

39 Bancroft Avenue
Roseville NSW 2069
1 June 2021

Independent Planning Commission

Dear Commissioners

Roseville College – Sport and Wellbeing Centre (SSD-9912)

We wish to object to the proposed development at Roseville College and we set out below our grounds for objecting.

Our property borders the proposed development and is the only residence which shares a boundary with the proposed development. As such our property will be the most directly impacted should the development proceed.

We have owned our home since 1998 and have witnessed Roseville College's expansion without regard for the Heritage aesthetic of the local area. The proposed development will further reduce the Heritage character of the area by introducing large scale buildings which are not in character with the local area and which will dominate the skyline of the streets in the Heritage Conservation Areas (HCA) surrounding the development.

We object to the development on the following grounds:

1. Demolition of a house in the Clanville Heritage Conservation Area
2. The bulk and scale of the development is inconsistent with the Heritage Conservation Areas surrounding the development
3. Non Compliance with Ku-Ring-Gai Council KLEP for Heritage Conservation Areas:
 - Demolition of a house in a HCA
 - Insufficient setbacks
 - Excessive roof height
 - Roof style not in keeping with the HCA aesthetic
4. Loss of privacy and amenity
5. Noise and acoustic impact
6. Hours of Operation
7. Excavation vibration
8. Hours of Work

In order of priority we ask the Commission to make its final determination as follows;

1. No development should take place on the land of No. 37 Bancroft Avenue and the house and buildings be retained substantially in their current form and the zoning remain unchanged as R2; or
2. If the development is approved and development on No. 37 Bancroft Avenue is permitted , the following conditions be imposed (or where the Department has included Conditions in its draft consent, certain Conditions be amended):

- a. The development should comply with the key requirements contained in the Ku-Ring-Gai Council Development Control Plan 2015 Part 19, which deals with developments and construction in HCAs. In particular the development should comply with the minimum required setback of 12 metres from our property, the height of the development should not exceed the height of any neighbouring property (specifically No. 39 Bancroft Avenue) and the roof style should reflect the roof style of surrounding properties; and
- b. The bulk and scale of the development be substantially reduced; and
- c. The building at the Southern edge of the development be moved West so that no part of it sits on the land currently known as No. 37 Bancroft Avenue; and
- d. The Acoustic Shield recommended by Acoustic Dynamics be removed as a Condition of Consent and be replaced by a Condition that restricts the number of users on the outside courts to a number that ensures the applicable PNTLs are not exceeded; and
- e. Hours of Operation be restricted to 7am to 6pm Monday to Friday and 7am to 2pm on Saturday, with no exceptions to be made i.e. no 'out of hours' events to be allowed; and
- f. That a Condition of Consent be added that no amplification equipment is to be installed, or portable equipment used, in any outdoor area of the development at any time; and
- g. Construction work (including excavation and drilling) be restricted to 7am to 5pm Monday to Friday and not on Saturdays, Sundays or Public Holidays
- h. That a Condition of Consent be added that no external lights can be installed on the outside courts
- i. Additional requested amendments to The Department of Planning's draft Conditions of Consent as set out in section 8 of this objection

Reasons for our objection and requests

1. Retention of No 37 Bancroft Avenue

We believe that the demolition of No. 37 Bancroft Avenue is not justified and should be retained in substantially its current form and for residential use.

No. 37 Bancroft Avenue is located in the Clanville Heritage Conservation Area (C32) in KLEP 2015 and is zoned R2.

The NSW Government legislated this area as an HCA in order to protect the character of area due to its heritage significance. The College knew this when it purchased No. 37 and it, like all other citizens, should be bound to comply with the legislation. The College should not be granted special consideration because of the large value of the proposed development, or that it is an education building (although, in reality it is primarily a recreation facility, not a learning facility).

Allowing construction of part of the development on No. 37 would have a significant detrimental impact on the Heritage nature of the local area and therefore should not be allowed. The proposed structure is not in keeping with the residential nature of the local area and is incongruous with the surrounding area in every respect – scale, bulk, height, setbacks, intended use, materials and acoustic output.

The Ku-ring-gai LEP (Local Centres) 2012 at clause 5.10 sets out the objectives of HCA:

(1) Objectives

The objectives of this clause are as follows -

(a) to conserve the environmental heritage of Ku-ring-gai,

(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,

Allowing development of No. 37 would be a direct contravention of the intention to conserve heritage “including associated fabric, settings and views”. We note that our entire West facing view would be destroyed and be replaced with a high concrete wall running almost the entire length of our West facing view, topped by fences and acoustic barriers, and at the Southern extremity topped by a large-scale building facing into our rear garden and living areas. Additionally, views from each street and HCA surrounding the development would be significantly and detrimentally altered if the development were to proceed.

Protecting No. 37 is also vital because the College owns other houses in adjacent HCAs. Approval to demolish No. 37 would create a precedent and would be a ‘green light’ to allow further expansion of the College campus via the demolition of other HCA protected houses in the future.

The College is zoned Education which we understand provides no protection for buildings within the College campus. Therefore, Rose Cottage (no. 31 Bancroft) and the buildings at Nos. 25-29 Bancroft have no protection from future demolition and development, despite their valuable heritage significance and aesthetic. Therefore, preservation of No. 37 assists in diminishing the impact of future developments within the existing College campus.

We note the Conclusion of NBR Architect (page 22) which was engaged to Peer Review the Heritage report commissioned by the College. We note the following comments on page 27 of the report:

The Urbis HIS includes a response to some of these questions. Those relating to additions (to a conservation area) and new development adjacent to a heritage item (or conservation area) are not addressed.

As noted in the previous section, the HIS discussion is not considered adequate to justify the demolition of a contributory building in a conservation area. Further analysis and discussion are needed to demonstrate that the proposed demolition of the contributory building (house) at 37 Bancroft Avenue is acceptable from a heritage perspective.

We believe the College's HIS report is deficient in many respects and reflects a lack of objectivity (as a result of being a paid consultant to the College). We support the views of the independent assessment conducted by NBR and commissioned by the IPC.

The NBR report recommends (Section 8):

To minimise the heritage impact of the expansion of Roseville College into the adjoining Clanville Conservation Area it is recommended that the development proposal be revised to include retention and adaptive reuse of the circa 1911 house at 37 Bancroft Avenue, a contributory building in the Clanville Conservation Area.

If it is not considered feasible to retain this building the applicant should provide a revised or supplementary Heritage Impact Statement for consideration that:

- details the modifications made to the dwelling since its initial construction*
- analyses its contribution to the Clanville Conservation Area*
- discusses the option/s considered for a development that retains and adaptively re-uses the house, and why this is not considered feasible*
- evaluates the impact of the proposed tree removal within and adjacent to the conservation area*
- discusses the impact of the site consolidation*
- recommends measures to mitigate the impact the proposed development will have on the significance of the Clanville Conservation Area.*

Should the DPIE approve this application in its current form it is recommended that conditions be included to require the following design revisions to reduce the heritage impacts of the proposal:

- increase in the building setbacks from the eastern boundary*
- articulation of the eastern façade*
- appropriate screen planting along the eastern boundary*
- retention of the domestic garden layout at 37 Bancroft Avenue, including some or*

all of the trees

- a less formal structure for the layout and planting of the proposed landscape area*

at the street frontage adjacent to the sports courts.

We concur with NBR's independent assessment and recommendations. Further details of reasons and requests are contained elsewhere in our objection.

2. Bulk and scale of the development

The proposed development is stylistically unsympathetic to the architecture of the area and is of significant scale and bulk, such that its introduction will have a profound negative effect on the Heritage nature of the local area.

The Department, in its Assessment Report, May 2021, makes many statements with which we strongly disagree. In particular:

- 1. Para 6.2.7 The Architectural Report indicates that the design of the proposed building ensures it would have minimal impact on the adjacent residential property at 39 Bancroft Avenue. This is achieved by incorporating a stepped facade along the eastern site boundary to minimise the apparent height and bulk of the building. The amended proposal submitted with the RtS also increased the side boundary setback to 39 Bancroft Avenue to further reduce the perception of bulk and scale and allow for deep soil plantings.*

We note that the Department did not make a site inspection from our property have therefore made its conclusions without conducting proper due diligence. As a result its conclusions regarding impact on our home should be disregarded.

It is clear that the development will have a profound detrimental impact on our home. We currently have No. 37 on our Western boundary - a residential building with appropriate proportions and scale. As a result of its size we have good access to natural light, privacy and quiet enjoyment of our house and rear garden and pool area. The proposal is to replace No. 37 with a high concrete wall running approximately 50 metres along our Western boundary, with limited setback, topped by a chain wire fence and an acoustic barrier up to 3 metres in height. Additionally a large, high building at the Southern end of the development will dominate views from our rear garden and overlook our pool and garden area, completely depriving us of any privacy. The total height of the development is above the height of our roof line and is out of scale with all other residential buildings in the area.

The proposed development does not have a 'minimal impact' on our property.

- 2. Para 6.2.22 The Department considers the maximum height of the proposed development to be acceptable for the site, on the basis that:*

- it would comply with the maximum height of buildings control under clause 4.3 of the KLEP.*

- it would be constructed to a maximum height that is lower than several of the existing school buildings, including the adjacent Joy Yeo Centre and multi-purpose school hall*

Para 6.2.24 ...can be supported on the basis that the: ...proposed development is consistent with the bulk, scale and density of existing school buildings and the broader school campus

Para 6.2.26 For the reasons set out in paragraphs 6.2.22 and 6.2.24, the Department considers that the proposal would not have a significant impact on the established low density residential character of the surrounding area.

We note that the relevant height control for the development is Council's "Development Control Plan for Heritage Conservation Areas" and the proposed development's height exceeds the allowed height by 1.67 metres (see paragraph 3, below for full details).

The 'test' of the proposed development's suitability and impact on the local area must be referenced to **all** of the local area, should have regard to the HCA nature of the area and the nature and scale of the existing buildings in the area, excluding all of the College campus buildings. The Joyce Yeo Centre and all other school buildings are not within an HCA (the campus is zoned Education) and are therefore not contributory to the heritage aesthetic of the area. Accordingly, the Joyce Yeo Centre and other school buildings are unable to be included as reference points for the suitability of the development's impact on the local Heritage areas.

The Department's conclusion in regard to bulk, scale and suitability is deeply flawed because it has only considered whether the proposed development is congruent with existing College buildings, rather than all of the local area. The existing school buildings are already of a scale and bulk that is incongruent with the rest of the HCA areas surrounding it. Additionally, these buildings were objected to by residents when planning permission was sought. Their existence is not the basis for assessing suitability of new developments.

The bulk and scale of the proposed development is not consistent with the bulk and scale of the houses in the adjoining HCAs.

3. Non-Compliance with Ku-Ring-Gai Council Development Control Plan for Heritage Conservation Areas

Notwithstanding that the IPC has the ability to grant approval for the project as a State Significant Development, it is important that the development complies with the "*Ku-Ring-Gai Council Development Control Plan for Heritage Conservation Areas, Part 19 – Heritage Items & Heritage Conservation Areas*". Ensuring the development complies with Part 19 will ensure a development is sensitive to its surrounding area, commits to a design aesthetic which is in keeping with the local area and preserves the Heritage integrity of the area.

We believe the development should not be approved because of the significant departures from the Council's Development Control Plan for Heritage Conservation Areas details of which are set out below.

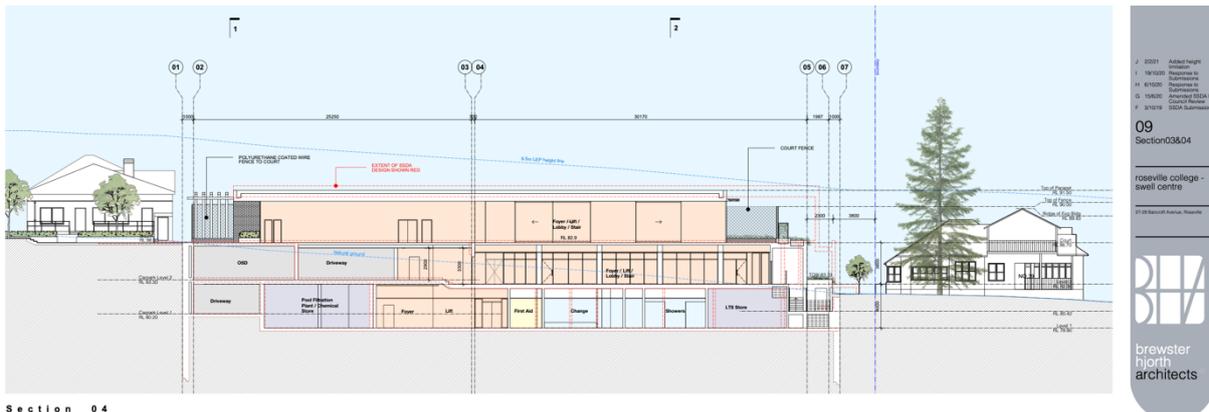
The proposed development does not comply with the Ku-Ring-Gai Council Development Control Plan 2015 in key areas, including, but not restricted to:

- *19D.1 Local Character and Streetscape.*
 - *"Para 4. The height of new buildings is not to be higher than contributory properties".*

The proposed development is 1.67 metres higher than our property, as evidenced by the revised plans submitted by the College (see plans, below).

- “Para 5. New roofs visible from the street are reflect the size, shape, pitch, eaves and ridge heights, and bulk of contributory properties and roofs. They are to respect the complexity and patterns of predominant roof shapes and skylines of the HCA”.

The proposed development does not satisfy these criteria. The flat roof of the building is not in keeping with the character of contributory properties in the HCA (NB existing school buildings are not contributory as they are not within the HCA as they are zoned Education).



- 19F Development in the Vicinity of Heritage Items or Heritage Conservation Areas (HCAs)

Introduction

This section applies to development on sites that either directly adjoin or are in the vicinity of a Heritage Item or an HCA. This part also applies to a situation where the Heritage Item is not incorporated into new consolidated development, as per 19A of this Part. This part provides guidance to meet the objectives in the KLEP (Local Centres) 2012.

The term “in the vicinity” not only means immediately adjoining a Heritage Item or HCA, but depending on site context, can be extended to include other sites with a high visual presentation due to landform, size or location of the Heritage Item.

The controls in this part are in addition to the controls in Sections 19A, 19B, 19C and 19D and are to be read in conjunction with them.

- 19F.2 Building Setbacks

Para 2 Residential Context Facades greater than 8m high will not be permitted adjacent to a Heritage Item or building with an HCA.

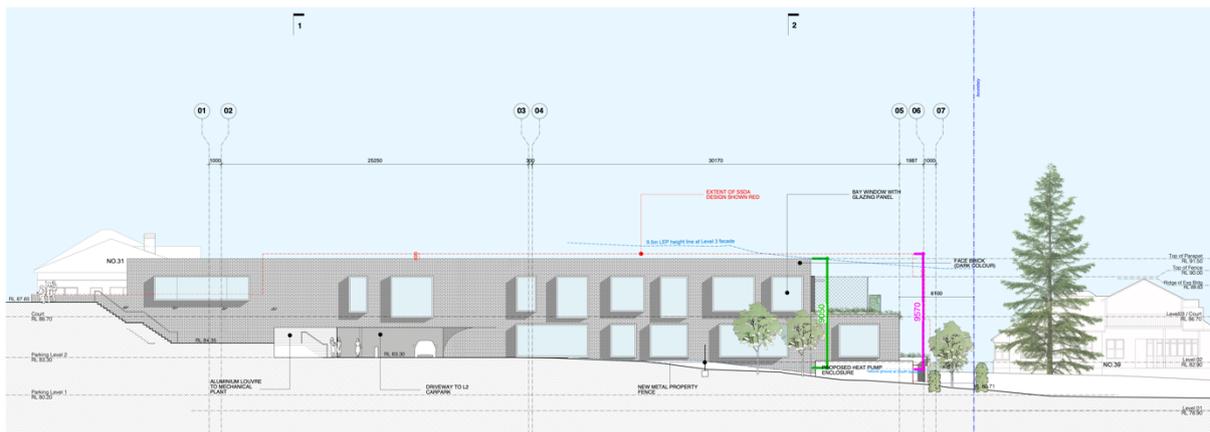
Para 3 In addition to the side and rear setback controls in Section A of this DCP, new development adjacent to a Heritage Item or building within an HCA, is to comply with the following:

1. i) adjacent developments are to have a minimum 12m building separation to the Heritage Item or building in the HCA (more if setback requirements are not met within the 12m) as per Figure 19F.2-2;
2. ii) adjacent development is to not exceed a facade height of 8m from existing ground level, including balustrades;

3. iii) adjacent development with a building mass above 8m high from existing ground level is to be stepped back an additional 6m from the Heritage Item as per Figure 19F.2-2;

The proposed development does not comply with the conditions of 19F.2 and 19D for the reasons set out below:

- The current setback is approximately 6 metres from our house above ground and less than 6 metres below ground. The development should be set back further so that it meets the KLEP setback of 12 metres from 39 Bancroft Avenue, above *and* below ground level
- The height of the development at its Western edge is 9.05 metres which exceeds the KLEP by 1.05 metres. The building height should be reduced to comply with the KLEP height control of 8 metres
- In accordance with the KLEP 3.iii) if a height above 8 metres is approved for the development, the development should be set back a total of 18 metres from 39 Bancroft Avenue



4. Loss of Privacy and amenity

The proposed development results in a substantial loss of privacy for:

- all rooms on the Western side of our home (bedrooms, main bathroom, study). There is a direct line of sight from the proposed tennis courts into each of these rooms
- rumpus room, family room, kitchen, master bedroom, main rear deck living area. There is a direct line of sight from the proposed building at the rear of the development and/or the proposed tennis courts into each of these rooms and areas
- swimming pool, outside entertaining area, BBQ area and entire rear garden. These areas will be overlooked from the proposed tennis courts, from the large building at the rear of the tennis courts and from East facing windows in the building at the rear of the development (windows approximately 5-8 metres above the level of our pool and garden areas).

The development deprives us of our privacy in our own home, reduces the amenity of our home and garden and results in inability to have quiet enjoyment and privacy in our rear garden, swimming pool and outside entertaining areas.

We believe that the development should not be approved due to the profound negative impact it will have on our home and our ability to live in it with quiet enjoyment.

5. Noise and acoustic impacts

The proposed development will create additional unwanted noise during construction and once operational.

The Acoustic Consultant report has been prepared on behalf of the College and is therefore not independent. We believe the IPC should commission an independent Acoustic Consultant to peer review the report and opine on its conclusions.

The Acoustic Consultant report contains plans of the development with the inclusion of acoustic barrier. None of the plans submitted by the College contain details or images of an acoustic barrier/shield. Pages 5-6 of Acoustic Dynamics' report depict an acoustic barrier that is required to shield neighbouring properties from noise on the courts. The proposed barriers are solid walls rising up to 3 metres above the surface of the outdoor courts. The Department in its draft Conditions of Consent have included a requirement that a barrier of this type be installed. The barrier will create a prison-like effect when viewed from neighbourhood streets (Bancroft Avenue, Victoria Avenue, Recreation Avenue and Glencroft Avenue) and neighbouring properties. Additional noise will be created when balls hit the walls.

We believe that if this barrier is necessary the development should not be approved due to the highly detrimental visual impact it will have on the local area. Alternatives (subject to a peer review Acoustic Report) may include limiting the number of people on the court at any time and reducing the hours of operation of the courts.

Acoustic Dynamics note in Section 8 that "*assessing the impacts construction noise and vibration is problematic as the construction details are yet to be established.*" We request that if the development is approved that the Conditions of Consent require the College adopt all of the measures set out in Section 8 of Acoustic Dynamics' report and that a peer review be conducted to determine if additional measures are required to safeguard neighbouring properties from noise and damage associated with construction.

6. Hours of Operation

During the Community Consultation Process representatives of the College stated that the operating hours of the SWELL would be:

- 7am-5pm Monday to Friday
- 7am-12pm Saturday

The College's planning application contains an Operational Management Plan (Appendix 31 of the College's application and dated 30 October 2019; posted on the Department of Planning's website). Pages 2-3 state:

Hours of Use

Aside from extending seasonal activities to year-round, the College intends to retain the existing hours of use as follows:

- | | |
|--------------------|-----------------------|
| ▪ <i>Monday</i> | <i>7am to 6pm</i> |
| ▪ <i>Tuesday</i> | <i>7am to 6pm</i> |
| ▪ <i>Wednesday</i> | <i>7am to 6pm</i> |
| ▪ <i>Thursday</i> | <i>am to 6pm</i> |
| ▪ <i>Friday</i> | <i>7am to 6pm</i> |
| ▪ <i>Saturday</i> | <i>7am to 6pm</i> |
| ▪ <i>Sunday</i> | <i>No planned use</i> |

Residents were also assured that the SWELL would strictly be for the use of Roseville College students and would not be used for commercial or like purposes e.g. there would not be public use of the pool for swimming squads or like activity, tennis courts would not be used by a private operator etc.

We request that the IPC amend the Conditions of Consent to reflect the hours of use shown above.

7. Excavation vibration

We note the Geotechnical report, page 8, which refers to vibration during construction. Excavation is proposed at a distance of 1.0m or less from our boundary which is likely to cause high levels of vibration within our property. The report notes “that vibration levels above 2-3 mm/sec may be strongly perceptible to occupants of adjacent buildings”. The report also notes that a vibration levels 8 mm/sec is commonly adopted in constructions – approximately 3 times greater than levels comfortable for occupants of adjacent buildings.

Due to the age of our house we are extremely concerned that high levels of vibration in close proximity to our house will cause significant damage. We are also concerned that the vibration levels will render our house uninhabitable for prolonged periods.

We request that:

- no excavation takes place at No. 37 Bancroft Avenue
- should excavation be approved at No. 37 Bancroft Avenue, vibration levels be limited to 2 mm/sec

8. Department of Planning - Draft Conditions of Consent

We request that the Conditions of Consent should be modified as follows:

- B14 (e) - construction vehicle movements should not occur during traffic school zone periods i.e. 8 am to 9.30am and 2.30pm to 4 pm. This will allow College children to safely access the school premises
- B15 - be extended to include all the measures contained in Acoustic Dynamics' report which deal with managing and reducing Construction Noise and Vibration Management

- B21 - remove the requirement to install an acoustic shield. Include a restriction on the number of people able to be on the rooftop courts at any time so that the PNTLs are not exceeded
- C4 - construction or deliveries should not occur on Saturdays, Sundays and Public Holidays
- C7 - these activities should not be allowed on Saturdays, Sundays or Public Holidays
- C17 - this clause should be removed because it negates the protections included in Conditions 15 and 16
- C19 - the large Norfolk Pine in our rear garden should be included as it is likely to be affected by excavation works. Any damage to this tree should be the responsibility of the College and should cover the cost of removal if it is severely damaged and/or dies
- D15 - prior to commencement of operation the College and owners of No. 39 Bancroft must have agreed the dilapidations report, obtained quotes from reputable trades people to rectify the dilapidations and the College must have agreed to meet the cost of carrying out all repairs
- D27 – Condition to be modified so that we, as owners, of 39 Bancroft Avenue can determine the number and type of screening trees to be planted along the Eastern boundary of the development i.e. our Western boundary. These trees have the potential to ultimately cause a significant loss of solar access to our property and also provide screening for privacy, and as such we should be able to determine the type and number of trees to be planted
- E1 - this Condition should be removed. There should not be any allowance for out of hours events. The College, in its application, only requested Operational Hours:
 - 7am to 6pm Monday to Friday (school use) and
 - 7am to 2pm on Saturdays (community use)
- A Condition of Consent to be added that restricts use of the SWELL to
 - 7am to 6pm Monday to Friday (school use) and
 - 7am to 2pm on Saturdays (community use)
- A Condition of Consent to be added that prohibits:
 - the installation of any amplification system or music system on the outdoor courts
 - the use of any portable amplification system or music system on the outdoor courts
- A Condition of Consent to be added that prohibits:
 - The installation of permanent or temporary court lighting

Yours Faithfully




Wayne Leamon
 Kristine Leamon
 (owners and occupiers, 39 Bancroft Avenue, Roseville)