincent's college.

The new sports facility is a much larger building and its form and scale of the development as viewed from Challis Ave and Rockwell Place is not consistent with the requirements for the site or for the heritage conservation area which is known as the Potts Point/Elizabeth Bay Heritage Conservation Area. The expansion of the site of the sports facility results in removal of 2 trees of high significance, and 3 trees of moderate significance.

3. Lack of adequate setback

The lack of setback associated with the new building form is not consistent with the setbacks of the original rear wing. The setback to the reconstructed wall fails to reinforce the masonry character of the corner sandstone boundary wall.

4. The lack of contextual fit

While the building sits below the height plane there is still a significant increase in mass and the articulation of the sports facility results in a building of commercial appearance with an overly strong horizontal proportion which is not compatible with the character of the HCA.

The reference to the 1970's school block on the site with overly strong horizontal is the wrong reference for the new building. The 1970's building provide a contemporary masonry façade that related to other significant buildings on site. The current building does not provide contemporary masonry façade.

5. Building Height non compliance

The relevant maps identify the maximum number of storeys as 4.

We do not consider that the Bethania Building complies with the 4 storey control.

*The provisions of 4.2.1.1 which state:*

*(2) The maximum may only be achieved where it can be demonstrated that the*



*proposed development:*

- (a) reinforces the neighbourhood character;*
- (b) is consistent with the scale and form of surrounding buildings in heritage conservation areas; and*
- (c) does not detract from the character and significance of the existing building.*

The internal void level makes the building appear as a 5 storey building except for its with a small setback to the East boundary in part and set down to the Southern built form is only 4 storeys. The floor to floor heights of the new addition can be substantially reduced. The appropriate scale is the original building.

6. Setbacks non compliance

The objectives of this clause 4.2.2 of the SDCP states:

- (a) Ensure development:*
  - (i) is generally consistent with existing, adjacent patterns of building setbacks on the street; and*
  - (ii) maintains the setting of heritage items and is consistent with building Setbacks in heritage conservation areas.*
- (b) Establish the street frontage setback of the upper levels of residential flat buildings, and commercial and retail buildings.*
- (c) Encourage new building setbacks where appropriate to reinforce the areas desired future character.*

The development provides for, in the most part, a nil setback to the shared boundary with 21 Challis Avenue which is not consistent with existing, adjacent patterns of building setbacks on the street; or maintains the setting of heritage items.

The SEE prepared by Ethos notes:

*The proposed building envelope has undergone significant design development through multiple iterations in order to present a more skilful design, with collaborative advice from Ethos Urban.*

*The proposal includes:*

- Additional setback from the Rockwall Lane boundary to the top floor of the Bethania Building*
- The multipurpose facility is lowered into the site, well below the LEP maximum height, inclusive of the rooftop sports court netting*
- When viewed from the Rockwall Crescent properties, the Bethania Building volume is generally constrained to be within the extent of the existing Garcia Building, which currently occludes views from to iconic elements.*

## **CONCLUSION**

While the significant design development may have improved the appearance of the proposal. It still falls far short of what would be considered an appropriate development in a highly sensitive HCA. There is no dialogue with the character of the site. The setback to stone wall fails to reinforce the corner and the masonry character of the façade.

The grid of sports facility relates to the 1970s building and not the more significant buildings on the site.

As such the proposal does not conserve the heritage significance of the heritage item or the heritage significance of the heritage conservation area.

The proposal does not appropriately respond to the character of the site or the heritage conservation area.

**Designer**                      **Builder/Maker**

Sodersten, Joseland & Gilling,  
Magoffin, Dellit, Crick & Furse,  
Ward,Hamilton, Halligan &  
Wilton etc

Various

**Physical Description****Updated**

The Conservation Area adjoins Garden Island Naval Depot to the north. The boundary follows roughly the rear of properties that front the western side of Victoria Street whilst Kings Cross Road forms its southern boundary. Ward Avenue and the rear of properties fronting Macleay Street are along its eastern boundary.

The area slopes north along Victoria Street and Macleay Street which is the highest point. The area has a dense urban character. Around Victoria Street and Tusculum Street the scale is predominantly three storey Victorian Terraces. Around Rockwall Crescent, Manning Street and Onslow Place high early twentieth century apartments cluster around the original villas, Rockwall and Tusculum, on subdivided allotments.

There are some fine examples of grand terraces particularly in Challis Avenue and parts of Victoria Street and Rockwell Crescent.

Macleay Street provides a mixture of ten storey high-rise early twentieth apartment and late nineteenth three storey residential and commercial. Significant 20th century apartment blocks in the street include 4 Macleay Street, Macleay Regis at Nos 10-12, Seldson at No 16, 20 Macleay Street, Manar at Nos 40A-42, Kingsclere at No 48, Werrington at No 85, Byron Hall at Nos 97-99 and Cahors at 117 Macleay Street.

The north-western side of Wylde Street, which falls within the conservation area, is a continuation of Macleay Street and is characterised by a number of 20th century residential flats, mainly 2-3 storeys with the exception being the post-war International Style building at No 17, and a number of grand villas including Bomera at No 1 and Tarana at No 1A.

There are also several high-quality post-war apartment developments that represent an important later phase of development including Gemini by Harry Seidler and the former Sheraton Hotel at 40 Macleay Street.

Darlinghurst Road forms part of a "bright light" entertainment and commercial strip, featuring various forms of commercial and retail enterprises along with cafes, take away food shops, gaming venues, bars, hotels and adult entertainment venues. The built form is predominantly 3-4 storey commercial with some residential.

Important institutional sites include the St Vincent's School Group in Victoria Street, which includes a Victorian Gothic style chapel, and the Wayside Chapel.

There are patches of open space provided at Springfield Gardens at the northern end of Springfield Avenue, Arthur McElhone Reserve in front of Elizabeth Bay House and Fitzroy Gardens.

**STREET RATINGS**

Darlinghurst Road: Predominantly 3-4 storey commercial / residential development of mixed character. Strong street alignment and continuous awning. Detracting shopfronts. Rating B

Macleay Street: Predominantly turn of the century and Inter-war residential development, symmetrical masonry construction, intact foyers. Fine street planting. Detracting shops. Rating A.

Wylde Street (north-western side): Predominantly 2-3 storeys inter-war flats, the post-war international style flats at No 17 and some early villas, Bomera and Tarana. Rating A

Victoria Street: Predominantly low scale Victorian residential development, grand villas, 2-storey. Detracting high rise hotel development at south end, detracting development at 117 (render), 113 (screen), 107, 95, 71, 40, additions to St. Vincent's. Views to city at low end. Fine street planting. Rating A

McDonald Street: 3-4 storey Victorian terraces and post WW II flats. Central street planting. Detracting unit development. Rating A

St. Neot Avenue: Variety of styles, open view to rear, private plantings give leafy character. Detracting No.13. Rating A

Grantham Street: Rear lane character, garages. Rating B

Challis Avenue: Victorian terraces and inter-war flats, street tree planting, **landscape** rear of school. Detracting development at No. 2 (render). Central street planting. Rating A

Rockwall Crescent: Detracting large scale contemporary development surrounding 'Rockwall', 3 storey Victorian terraces. Master Plan for St. Vincent's required. Tree planting recommended around Rockwall. Central street planting. Rating A/B

## POLICY RECOMMENDATIONS

## 1. Protection of Significance

## (a) Subdivision

- Retain Victorian subdivision
- Do not allow amalgamation of sites

## (b) Key Period Significant (Contributory) Development:

- Retain 1-2 Storey Victorian terraces
- Retain Victorian / Federation / Inter-war Public Buildings
- Retain Victorian-Federation Commercial development.
- Retain Inter-war apartment buildings
- Retain Post-war-1975 apartment buildings identified as Contributory
- Retain Scale
- Maintain building alignment
- Retain form
- Retain finishes and details particularly face brick and now rare slate roofing
- Reinstate verandahs, front fences, lost detail
- Protect intact rear lane
- Additions to rear of low scale building not to exceed ridge height and retain original roof form
- Discourage front dormers to terrace

## 2. Redevelopment of Non-Contributory Sites

- For post-war (1945-1960) and late-twentieth century (1960-) buildings, investigate and consider potential individual architectural significance when planning major external change
- Encourage reinterpretation of earlier Subdivision on amalgamated sites by facade treatment
- Retain small scale of development in low scale areas
- Respect scale and form of significant development
- Respect building line of significant development
- Encourage rendered and painted finishes. Face brick finishes need to be carefully selected and detailed.
- Encourage contemporary detail
- Limit car parking access from street
- Do not allow car parking forward of building line
- Do not allow additions forward of building line
- Rationalise existing additions forward of building line

## 3. Enhance Significance of Area

- Reinforce the existing landscaped character
- Provide landscape screening to detracting sites

## 4. FSR and Height Controls

Controls to reflect desired future character of area.

- Revise height controls to reflect 3-storey scale of significant development to terrace area.
- Revise FSR controls to encourage retention of significant development patterns of high-rise adjacent to low rise dwelling. As the area is already densely populated revise FSR to restrict further development

## 5. Other Recommendations:

- Investigate for possible heritage listing:  
Francis Hall, 16 Kings Cross Rd, 8 storey, Federation period flats
- Provide detail height and topography analysis and assessment of view sheds. Identify sites with potential for redevelopment to address their detracting nature by a FSR bonus.
- Contributory buildings should be retained and conserved. A Heritage Assessment and Heritage Impact Statement should be prepared for contributory buildings prior to any major works being undertaken. There shall be no vertical additions to such buildings and no alterations to the façade of the building other than to reinstate original features. Any additions and alterations should be confined to the rear in areas of less significance, should not be visibly prominent and shall be in accordance with the relevant planning controls.
- Neutral and detracting buildings should where possible be enhanced. Where not of individual architectural significance as a potential heritage item, replacement of such buildings should be of sympathetic scale and character and in accordance with the infill provisions of the relevant planning controls.



**PROPERTY | PLANNING | CONSTRUCTION**

1 November 2023

Our Ref: AB:2023/2634

Your Ref:

The Proper Officer  
City of Sydney Council

**BY EMAIL:**

Dear Madam/Sir

**RE: OBJECTION TO DEVELOPMENT APPLICATION DA/2023/878  
PROPERTY: 1 CHALLIS AVENUE, POTTS POINT AND 1 TUSCULUM STREET, POTTS  
POINT**

We act for Stelios Coudounaris, the owner of 21-23 Challis Avenue, Potts Point. Our client's property is located directly to the East of the portion of the Applicant's Site which fronts Challis Avenue. The site has long been used as a hotel and is called Hotel Challis.

Our client's property is a significant heritage item front Challis Avenue and forms a collection of properties fronting Challis Avenue which have intact facades and other internal areas which contribute to the heritage conservation of the area.

We are instructed that our client's property is a fully functioning hotel which has multiple rooms, many of which are orientated towards the West. These rooms enjoy a high level of amenity in the form of views and solar and light access which will be removed as a result of the proposed development.

We are instructed to object in the following terms:

**1. Permissibility**

We note that our client's property and that of the subject property share the boundary of an R1 and MU1 zone. The subject site is within the R1 zone and consideration needs to be given to the type of development permissible in the zone.

Whilst we accept the proposition that the DA relies upon, the operation of the Transport and Infrastructure SEPP (TISEPP), the type, form and scale of development proposed along Challis Avenue, under normal circumstances, would not be permitted either as a permissible use under the Sydney LEP (SLEP) or in respect of the proposed bulk.

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THE LAW SOCIETY OF NSW  
**PROFESSIONAL STANDARDS SCHEME**

In respect of the provisions of the TISEPP we note s3.36(9) and query the form of the DA. We have reviewed the QS report submitted with the development and have significant concerns that this has been prepared to facilitate an application which falls under \$50million which would thereby not require a design competition. We have discussed these issues with our client's construction consultant and the following arises:

- a. The QS excludes the need for contingency:
- b. Even if contingency were in place, our client's consultant has said that in this market, it would be entirely reasonable to expect at least a 20% contingency for a job of this type: and
- c. The extent of the costs for many of the line items are very much underestimated including the cost of the superstructure, ground works costs noting the proximity of the building to significant heritage items and costs for services.

We submit that the Council must insist upon an independent consideration of the QS report to determine whether this development should be the subject of a design competition noting that this is a requirement for this development in the clause 6.21 of the SLEP.

We submit that a design competition would likely result in a far superior development form which will takes more care in respect to urban design outcomes in an area of zone transition as well as in respect of a use, which we grant is existing, but which is substantially added to in the form of bulk, scale and intensity of use.

## **2. Boundary fence**

We have reviewed the demolition plans, and we are instructed that our client is significantly concerned about the proposal to demolish the side boundary fence.

Additionally, it would appear that the Applicant seeks to construct a new access area and stairs which appear to be built to boundary.

We are instructed that our client DOES NOT consent to the demolition of the boundary fence and nor do they agree to the building of the access and stair on the boundary.

If there is approval for the works to proceed, there will be no room for adequate fencing to be restored as a result of the proposed form of development.

We are instructed to objection in the strongest possible terms to the works proposed on the boundary and submit that no detail is provided to satisfy our client that their property will be protected, and their boundary fence retained.

## **3. Bulk and Scale**

Our client is concerned about the proposed building form which is called the 'Bethania Building.'

The proposed Bethania Building is proposed to sit to the South of the existing heritage listed building on the Site known as the 'Garcia Building.' The proposed building will be located in an area which currently has substantial planting and provides for substantial visual relief from the existing largely development grounds of the school.

The Bethania proposal is described as a 3-storey development but has a bulk more akin to a 5 storey development and proposes to build to the Eastern boundary shared with our client's heritage listed property.

We submit that the form and scale of the building is entirely inconsistent with an urban design outcome which would be reasonable in a R1 setting and will have a substantial impact on not just our client's heritage listed item but also all adjoining lower density residential development along Rockwall Lane.

We submit that the form and scale of the development is not consistent with the requirements for the area, for the heritage of the area which is known as the Potts Point/Elizabeth Bay Heritage Conservation Area as well as not facilitating compliance with s3.36(6) of the TISEPP.

In respect of the form and scale characteristics of most concern to our client, they include:

- a. The loss of all mature landscaping;
- b. The retention of an area of deep soil which is not compatible with the provision of any reasonable landscaping;
- c. The lack of setback associated with the building form; and
- d. The lack of design merit, articulation and relief resulting from the heavy industrial/commercial form proposed.

In addition to the above our client is concerned about other matters which we will raise later in the submission including:

- a. The substantial impact on each of the heritage items being their property and the Garcia Building; and
- b. The complete loss of amenity for rooms in their property including visual intrusion, loss of outlook, substantial impact on views, loss of visual and acoustic privacy, intensity of use and impacts of excavation.

In respect of bulk and scale and the relevant statutory test at s3.36(6) of the TISEPP, in relationship to the principles at Schedule 8 we say as follows:

Principle 1:

The proposed Bethania Building does not demonstrate compliance with the provisions of this principle noting specifically the interaction the building will have with heritage buildings, terrace buildings and buildings of different uses and types in multiple zones.

This principle states the following, *'the design and spatial organisation of buildings and the spaces between them should be informed by site conditions such as topography, orientation and climate.'* We are instructed that our client is concerned that the Applicant seeks to impose a form and type of building on a land that is not capable of same which is partially due to the limitations associated with the heritage fabric contained thereon and partially because they are trying to facilitate a number of students that the land is simply not capable of dealing with.

Whilst it is noted that some of the Applicant documents seem to suggest that pupil numbers are not proposed to increase, we submit that there is no guarantee of this and, in fact, an investment of this nature will most likely facilitate a coherent argument for additional use.

We also note the following principle contained in the TISEPP which states, *'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.'* Unfortunately, it would appear that an important area of landscaping on the site which provides a green curtilage and visual relief to different surrounding uses is proposed to be replaced by a large commercial built form which is at odds with the HCA.

Principles 2-6:

These principles relate entirely to the operation of the school and amenity therein. There is no question that the school is providing for their own internal needs and amenity, but this is done by significantly impacting on the amenity of adjoining neighbours. These principles are adopted statewide, but they are not always a suitable guide to determine the suitability of a school development in a highly developed precinct like Potts Point.

Principle 7:

We submit that the proposed Bethania Building does not comply with this principle.

This principle states,

*'School buildings and their landscape setting should be aesthetically pleasing by achieving a built form that has good proportions and a balanced composition of elements. Schools should respond to positive elements from the site and surrounding neighbourhood and have a positive impact on the quality and character of a neighbourhood.'*

*The built form should respond to the existing or desired future context, particularly, positive elements from the site and surrounding neighbourhood, and have a positive impact on the quality and sense of identity of the neighbourhood.'*

We are instructed that our client does not believe that the proposed development is aesthetically pleasing, and this is exacerbated by its form and scale. The proposition of 5 stories of commercial/industrial type lines and shapes is significantly concerning for our client. The wording of this principle calls for good proportions and a balanced composition of elements and to take positive elements from the site and surrounds. We submit that this has not occurred in this DA in which we consider that the Applicant has put their wish for space for a growing school which has outgrown their campus over an appropriate form that is considerate of all of the abovementioned considerations which need to be taken into account when designing a building.

We submit that the building will not have a positive impact on the streetscape, the locality, either of the zones or any of the adjoining land uses and must be refused.

We submit that the issues raised above with respect to the relevant design provisions in the TISEPP also arise in an assessment of the development and in particular the Bethania Building in respect of the Sydney Development Control Plan 2012 (SDCP).

We submit that the development is a significant over development which does not fit in with the desired future character of the area. The development seeks to overdevelop the portion of land adjoining our client with a monolithic building which is in stark contrast to the less onerous rear additions built on other lots. We reiterate that it appears that the school are building to every corner in an aim to retrofit a campus which is bursting at the seams and is not capable of incorporating the intensity of use they seek.

In respect of clause 2.4.4 of the SDCP, we consider that the following principles are not complied with:

- a) Development must achieve and satisfy the outcomes expressed in the



- character statement and supporting principles.
- (b) Development is to respond to and complement heritage items and contributory buildings within heritage conservation areas, including streetscapes and lanes.
- (c) Protect views to the City skyline from Challis Avenue and Victoria Street.
- (f) Retain existing buildings in their landscape setting.

We consider that the monolithic commercial/industrial form of development has a significant impact on the heritage characteristics of the HCA which is exacerbated by the over development of the site and loss of significant mature tree canopy.

Additionally, the school will have a major impact on the HCA not just by the development of the Bethania Building which is our client's primary concern but by the extent and bulk of other built form.

In respect of other matters arising out of the SDCP, we say as follows:

(a) Clause 3.2.2

Our client is concerned about the rearrangement of access to the Garcia Building and the new Bethania Building.

Access has now been configured to be on the boundary of our client's property and without any oversight or a Plan of Management our client is not aware of the hours of use of this access, arrangements to minimise acoustic impacts either by use of the access or from the street.

In this regard, whilst the impact on a day-to-day basis will be substantial, we cannot see that there is a plan in place to limit congregations of students and parents outside of this access during performances or at collection time and our client is concerned for the operation of the hotel business on his site noting the need some acoustic protection associated with the use.

We will deal with acoustic issues later in the submission.

(b) Clause 3.5

The development results in a loss of mature tree canopy on the Eastern side of the block which we submit is an important element in the visual softening of the site.

The school is already substantially developed and has very few mature trees contained thereon. The trees located in the area adjoining Garcia provides a very critical visual break for our client as well as those in Rockwall Lane and we submit that the development proposes to remove all of same without any reasonable compensatory planting.

Our client considers that the aims and objectives of the TISEPP and the SDCP are to encourage the retention of mature planting, and this is not achieved because of the extent and type of development proposed on the subject site.

We submit that the plans could be amended to provide a more suitably scale of building which would then allow for some trees to be retained and other new species to be planted.

(c) Clause 3.9

As outlined previously, heritage is a significant issue which we will deal with later in the submission.

(d) Transport and Parking

We will deal with this later in the submission.

(e) Waste Management

Our client does not object to the location of waste collection but note the number of bins proposed for such a large campus and submits that it is not adequate.

The client has identified a problem with waste for the last 5 years or so and, on the basis of reviewing the operational waste management plans, now resolves that it is likely people from the school causing the issue simply due to waste collectors not being adequate on the school site.

We are instructed that our client considers that better care and consideration must be given to this matter.

(f) Building Height

The relevant maps identify the maximum number of storeys as 4.

We do not consider that the Bethania Building complies.

Whilst the building might have 4 levels, the addition a void level makes the building rear ostensibly as a 5-storey building. We submit that the volume of built form allows for 5 storeys and from the outside the building will read as 5 storeys.

It is noted that there is little or no relief to our client rear addition associated with the development and in fact the developer goes so far as to show a 6.7metre setback which includes a portion of our client's land.

The reality is that the development is 5 storeys for the majority of the area behind the Garcia building with a small setback to the East boundary in part and the only other relief is that the Southern built form is only 4 storeys and a roof for a small section of the building.

We note the provisions of 4.2.1.1 which state:

- (2) The maximum may only be achieved where it can be demonstrated that the proposed development:
  - (a) reinforces the neighbourhood character;
  - (b) is consistent with the scale and form of surrounding buildings in heritage conservation areas; and
  - (c) does not detract from the character and significance of the existing building.

We submit that the proposed Bethania Building breaches all of the abovementioned requirements.

We submit that the development, in the form proposed is substantially too large in height.

(g) Floor to Floor Heights

We submit that the floor-to-floor heights of the new addition can be substantially reduced. Whilst we note that, in part, reference is given to the floor levels of the Garcia Building, this is not essential and ramps and other tools to assist in disabled access are available to the School.

On this basis the ceiling heights could be substantially reduced resulting in a more sensitive structure.

(h) Setbacks

The development provides for, in the most part, a nil setback to the shared boundary without client's property. We submit this is a breach of the objectives and controls of clause 4.2.2 of the SDCP.

The objectives of this clause state:

- (a) Ensure development:
  - (i) is generally consistent with existing, adjacent patterns of building setbacks on the street; and
  - (ii) maintains the setting of heritage items and is consistent with building Setbacks in heritage conservation areas.
- (b) Establish the street frontage setback of the upper levels of residential flat buildings, and commercial and retail buildings.
- (c) Encourage new building setbacks where appropriate to reinforce the areas desired future character.

As outlined above, it is critical that consideration be given to the value of the area noting the heritage items on the site and adjoining including our client's property.

We note that the Applicant's SEE speaks to the provision of a response to community concerns, but the plans do not appear to respond to our client's concerns with a staircase sitting on the boundary (and arguably over the boundary).

In respect of the remainder of the building form, there appears to be a minimal setback which is totally inadequate for the use proposed noting the nature of the zone transition and the existing and long-term use of our client's property.

(i) Amenity

The SDCP raises numerous amenity issues which we will deal with later in this submission.

On the basis of the above, we submit that the proposed Bethania Building is an overdevelopment and should not be permitted.

#### 4. Heritage Impact

The proposed development will have a significant impact on the heritage value of the proximate listed items as well as the HCA.

Our client has engaged Ms Jennifer Hill to prepare a heritage submission which will be provided to the Council separately.

We endorse the comments of Ms Hill.

## 5. Amenity Issues

Our client's property will suffer numerous amenity impacts associated with the development these include:

### (a) Increased Parking Demand

The proposed development will cause for a substantial increase in demand on local services and infrastructure.

Whilst the proposed application does not seek additional students, we submit that the substantially expanded school buildings and facilities will likely facilitate, in the first instance, a more substantive use with incursions and events on campus and, in the second instance, a future application for a substantial increase in student numbers.

We are instructed that each of the abovementioned scenarios will create traffic congestion more substantial than the existing circumstances which are already at breaking point.

We note that there are few documents to assist with an understanding of how the school will be better managed and, in our experience, when school grounds are being greatly expanded with substantial capital investment, there is often an expectation that steps will be taken to manage the facility better.

At a minimum our client would like to see a plan of management for the school that provides an understanding of the proposed use, the parking arrangement, hours for drop off and pickup, plans for the Bethania Building and hours of use as well as the proposed use for the remainder of the premises.

### (b) Loss of Views

We submit that no adequate assessment view loss assessment has been undertaken from our client's property.

Our client enjoys an outlook from their property from their western side elevation as well as from the rear Southern elevation looking west.

Numerous rooms within our client's property benefits from a wonderful outlook filled with mature trees and views of the Sydney CBD and all of these will be lost as a result of the proposed bulk and scale proposed to be slipped in between the Garcia Building and the lane at the rear.

Whilst we are not instructed to do a comprehensive assessment against the principles in *Tenacity v Warringah*, we submit as follows:

- (i) The views lost are of an iconic nature;
- (ii) The views lost are across a side boundary, but they are the only views available from our client heritage listed property and form an important and critical outlook;
- (iii) The view loss is at least moderate and more likely closer to severe; and

- (iv) The views lost are not mitigated by a skilful design. As outlined above, there is a real lack of adequate urban design consideration given to the building form with weight given to facilitating as much bulk and scale as possible.

We submit that the design of the development must be reconsidered to facilitate the preservation of our clients' views noting the extent and type of impact proposed.

Further we suggest that height poles be erected, and assessment of impacts be undertaken to allow a fulsome and proper assessment of the impacts in respect of view loss as well as to understand the full extent of the proposed bulk and scale.

(c) Acoustic Issues

Our client has significant concerns about acoustic issues associated with the proposed use of the Bethania Building. The concerns of the client relate to the long hours of use which will probably result from the existence of a new facility and this concern is not assisted by the lack of a plan of management.

We have reviewed the acoustic report and note that little or no consideration is given to the impact of the Bethania Building on the residents in our client's hotel. There is a transition of uses that are very important to consider noting our client's use is of low intensity and the Applicant's use is extremely high intensity.

We have reviewed the acoustic report prepared by Acoustic Logic and submit that little or no consideration is given to our client's property with the clause 6.1.2 giving consideration only to the rear lane.

In addition to this no consideration is given to the potential for noise impacts associated with:

- a. mechanical plant and equipment on the roof of the Bethania Building;
- b. the use of the new doorway leading to the Bethania Building;
- c. the potential for congregations of people at the front of the Garcia Building awaiting access to the Bethania Building or coming and going from same; and
- d. additional traffic generation associated with more on campus activities.

Whereas many schools are able to maintain their activities on their own site, the use of the Bethania Building will partially be from the street and from access directly adjoining our client's property.

We submit that a much more substantial assessment of noise impacts associated with the proposed uses of the Bethania Building including all matters raised above need to be undertaken before the Council can be satisfied that the proposed development will not adversely impact on our client's property and its residents.

(d) Loss of Privacy

Our client is concerned about the potential for overlooking both to and from the school.

We are of the view that there should be no windows or openings on the Eastern elevation of the building to ensure that impacts are minimised.

(e) Visual Intrusion

We submit that the bulk and scale associated with the building form will have a substantial impact on the outlook from the windows in many rooms facing west and south from our client's property. The size and scale of the Bethania Building is unlike any other rear additions and provides for little setback, minimal landscape and otherwise does not fit in with the character of the area.

(f) Loss of Solar Access

We submit that further consideration needs to be given to the extent of overshadowing caused by the development.

Whilst we accept that our client's orientation is North-South, our client has numerous western windows facing the subject property, many of which will be affected by the bulk and scale of the proposal.

We have reviewed the plans and find it difficult to understand the exact impact of the development. We note that the shadow diagrams proposed are in plan and that North is not provided. Additionally, we submit that for this development views from the sun as well as elevational shadow diagrams must be provided to allow for an assessment of the impacts.

**Conclusion**

We submit that the development as a whole is an overdevelopment of the Site. In addition to this the Bethania Building is a substantial over development which will cause numerous issues to adjoining properties including our client's property.

We submit that better planning and consideration of the Site is absolutely necessary before any positive consideration of this development can occur.

We submit that all of the abovementioned amenity impacts must be taken into account and assessed fulsomely under a proposal that should be the subject of a design competition due to the capital value of the development exceeding \$50,000,000.00.

We submit that if a design competition is not pressed then the council must insist upon the following:

- a. a redesign to take on board the abovementioned design issues;
- b. a redesign to take on board the concerns raised by Ms Hill;
- c. a full and proper assessment of the amenity impacts of the development including the provision of height poles and better and more complete information regarding shadow impacts, view impacts and visual bulk impacts together with a more complete assessment of the acoustic impacts of the development;
- d. the provision of an undertaking from the school that enrolment will not increase; and
- e. the provision of a comprehensive plan of management for the site and its use.

We call on the Council to visit our client's property to understand their concerns.

Yours faithfully,

**BOSKOVITZ LAWYERS**



**ANTHONY BOSKOVITZ**

**From:** David Charles <[REDACTED]> on behalf of David Charles <[REDACTED]> <David Charles <[REDACTED]>

**Sent on:** Tuesday, October 31, 2023 4:38:23 PM

**To:** dasubmissions@[REDACTED]

**Subject:** D/2023 878 1 Challis Avenue Potts Point, 1 Tusculum Street Potts Point

**Caution:** This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Ms Gorden,

I am writing on behalf of myself and my wife Eveline Charles as owners of 5/6 Rockwall Crescent, an apartment, which we have possessed for 25 years. Since purchasing the property we have made a number of investments in it including most notably in 2017 when we replaced the old rear windows to our bedroom overlooking Rockwell Lane with two sets of French Doors and a Juliet balcony which reflects the situation with 2/8 Rockwell Crescent. Indeed, our concerns and those of the neighbouring apartment which has a similar lay-out, as might be expected are broadly the same.

The proposed changes to the built environment at St Vincent's College and especially those associated with the Bethania Building will have major adverse impacts on our amenity. The detriments stem from the bulk and character of the buildings with their 2/3 stories, the lack of set-backs from Rockwall Lane, the lack of adequate privacy protections and the lack of provision for green canopy from trees and shrubs and the effects on the birdlife.

The consultation that has been undertaken by St Vincent's College and their agents has been totally inadequate given the scale and scope of the project and its impact on the neighbours and neighbourhood in this area comprising a number of 1880's buildings.

Adverse impacts on Amenity

Loss of Views

When we purchased the apartment we had unimpeded views of the Sydney Harbour Bridge and the top of the Opera House from our rear bedroom windows. These views were enhanced by the works we carried out in 2017. However, over time trees planted in the school yards gradually reduced but did not eliminate our views. This is especially true in the evening when the Bridge lights come on.

Overshadowing and loss of light

The bulk and dimensions of the proposed buildings will overshadow our property and reduce the light that is a feature of the present built environment of St Vincent's College.

The light is not just diminished in our bedroom but also further into the apartment as it has an open plan and we keep the bedroom door open to allow light to come into our kitchen and sitting room.

Loss of privacy

The staff and students of St Vincent's College will, as things stand, have direct views into our bedroom which overlooks Rockwall Lane. There is no real privacy issue at present as the adjacent areas of the school consist of grass, paths and green canopy. The people in the College are at ground level.

Loss of green canopy, trees, shrubs and birdlife

At present the built environment of St Vincent's College is ~~665~~ defined by the presence of trees, shrubs and grass. The



greenery brings with it a good deal of birdlife which is a particularly attractive feature in the morning and evening.

#### Causes of the loss of amenity

The following aspects of the plans submitted by St Vincent's College directly create the losses of amenity described above:

- (1) the bulk of the buildings which are 2/3 stories and have a rather heavy and dark look;
- (2) the lack of serious set-backs from Rockwall Lane;
- (3) the lack of adequate privacy and overlooking provisions; and
- (4) the lack of provision for meaningful green canopy and the adverse effect on the birdlife.

#### Possible Remedies

The first thing that needs to be done is to explore alternatives for substantially reducing the bulk of the proposed buildings by reducing their height and general dimensions. It may be that this can be done by increasing the amount of excavation work beyond that which is already contemplated.

The second thing that is required is to increase the set back from Rockwall Lane to allow for greater privacy, less overshadowing and the adequate provision for green canopy. Cities Sydney's size around the developed world are introducing policies designed to green up the built environment and its surrounds. Singapore is a good example. The students themselves ought to be beneficiaries of greater green spaces.

Action should be taken to include elements of the buildings and especially the windows/blinds which will reduce the risk of overlooking by staff and students and improve the privacy of neighbours.

Consideration should be given to changing the design of the buildings and their colouring to make them a better fit with the older buildings both in St Vincent's College itself but also the neighbours in Rockwall Crescent and Challis Avenue.

Clearly there are competing interests to be properly considered in the case of this development proposal which strongly suggests that a more serious process of consultation and engagement is required, perhaps to be informed by independent architectural and town planning input.

Yours sincerely

David and Eveline Charles

**From:** Inez Mikkelsen-Lopez <[REDACTED]> on behalf of Inez Mikkelsen-Lopez <[REDACTED]>  
**Sent on:** Tuesday, October 31, 2023 10:45:33 AM  
**To:** dasubmissions@[REDACTED]  
**Subject:** D/2023 878 1 Challis Avenue Potts Point, 1 Tusculum Street Potts Point  
**Attachments:** Resident Response\_DA St Vincents Potts Point.pdf (1.1 MB), St Vincent greenspace wellbeing.mov (12.97 MB)

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Dear Ms Gordon

Please find attached my letter in response to the DA in the subject matter.

I also attach a video to provide further evidence of the students enjoying the only greenspace on the school property - a greenspace that will be lost if the DA is approved as is. I would welcome a site visit by the Council.

Sincerely

Inez Mikkelsen-Lopez

Resident 6/6 Rockwall Crescent, Potts Point.

City of Sydney  
Town Hall House  
456 Kent Street  
Sydney NSW 2000.

Inez Mikkelsen-Lopez  
6/6-8 Rockwall Crescent  
Potts Point  
NSW 2011

31 October 2023

**Subject: Objection to DA Reference# D/2023/878**

Dear Ms Gordon

I am writing to express my strong objection to the proposed DA #D/2023/878 submitted by *St Vincent's College* on 27 September 2023. I am a resident of 6-8 Rockwall Crescent, one of the residences facing Rockwall Lane that is seriously impacted by the proposed project. Having carefully reviewed the details of the proposal, I am deeply concerned about the negative impact it will have on the privacy, comfort, light, outlook and iconic views that my family enjoys from our residence.

From the outset, engagement with the local community concerning the school's development plans has been extremely poor. We received the first set of documents with only a few weeks' notice before the first consultation. For the second consultation, we received no documents prior to the consultation making it impossible to provide feedback on any of the changes. Moreover, and likely as a result of this poor consultation process, the *Stakeholder Engagement Report* includes several misleading statements such as "*Neighbouring Properties Workshop 2 participants appeared to be satisfied with this solution and provided little feedback or commentary on the solution*" and "*No negative feedback was received regarding this design team response*". This second consultation was a one-hour virtual meeting where the changes were rushed through without any opportunity for those of us affected to consider them or to respond. We allowed entry to our private residences for the consultants yet received no feedback on the assessments made (despite several requests). Meaningful public input and consultation are essential for decisions that have such a significant impact on our lives. Due to the lack of engagement opportunity provided by the school, our strata has had to engage our own planner at substantial cost to propose viable alternatives.

I have listed in detail below my specific objections to the current proposal and provided suggested revisions for consideration.

### **[1] Objection to 7-metre high poles and netting, and any night lights**

First, the proposed 7-metre-high poles and netting (see Pg 31 of the *Architectural Plans*) surrounding the roof court of the multi-purpose building will significantly impact my view of iconic features, including the opera house and the harbour bridge (see Figure 1 below). The current view from my kitchen, master bedroom and second bedroom are all classed as "iconic" including full views of the opera house and Sydney harbour bridge with partial water views. There is no indication of what the poles supporting the netting will be made from, and how much of the

view they will obscure. Surely there can be no justification for incorporating poles, and netting, that are 7 metres high. It is difficult to imagine what possible regular use of the court would require netting that is 7 metres high. I note that the proposed 7-metre-high fencing/netting far exceeds the current height of netting surrounding the existing courts, with the base of the proposed 7 metre high netting starting at a greater height than the maximum height of the existing netting. This is an unjustified extension of netting protection for usual sports activities. I strongly object to having such a high netting and poles in my line of sight and robustly disagree with the *View Loss report* which claims that my view will not be impacted by the proposal. I note that there are also inconsistencies with the proposal where the height of the poles is listed as 6 metres in the *Environmental report*. Even a 6-metre-high fence would surely far exceed the height requirements of the sports likely to be played on the surface. The proposal makes no mention of night lights to illuminate the court area; such lights would clearly destroy my evening/night view of the iconic elements. I am assuming that there will be no night lights on the poles, but if that is the intention, then I strongly object to them.

⇒ **I request that the height of these poles be lowered to 2-3 metres maximum and that there are no night lights incorporated into the court surface and structure.**

Figure 1: Taken from view impact report. Red circle represents view loss.

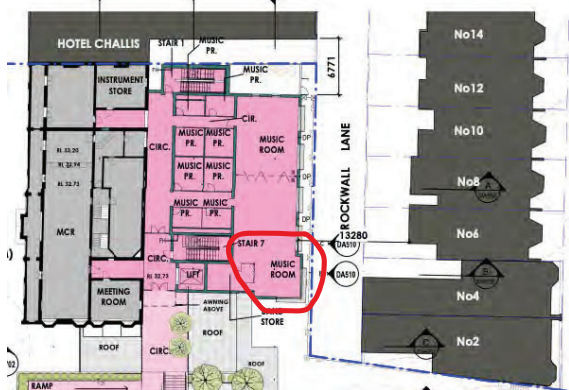


## **[2] Loss of views due to proposed south-west Bethania build**

Second, the south-west corner of level 1 of the proposed Bethania building exacerbates the loss of view that I will incur yet does not appear to serve any purpose (see Figure 2). The rooms (ground floor and level 1) bounded by this corner are intended as a 'work' room and music room, respectively, neither of which surely require the extended corner space that the design proposes, and which will further impinge on my view of iconic elements.

⇒ **I request that a revised design of the Bethania building be prepared which excludes the enlargement of the south west corner thereby reducing the impact on my view by reducing the width of the building. There will be no impact on the proposed amenity.**

Figure 2: Proposed plans for Bethania building with red circle proposing to reduce size

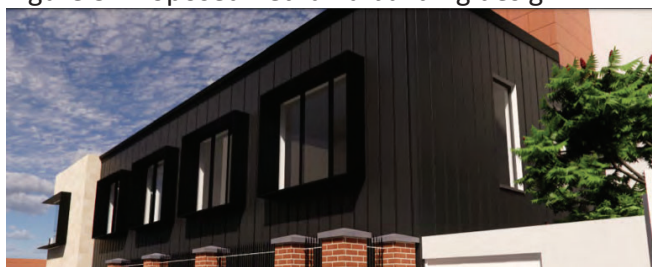


**[3] Bethania building design is inconsistent with character, aesthetics and heritage of the area**

Third, the design of the proposed Bethania building is wholly inconsistent with the character and aesthetics of the heritage buildings surrounding it including Garcia, Hotel Challis and the terraces along Rockwall Crescent. The facades of all these structures are in light coloured stone, yet the proposed Bethania will present as a visually unappealing and obtrusive black cladding which will dominate the aspect from my property and retain heat, of relevance given the proximity of the proposed structure to my residence (Figure 3). The proposed black cladding for the lower levels of the Bethania building is also inconsistent with the *Stakeholder Engagement* report (see pages 29) which states “using a lighter colour on the second level”), following community consultation.

⇒ **I request that a revised design of the Bethania building be prepared to replace the black cladding material with light coloured stone to respect the heritage nature of the surrounding buildings.**

Figure 3: Proposed Bethania building design



**[4] Loss of natural light**

Fourth, the Bethania building will lead to overshadowing of my home and many others. The north/south direction of terraces along Rockwall Crescent already means that natural light is limited. The sheer size of Bethania and close proximity to residences as per the current proposal will lead to overshadowing and loss of precious natural light for myself and many others.

## **[5] Removal of large, established trees and loss of green space**

Fifth, the proposed Bethania will require the removal of 12 existing trees to be replaced by only 2 minor trees and some shrubs. These established trees are greatly cherished in our urban neighbourhood for the green aspect they provide, together with the bird life that they attract. The surrounding lawn areas reinforce the 'green' aspect of the neighbourhood and considerably enhance the outlook of the neighbourhood along Rockwall Lane. The footprint of the proposed Bethania building would encompass this *entire* parcel of greenspace (see Figure 4). In total 19 trees will be removed by the proposed development to be replaced by minor trees in pots and some low shrubs. I note that this green lawn and shade from established trees is also enjoyed by the students every day at lunch or during class time for outdoor classes. I would welcome a site visit by the council to see the use of this greenspace and consider the opportunity cost to the students' wellbeing by losing this greenspace for staff offices and music rooms.

There has been no consideration (or at least discussion with neighbours) to refurbish the existing buildings to convert them into music rooms appropriate to the school's needs. Surely internal refurbishment can be accommodated that does not impact the heritage value of Garcia? For example, under the proposal, admin staff will move from existing areas. There is no mention of how the vacated areas will be used. The excessive amount of admin and staff office space proposed in the Bethania first floor seems to be at odds with current office trends of having more open collaborative spaces and outdoor classes. It is also at odds with the school's claim that no increase in student numbers is expected.

**Figure 4: Trees to be removed for proposed Bethania**



⇒ **Request to preserve this green space by increasing the setback of the proposed Bethania building by a sufficient amount to allow for larger tree plantation and growth. Increasing the setback by another 1.5 – 2.0 metres would not affect the proposed use of the rooms facing Rockwall Lane and would allow existing established trees like the European Oak and Coast Banksia to remain in place.**

**[6] Significant negative impact on privacy, and ongoing noise pollution**

Sixth, the setback of the proposed Bethania building from my private living spaces, including kitchens, bedrooms and bathrooms is only 13 metres, and much less, only 4m metres from my property line. This proximity, together with the large windows proposed for levels 1 and 2 will have a substantial impact on my family’s privacy and ability to circulate freely at home. There appears to be no provision for the installation of privacy glass in the design. Further, it is unclear how the proposed internally controlled blinds will ensure our privacy given that school activities will be taking place only 13 metres away. It is also unclear how effective the acoustic protection that is envisaged will be given that the proposed Bethania third floor will include 10 music rooms which have the potential to create significant noise pollution. It is also unclear whether use of the music rooms will be limited to certain hours.

⇒ **It is essential that any window facing Rockwall Lane is treated with frosted glass and covered by external shades. This must be in addition to making it mandatory for all windows**

**in all music rooms to be acoustically sealed and use of the music rooms limited to weekday hours.**

**[7] Other matters during construction phase**

How will the school manage the potential unacceptable human health risks that might arise during the civil works, particularly the removal of asbestos during demolition works? In addition, how will the school ensure that residents of Rockwall Crescent can still access our garages during construction, given that entry to the garages is from Rockwall Lane?

Finally, I note that the *Statement of Environment Effects Report* claims that the development is in line with the public interest. In my opinion, the proposed development is solely intended to enhance the facilities available to students and staff (and the benefit to students itself is debatable given that students will lose their much used largest green space), and will have zero benefit for the local community, who will incur a significant and unacceptable loss of their outlook, views, privacy, and very considerable noise and disruption during the construction process. In addition to a lack of respect to the surrounding heritage buildings. How can that possibly equate to being in 'the public interest'?

In light of the aforementioned concerns, I request that the City of Sydney Development Proposal Review Board deny approval of this project in its current form. I urge you to prioritize the well-being and wishes of the existing residents who cherish the unique character of our neighborhood. I believe there are alternative, smarter more sustainable ways to provide contemporary learning facilities which respect privacy, views and outlook while not damaging the environment and that would be in harmony with our community's values and principles.

I look forward to hearing from you. Please do not hesitate to contact me if you require any additional information or wish to arrange a site visit.

Yours sincerely,  
Inez Mikkelsen-Lopez



**From:** <[REDACTED]>  
**Sent on:** Thursday, November 2, 2023 9:35:23 AM  
**To:** dasubmissions@[REDACTED]  
**CC:** [REDACTED] Sean Riley <[REDACTED]>  
**Subject:** Submission - DA 2023/878 (St Vincents College DA)  
**Attachments:** Submission St Vincents School from 6 Challis Avenue Nov 2023.pdf (1.37 MB)

**Caution:** This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Attention: Rebecca Gordon

Dear Ms Gordon

Please find attached a submission raising objection to the above DA, including requested changes regarding, on behalf of 6 Challis Avenue, immediately to the north of the site.

Please keep me informed of progress.

If you have any queries, please contact me on [REDACTED]

Regards

Jason Perica

Director



**Date: 1 November 2023**

Ms Monica Barone  
CEO  
City of Sydney  
456 Kent Street  
Sydney NSW 2000

Attention: Rebecca Gordon, Senior Planner

**Re: Submission – D/2023/878 – St Vincents College DA (from 6 Challis Avenue)**

Dear Ms Gordon

This submission is on behalf of the owners of No. 6 Challis Avenue, Potts Point, being a residential townhouse/unit development containing 14 dwellings, within Strata Plan 32735, located directly to the north of the proposal, across Challis Avenue and opposite the proposed “multi-purpose” building, with rooftop tennis court, to the west of the Garcia Building.

An overview of key concerns with the proposal is below, including recommended changes, followed by elaboration on those matters:

**Objections:**

1. The proposed building, with rooftop tennis court and high roof fencing, exceeds the 15m Building Height Standard.
2. A Clause 4.6 Contravention request to exceed the height limit is needed. This should be made publicly available, as it is a crucial part of justifying the proposal.
3. The proposed rooftop tennis court will cause adverse visual impacts to the streetscape and adverse heritage impacts upon the Conservation Area and adjoining Garcia Building, being a heritage item.
4. Heritage and tree impacts generally.
5. Impacts from increased drop-offs and traffic on Challis Avenue.

**Recommended Changes and Conditions:**

6. The tree to the west of the Garcia Building should be retained and the proposal redesigned.
7. The rooftop tennis court should either be removed or moved to the west, furthest away from the Garcia Building (like the existing position).
8. All design measures should be incorporated to reduce the adverse visual impacts of a 7m high fence around the rooftop tennis court, if it is retained. Particularly important is reducing the fence height and maximising a landscaped buffer to the north of the tennis court, allowing visual screening and greenery to grow on the fencing.

**Recommended Changes and Conditions (Continued):**

9. The western rooftop terrace area has city views and will likely be used for entertainment. Conditions of consent need to contemplate and regulate its use to be ancillary to the school use, with reasonable operating hours (e.g. no later than 8pm).
10. Other conditions should be imposed to regulate impacts including hours of illumination, signage conditions, no screening devices added to the tennis court fencing, construction and noise conditions.
11. Any changes to parking arrangements in Challis Avenue should only occur after wide consultation with neighbours.

For clarity, the site of No. 6 Challis Avenue relative to the subject development site is shown below:



The objections and recommended changes above are elaborated upon below.

**Height and Rooftop Tennis Court (Points 1-3)**

The height of the proposed “multi-purpose” building fronting Challis Avenue opposite my client’s property is stated to be 9m (SEE, Ethos Urban pg. 21). This is incorrect, in my view.

Building height is measured vertically from existing ground level to the topmost portion of a building.

There are some exclusions to this Building Height measurement for minor projections of skinny or small ancillary items on the rooftop, as contained in the definition of Building Height, as relevantly extracted below:

*...including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like*

It would be inappropriate to exclude the significant tennis court fencing on the rooftop from the Building Height measurement on the basis that it is “and the like” to the items cited in the definition above for the following reasons:

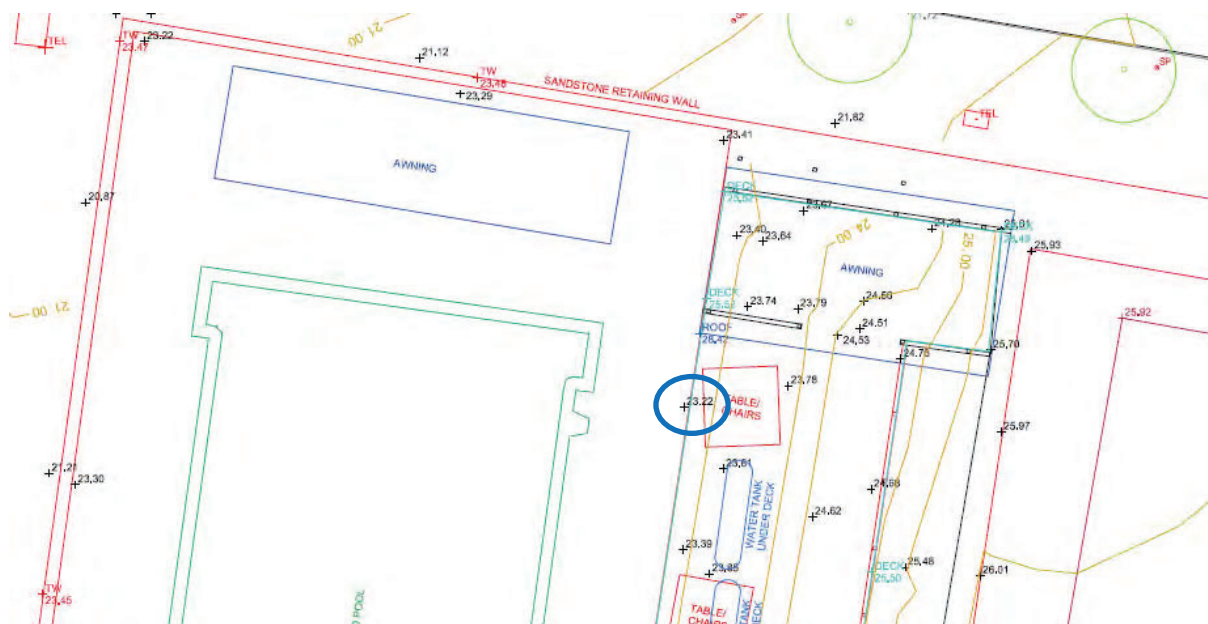
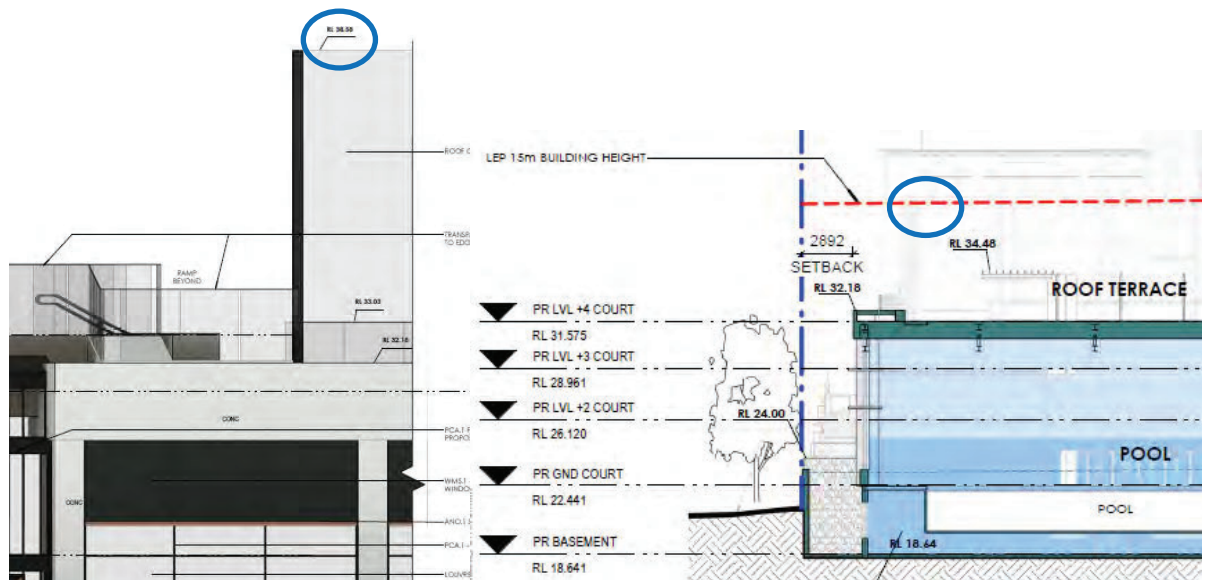
- The fencing is significant – being 7m high, and measuring approximately 33m x 23m, from scaling of the plans as it is not dimensioned (or a perimeter of around 110m);
- The fencing is stated as chain wire in the SEE; and despite euphemisms on the plans that it will be transparent (thereby implying not seen), it will be very visible;
- The items excluded in the definition are small, skinny or “one-off” minor items with minimal visibility (like flagpoles, masts, chimneys, flues “and the like”);
- The proposed large and expansive fencing is not “and the like” in the context and intent of the definition;
- The fencing is a long and co-ordinated structure that will be very visible (one does not need to look far to the visual impact given the existing tennis court on the corner of Challis Avenue and Victoria Street:



- Given the court runs east-west, it is likely sun control devices may be erected over time, which may not be structures.

Accepting that the tennis court fencing needs to be including in the definition of building height, then the height of the building exceeds 15m, being the maximum building height standard in Sydney LEP 2012.

The RL to the top of the tennis court fencing is not provided on all elevations, but from the “Materials Elevation” to Challis Avenue it is shown to be RL 38.58. The ground RL from the survey towards the west is shown to be RL 23.2-23.3. This accords with a Building Height of approximately 15.3-15.4m. This also accords with the Building Height line shown on the architectural plans (red line below) which illustrates the tennis court fencing to be above 15m as I have estimated from the survey – see extracts below:



This matter is important, as the building is over 15m and is therefore is required to be accompanied by a written Clause 4.6 Building Height contravention Request. It is not. The DA

cannot legally be determined in the absence of a Clause 4.6 Contravention Request. This document is also important and should also be made publicly available for comment, as it seeks to justify why a building should be permitted to reasonably exceed a LEP development standard.

The proposed rooftop tennis court will cause adverse heritage and visual impacts, to the streetscape and to the outlook of No. 6 Challis Avenue. The proposed fencing will detract from the important heritage item of the adjoining Garcia Building and the significance of the Conservation Area.

This is illustrated in the photos below, showing the setting of the Garcia Building and the current importance of trees and sandstone walls in the setting and significance of the item, streetscape and area:

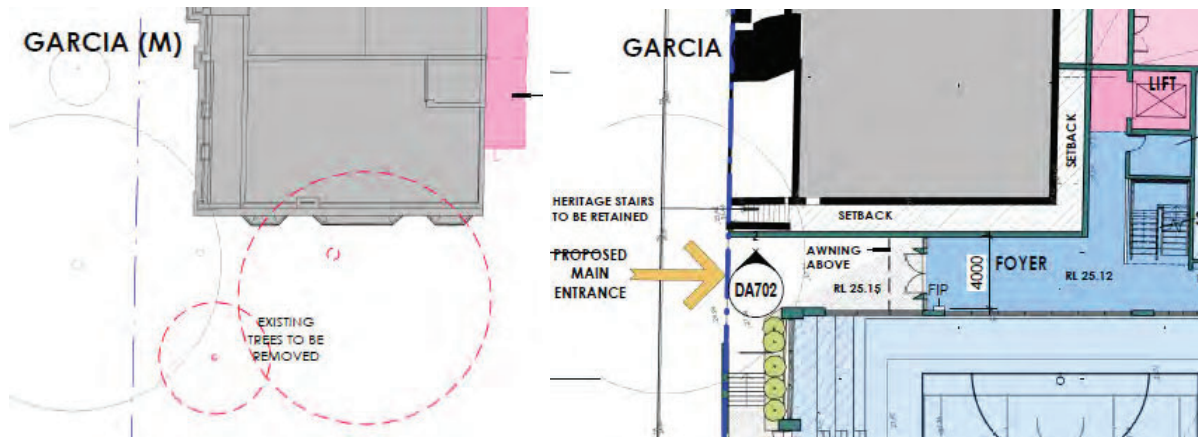


These concerns of heritage and streetscape impacts favour movement of the tennis court to the west (like the current position) and retaining as many trees as possible.

#### Heritage and Tree Impacts (Point 4)

This issue has been explained above. The setting of the Garcia building heritage item and the Conservation Area will be negatively compromised by the proposed rooftop tennis court and high fencing, in its current position.

There is also a significant tree adjoining the Garcia Building, to its west. This tree is proposed to be removed, as shown below.



This area is proposed as a pedestrian entrance. The design, functioning of the entrance, streetscape and heritage significance of the Garcia Building would be better respected if this tree was retained, and the new multi-purpose building being setback further from the Garcia Building.

### Increased Drop-offs and Traffic Impacts (Point 5)

Challis Avenue will become much busier with drop-offs and pick ups given the proposed new “main entrance” to the west of the Garcia Building, as illustrated in the plan extract above.

While the proposal states that the existing student capacity will not change, the traffic and parking impacts will be redistributed by the changes, to the adverse impact of residents on Challis Avenue.

It is important that any changes to street parking arrangements only occur after full consultation with residents. It is also important that the hours of operation of the facilities not be late into the night, given the already extended periods of impacts from school hours.

### Recommended Design Changes (Points 6-12)

#### Retain Tree and increase eastern setback (Point 6)

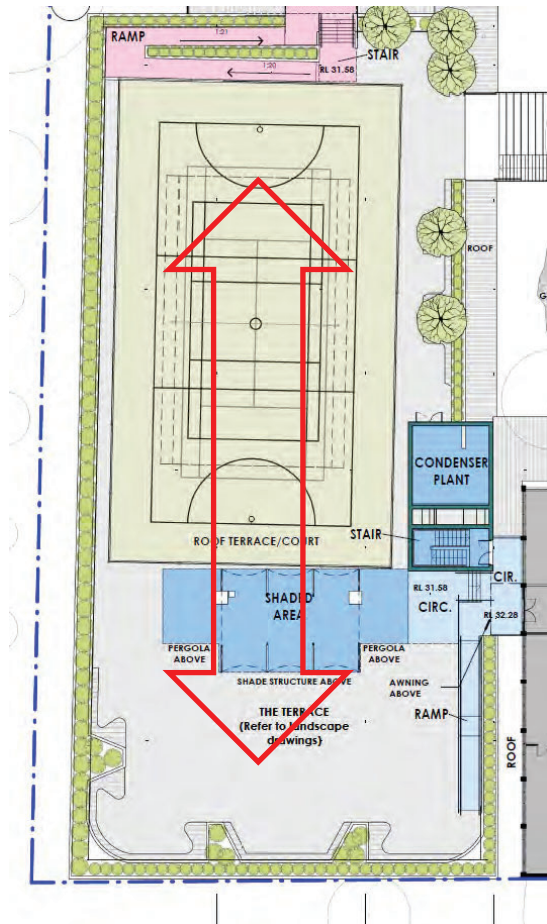
As outlined above related to Point 4, the existing significant tree, heritage impacts and intent to establish a main entry warrant and justify the existing tree to the west of the Gracia Building to be retained.

The new multi-function building should be moved to the west to allow retention of this tree. Given the rooftop has ample space for a terrace and there is potential for ancillary space to the south, this is a reasonable recommended change.

### Rooftop Tennis Court (Points 7-9)

In addition to retaining the tree and moving the building westwards, the rooftop tennis court should either be removed or moved to the west.

It is acknowledged and understood that an existing tennis court exists on the corner of the site, however, this is not above the height limit, and not adjoining an important heritage item.



The movement or swapping of the tennis court and terrace area would also make the terrace area more proximate to the teacher's area in the Garcia Building, in turn making the area more accessible and suitable for teachers than functions, and would reduce heritage impacts from the 7m rooftop tennis court fence on the Garcia Building.

The height of the rooftop tennis court fencing should be reduced. 7m seems excessive for young girls/teenagers.

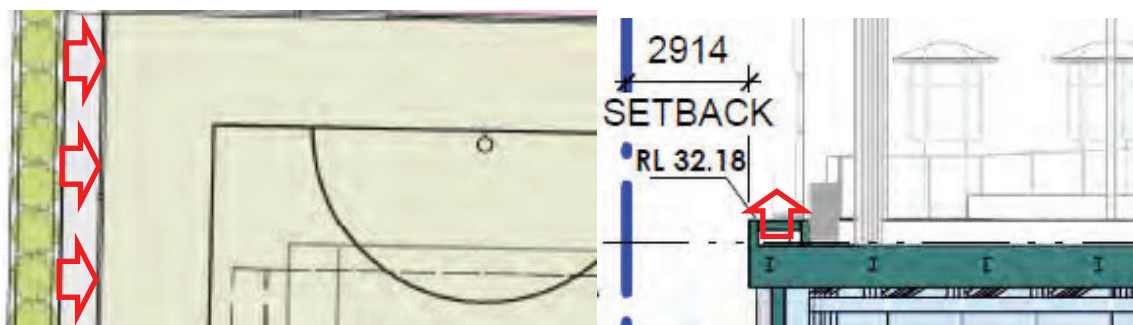
The fencing posts and fencing should be black in colour.

Further, to provide greater landscaping, and importantly to allow vines to grow on the fence to soften its visual appearance, it is recommended the perimeter landscape bed be widened to abut the tennis court fencing. Any access to the landscaped bed could be from gates or



hatches within the tennis court fence, obviating the need for a path between the tennis court and landscape bed.

Similarly, there should be no need for a balustrade to the landscaped bed. It would be better to provide deeper soil for sustaining planting by having the landscaped bed be the balustrade (i.e. 1m high with greater internal soil depth).



### **Tennis Court Rooftop Terrace Area – Hours and Use (Point 9)**

As previously mentioned, the rooftop terrace and the tennis court should be swapped in location.

If the rooftop terrace is retained to the west (which the applicant no doubt desires due to views), then the available views and size make it likely to be used for functions and entertaining.

A condition of consent should disallow use of the rooftop terrace for functions and entertainment.

A further condition should be imposed regarding hours of use on both the tennis court and the outdoor terrace (no later than 8pm, or sunset, whichever later).

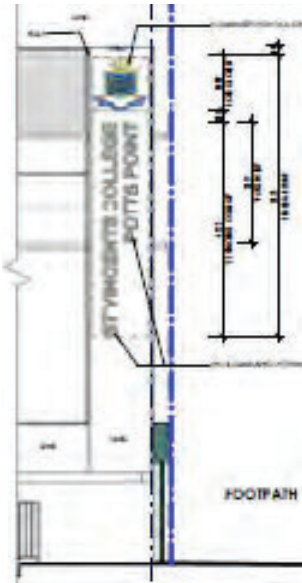
Standard conditions should be imposed regarding noise limits and no outdoor speakers or amplification systems, given the elevated nature of the area and the surrounding residential area.

### **Other Matters – Illumination, Traffic changes and Notification (Points 10-12)**

The tennis court fencing should not have any signage, screening or additional mesh attached, which can be ensured by a condition of consent.

The illumination of the signage should also be subject to a condition requiring an automatic switch-off at 10pm daily (until 7am the next morning).

The proposed high vertical wall sign on Challis Avenue is proposed to be illuminated. Instead of any LED light box, this should be back-lit to be more sympathetic to the design quality of the building and the heritage characteristics of the area.



Conditions should be imposed requiring no removal or pruning of any tree outside the site (i.e. street trees) and tree protection measures of street trees during construction.

Noisy construction activities (rock saws, pile hammering and rock breaking and angle-grinding) should not occur on weekends or prior to 9am weekdays.

Sandstone removed from the site should be reused in landscaping as much as possible and conditions imposed regarding truck movements to not occur in early morning hours.

Any changes to parking arrangements in Challis Avenue should only occur after wide consultation with neighbours.

In summary, the proposed development and design is of a high quality. However, there are aspects of the proposal that cannot and should not be approved, and the proposal should be redesigned as outlined in this submission. This submission has sought to be constructive about suggestions to mitigate impacts by redesign and by conditions of consent, and we trust this submission will be carefully and earnestly considered.

I would be happy to discuss or clarify any of the above with Council and can be contacted on [REDACTED]

Yours sincerely

[REDACTED]

Jason Perica  
**Director**