

COUNCIL ASSESSMENT REPORT

Panel Reference	2017SNH077 St Lukes Grammar School
Application Number	Modification Application No.MOD2017/0071
LGA	Northern Beaches Council
Proposed Development	Section 96(2) Modification of Consent to DA2011/0446 to increase the student enrolment of St Lukes Grammar School from 884 to 1092 students
Street Address	2-4 Tango Avenue and 210 Headland Road, Dee Why
Applicant/Owner	Midson Group Pty Ltd (Applicant) St Lukes Anglican School Limited Anglican Schools Corporation
Date of DA lodgement	28 March 2017
Number of Submissions	9
Recommendation	Refusal
Regional Development Criteria (Schedule 4A of the EP&A Act)	Section 96(2) Modification of a Development Consent granted by the Joint Regional Planning Panel (DA2011/0446 for Alterations and Additions to a School).
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979 • Warringah Local Environmental Plan 2011 • Warringah Development Control Plan 2011 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy – Remediation of Land
List all documents submitted with this report for the Panel's consideration	<i>Attachment 1 – Reasons for Refusal</i> <i>Attachment 2 – Development Consent DA2011/0446</i>
Report prepared by	David Kerr – General Manager Planning Place and Community
Report date	Wednesday 31 January 2018

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Not Applicable**
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Not Applicable**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **Not Applicable**
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**
Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

EXECUTIVE SUMMARY

This proposal seeks to modify Development Consent DA 2011/0446 by amending Condition No. 3 to increase student enrolments from 884 to 1092 students. This equates to an increase by 208 students or 23%.

This includes an increase in Year 12 students from 83 to 115 students (32 students). There will be no change in staff numbers as additional students are to be accommodated within existing classes or additional classes for those teachers that have spare capacity in their daily timetable

The modification proposal raises two principle concerns. Firstly, the School's ongoing reliance on kerbside parking, which is principally generated by Year 12 students who drive to school, and secondly, the increased traffic congestion created by parents picking-up and dropping-off students at the school.

Contrary to Condition No.3 of DA2011/0446, the modification does not propose any additional off-street parking or additional pick-up drop off facilities to cater for the increased student enrolment.

The impacts of traffic and parking congestion created during the school term is an on-going concern for residents that live near St Luke's Grammar School in Headland Road, Tango Avenue and Quirk Street. While the school has a multi-storey staff car park and some ancillary parking off Headland Road there has been a net decline in available parking in recent years from past in-fill development within the site. As such the proposal is not supported pursuant to *Part C2 Traffic, Access and Safety* and *Part C3 Parking Facilities of the Warringah DCP 2011*.

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An Assessment Report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations.
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.
- Recommendation is for REFUSAL of the Modification of Consent for reasons of traffic and parking impacts and insufficient on-site parking to accommodate the additional student enrolments.

SUMMARY OF ASSESSMENT ISSUES

- Traffic and Parking;
- Student numbers being increased by 23% (from 884 students to 1092 students);
- Condition No.3 of DA2011/0446; and
- Modification is inconsistent with the terms of Condition 3.

SITE DESCRIPTION

Property Description:	Lot 3 & 4 DP 8139, 2-4 Tango Avenue DEE WHY Lot 2112 DP 752038 and Lot 1 DP 749109, 210 Headland Road DEE WHY
Detailed Site Description:	<p>The site of St Lukes Grammar School ("the school") is located on the northern side of Headland Road with the school also having frontage to Quirk Street and Tango Avenue. The street frontages are approximately 129 metres (m) in length to Headland Road, 48m in length to Quirk Street and 147m in length to Tango Avenue.</p> <p>The School's northern boundary adjoins the Stony Range Flora Reserve with the western boundary adjoining an industrial warehouse complex (zoned IN1 Light Industrial).</p> <p>The site is an irregular shaped allotment with a combined area of 15,209.5 square metres (sqm). The land has a moderate cross-fall from north to south towards Headland Road. The main pedestrian entry is via Headland Road with a secondary entry located on Tango Avenue.</p> <p>The site is currently contains an integrated school complex including the junior school buildings, middle school buildings and senior school as well as a multi-purpose hall, playing fields, sports courts, hard and soft landscaped areas, site managers residence and car parking facilities. Vehicular access is provided from the major entries off Headland Road and Tango Avenue with drop off/pick up areas also available from these streets, and bus bays / school bus stops located on all street frontages to the school.</p>

Map:



SITE HISTORY

Modification Application No.MOD2014/0064 to modify DA2013/1489 granted for alterations and additions including signage was approved by Council on 24 April 2014.

Development Application No.DA2013/1525 for alterations and additions to the multi-purpose building to provide for new music rooms, canteen and toilet facilities was refused by Council's independent assessment panel on 11 June 2014. Approval was subsequently granted by Appeal to the *NSW Land and Environment Court* (LEC) under proceedings No.10778 of 2014, subject to Court Orders and conditions dated 7 May 2015.

Development Application No.DA2013/1489 for alterations and additions including signage was approved by Council 18 February 2014.

Development Application No.DA2011/0446 for alterations and additions to a school was approved by the Joint Regional Planning Panel on 27 July 2011.

Development Application No.FG2010/0011 for the construction of new building consisting of two level basement car park, classrooms and playing courts - St Lukes Grammar School (IPA No.09/0174EI)" was determined on 14 January 2010. This consent was issued by the Federal Government under the *Nation Building & Jobs Plan (State Infrastructure Delivery) Act 2009*.

Various building applications, development applications and modifications have been made for alterations and additions to the school campus between 2009 and 1979.

Building Application No.C548/64 for a brick school building (St Luke's Church of England Girls School) was approved by Council in 1964.

PROPOSED DEVELOPMENT IN DETAIL

As outlined in the Executive Summary, this proposal seeks to modify Development Consent DA 2011/0446 to amend Condition No. 3 to increase student enrolments from 884 to 1092 students. This represents an increase of 23% or 208 students.

This includes an increase in Year 12 students from 83 to 115 students (32 students). There will be no change in staff numbers as additional students are to be accommodated within existing classes or additional classes for those teachers that have spare capacity in their daily timetable.

The *St Luke's Traffic Management Plan*, which was previously prepared for DA2013/1525, proposes no additional parking to be implemented with the modification. The TMP will remain relevant for the proposed increase in student numbers.

There are no physical changes proposed by this application to the school buildings or road frontages along Headland Road, Tango Avenue and Quirk Street.

Condition No.3 of DA2011/0446 reads as follows:

"3. Maximum Number of Students

The maximum number of students to be enrolled at the school is 884 at any time. In this regard, any proposal to increase student numbers as part of a future development application will not be approved without a corresponding increase in on site parking and pick up and set down capacity.

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of External Department, Authority or Bodies."

The applicant maintains that the pre-determinative element of this condition has been satisfied by the construction of additional multi-level parking under Development Application No.FG2010/0011. Therefore, the modification of consent can be approved for the first part of the condition to increase enrolments since the second part of the condition has already occurred since 2011.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2011/0446, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 96(2) of the Environmental Planning and Assessment Act, 1979, are:

Section 96(2) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>The development, as proposed, has been found to be such that Council is not satisfied that the proposed changes are substantially the same as those already approved under DA2011/0446. The substantial increase in student numbers will significantly exacerbate traffic and parking congestion on the surrounding streets without adequate facilities to resolve the existing traffic conflicts and parking demand being generated by the current intensity of use.</p> <p>The modifications must be "substantially the same" as the originally consented to development in terms of</p>

Section 96(2) - Other Modifications	Comments
	<p>their impact when considered against the relevant matters under section 79C of the Act, and the existing consent.</p> <p>The consent includes requirements that <i>"any proposal to increase student numbers as part of a future development application will not be approved without a corresponding increase in on-site parking and pick up set down capacity"</i>.</p> <p>The prescribing of specific requirements to be demonstrated in order for the development to be satisfactory and hence qualify as being "substantially the same" when tested against Section 96 of the Act is a critical element in this application.</p> <p>However, the school proposes no corresponding increase to on-site parking or pick-up set-down capacity as required by the original consent and is therefore inconsistent with DA2011/0446. This issue has determining weight and warrants refusal of the application.</p>
<p>(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and</p>	<p>Development Application DA2011/0446 did not require concurrence from the relevant Minister, public authority or approval body.</p>
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and</p>	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Warringah Local Environment Plan 2011 and Warringah Development Control Plan.</p>
<p>(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.</p>	<p>See discussion on "Public Exhibition" in this report.</p>

Section 79C Assessment

In accordance with Section 96(3) of the Environmental Planning and Assessment Act 1979, in

determining an modification application made under Section 96 the consent authority must take into consideration such of the matters referred to in section 79C(1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, are:

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iiiia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application and is addressed in the existing consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter was addressed via a conditions in the existing consent.</p>
Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Subject to additional off street parking and improved traffic management, the proposed development will not have a significant detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Subject to additional off street parking the proposed development will not have a significant detrimental economic impact on the locality</p>

Section 79C 'Matters for Consideration'	Comments
	considering the nature of the existing land use.
Section 79C (1) (c) – the suitability of the site for the development	<p>The site is considered unsuitable for the proposed increase in student numbers due to the already congested traffic and parking situation which will be exacerbated by the proposal.</p> <p>Relevant case law which similar to the current application is in <i>Council of Trinity Grammar School v Ashfield Council [2015] NSWLEC 1086</i>, and <i>The Presbyterian Church (New South Wales) Property Trust v Woollahra Municipal Council [2014] NSWLEC 1218</i>, whereby school traffic and parking arrangements, facilities and management proved to be unsuitable to the satisfaction of the consent authority.</p>
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 79C (1) (e) – the public interest	<p>The assessment has found that the proposal is contrary to the relevant requirement(s) of the Warringah DCP 2011 and will result in a development which will create increasingly undesirable traffic and parking impacts on the surrounding area, which is also contrary to the expectations of the community.</p> <p>In this regard, the modification, as proposed, is not considered to be in the public interest.</p>

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject modification application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and Warringah Development Control Plan. The proposal was re-notified to correct an error in the “determining authority”) from 03/11/2017 to 27/11/2017 and was re-advertised in the Manly Daily on 04/11/2017.

As a result of the public exhibition process council is in receipt of 9 submission/s from:

Name:	Address:
Ms Julie Ann MacDonald	Po Box 1183 DEE WHY NSW 2099
Mr David Charles Bacon	199 Headland Road NORTH CURL CURL NSW 2099
Ms Hana Katz	6 Quirk Street DEE WHY NSW 2099
Jill Bonner	13 Tango Avenue DEE WHY NSW 2099
James Robert Bonner	11 / 36 Pacific Parade DEE WHY NSW 2099
Mrs Tricia Kelly	191 Headland Road NORTH CURL CURL NSW 2099

Name:	Address:
Mrs Pamela Joan Wyatt	198 Headland Road NORTH CURL CURL NSW 2099
Mrs Michelle Irene Redford-Smith	195 Headland Road NORTH CURL CURL NSW 2099
Mrs Frances Ann Bacon	199 Headland Road NORTH CURL CURL NSW 2099

The following issues were raised in the submissions and each has been addressed below:

- Inadequate on-site parking
- Inadequate drop-off and pick-up areas
- Increasingly unsafe traffic conditions
- Increasing traffic congestion and safety risks
- On-street parking conflicts
- Traffic management
- Tree removal
- Lack of compliance with the School TMP

The matters raised within the submissions are addressed as follows:

- ***Concern that St Lukes Grammar School has reduced the net available off-street parking in real terms by previous development works generating more school traffic and displacing parking demand onto the surrounding streets.***

Comment:

The school has undergone a series of major changes to the campus buildings and various accumulated minor development works over recent years. This has resulted in an overall capacity to substantially increase student enrolments and a corresponding need to increase in parking facilities.

In 2001, there were 32 carparking spaces available beneath the multi-purpose hall. This basement area under the multi-purpose hall, was previously considered by the school to have been “*surplus parking*” and has been partly in-filled for music and storage rooms, such that only 14 spaces remain in the basement. (Ref NSW LEC Proceedings No.10778 of 2014).

The construction of the multi-storey carpark in Tango Avenue has not alleviated the parking and traffic concerns raised by surrounding residents as the increasing school enrolments and associated building works have eclipsed the schools capacity to provide an equivalent complement of off-street parking.

Despite the increase in carparking for staff in recent years, the School remains heavily reliant on kerbside parking for pick-up set down areas, student parking and bus parking. While parking demand generated by Year 12 school students can fluctuate during the school terms, the impact on available kerbside parking becomes progressively higher as the year progresses.

This issue is unable to be addressed by conditions and warrants refusal of the application.

- ***Concern that parking generated by students attending the school is increasing which adversely impacts access for surrounding residents on a daily basis from early morning to late afternoon.***

Comment:

No information has been provided by the applicant to demonstrate that student parking is being used to its optimum potential in order to reduce the demand for on-street parking. The reliance on street parking near the school has the potential to create significant inconvenience for residents during school hours. Unless residents have two (2) off street parking spaces, that are available for car parking on their own properties, further pressure is then created for carparking demand in the surrounding streets.

In this regard, on-street parking issues resulting from the schools operations are not isolated to the school, as the parking of trailers, boats and the like in the street, also contributes to the additional demand for street parking created by students who drive to school.

Therefore, insufficient information has been provided by the applicant to address this issue to isolate the net impact on kerbside public parking.

- ***Concern that traffic safety risks are present with the current level of school enrolment and recurrent traffic conflict issues arise during peak periods with traffic queuing and unsafe driving behaviour forced by the intensity of peak traffic times generated by the school.***

Comment:

In order to address this issue, Condition No.3 of DA2011/0446 was imposed by the JRPP requiring that any proposal to increase student numbers, as part of a future development application will not be approved without a corresponding increase in on-site parking and pick up set down capacity.

The current modification seeks a 23% increase in student numbers, using the ongoing development consent, without any corresponding augmentation to the schools pick up set down facilities and off-street parking. The inadequate provision of parking and traffic facilities will potentially worsen recurrent traffic conflict and parking issues being experienced near the school.

Therefore, this issue has not been satisfactorily addressed in the proposal and warrants refusal of the application.

- ***Concern that the increasing capacity and level of school enrolments is symptomatic of an over-development of the site. Traffic issues and concerns affecting residents extend to disturbance created by out-of-hours works, garbage collection, trade-work and delivery traffic to the school.***

Comment:

In order for the school to justify increased student numbers, the issues being raised by surrounding residents require detailed review by the school and a response and actions that secures better management of those matters under mechanisms of an updated *Traffic Management Plan (TMP)*.

The subject modification does not propose any building works that would increase out of hours construction, changes to garbage collection, other trade work or additional deliveries. The capacity of the school to augment its current off-street parking and pick-up drop-off areas is limited, creating a perception that the school is already at its maximum operational capacity.

The modification application has not adequately addressed this issue as part of a wider review of the schools impact on surrounding land in the context of the current traffic and parking management.

Due to insufficient information to address this issue within the TMP, the modification is not supported.

- ***Concern that the school is unwilling to ensure appropriate off-street facilities to accommodate all bus and car parking demand generated by the school and thereby address the parking issues, street congestion and safety concerns associated with such a high intensity land use.***

Comment:

Options for the school to provide the full complement of off-street facilities and accommodate

all bus and parking demand within the site are unrealistic, or have become problematic, as the school has capitalised on expanding its educational facilities within the limitations of the site boundaries. More recently, the school has instead relied on more efficient parking and traffic management during the mid-morning and mid-afternoon peak traffic time surrounding the school. However, this approach has limitations and therefore a "maximum enrolment" condition exists to limit the intensity of use with a qualification that additional traffic and parking facilities must be provided in the future to complement any proposal for increased numbers.

This issue has not been satisfactorily addressed in the application.

- ***Concern that the school has removed trees that were required by development consent for landscaping purposes to soften the appearance of the school buildings when viewed from the street.***

Comment:

This issue is not relevant to the proposal to increase student enrolments whereby no physical change to the existing buildings or landscaping is proposed. This issue has been referred to Council's Compliance Services for investigation and appropriate action.

- ***Concern that the school does not adequately enforce its own Traffic Management Plan to maintain compliance with the TMP.***

Comment:

No detailed information has been provided that the TMP has been revised or subject to any update or review since it was implemented in 2015. In addition to this, the TMP contains a number of inconsistencies that are reflected on site and in the traffic and parking assessment report. Those inconsistencies include differences between parking allocations shown in the documents provided and actual availability of parking on-site.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development. <i><u>Note:</u> The proposed development may not comply with some requirements of the BCA. Issues such as this however may be determined at Construction Certificate stage.</i>
Development Engineers	The proposed modification does not involve any new construction as part of the proposal. No objection to approval and no additional or modified conditions are recommended.
Environmental Investigations (Industrial)	No objections and no change to the existing conditions of consent relating to Environmental Health issues are recommended.
Traffic Engineer	<u>Traffic Engineers Comments:</u> <i>"Inspections revealed that all pick up and drop off parking spaces were taken in the PM peak time. This is whilst the traffic report indicates that the total vehicles parked during pick up and drop off period does not reach the capacity at any 5-minute interval, which appears to be incorrect.</i> <i>Not only were all pick up and drop off parking spaces taken, but</i>

Internal Referral Body	Comments
	<p><i>the indented pick up area in Quirk Street was parked out with cars and queueing extended into the "No Stopping" area around the corner of the intersection of Quirk Street/Tango Avenue and extended past the bus zone at Headland Road.</i></p> <p><i>Almost all parking spaces at Tango Avenue and Quirk Street up to its intersection with Tango Avenue (on the eastern end) were parked out by parents.</i></p> <p><i>Traffic congestion was observed at the intersection of Tango Avenue and Quirk Street due to the queuing resulting from right turns and left turns onto Tango Ave from Quirk Street on several occasions. The reason for the queuing was that the vehicles were stopping on the trafficable lanes to find a parking spot on Tango Avenue. This caused the traffic stream on Quirk Street to turn around the stationary vehicles and drive in the opposite direction.</i></p> <p><i>The traffic report indicates that the 200+ increase in student numbers will result in an additional 2 pick-up and drop off cars. This does not appear to be a correct assumption.</i></p> <p><i>The school's pick up is operating at full capacity and given that all the pick-ups and drop-offs occur on the surrounding streets with no provision of pick up and set down within the school, the proposed increase in number of students will have significant additional impact on surrounding streets and consequently on the local residents.</i></p> <p><i>An existing condition of consent indicates the allocation of 10 parking spaces to year 12 vehicles. The inspections indicate that there was only one (1) car parked within the designated parking spaces within the site.</i></p> <p><i>The submissions received from the residents indicate that with the existing situation, there are higher numbers of senior students parking on the streets in comparison with the number indicated in the report. This raises the concerns that with the proposed increased number of students, more of Year 12 vehicles will be parked all day within the surrounding streets.</i></p> <p><i>Given the above observations, the main concern raised in relation to the proposed increase in the number of students are the impacts of additional pick up and drop offs on the road network."</i></p> <p><u>Planners Comments:</u> The comments from Council's Traffic Engineer warrant refusal of the application for the following reasons:</p> <ol style="list-style-type: none"> 1. The proposal does not satisfy the requirements of <i>Part C2 Traffic, Access and Safety of Warringah DCP 2011</i>, and 2. There is inadequate off-street parking to meet the parking demand generated by the development, which is contrary to <i>Part C2 Parking Facilities and Appendix 1 of Warringah DCP 2011</i>.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to <i>Ausgrid</i> . No response has been

External Referral Body	Comments
	received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
NSW Police - Local Command (CPTED)	The proposal was referred to the <i>NSW Police - Local Command</i> for any special concerns relating to <i>Crime Prevention Through Environmental Design (CPTED)</i> . No response has been received within the 21 Day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
Concurrence - NSW Roads and Maritime Services - (SEPP Infra. Traffic generating dev)	The proposal was referred to the NSW RMS who provided a referral response on 8 November 2017 and raised no objections and no requirements for changes to existing conditions.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP 55 - Remediation of Land

Requirements of SEPP 55 have been addressed with the existing development consent and applicable conditions. No further consideration of *SEPP 55 Remediation of Land* is required for the modification of conditions to DA2011/0446 to increase the maximum student enrolment.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment: The proposal was referred to *Ausgrid*. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Roads and Maritime Service (RMS)

Clause 104 and Schedule 3 of the SEPP require that the following development(s) are referred to the RMS as Traffic Generating Development:

Purpose of Development	Size or Capacity (Site with access to any road)	Size of Capacity (Site with access to classified road or to a road that connects to classified road if access is within 90m of connection, measured along alignment of connecting road)
Educational establishments	50 or more students	Not applicable

Note: Under Clause 104(2) of the SEPP, 'relevant size of capacity' is defined as meaning:

"(2) (a) in relation to development on a site that has direct vehicular or pedestrian access to any road, the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or

(b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection - the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3."

Comment:

The proposal seeks an increase in student numbers by 208 students. This represents a 23% increase and in-so-far as students who could potentially drive to school, an increase of 37 Year 12 students. No change is proposed to the net number of staff as the additional students will be accommodated by "in-filling" existing classes or additional classes for teachers that have spare time capacity in their current timetable.

The expected additional traffic generation movements shown in the traffic and parking assessment is 120 vehicles per hour (vph) in the morning period, and 54 vph in the afternoon period. The traffic and parking assessment ranks the "level of service" for the intersections of Quirk Street, Tango Avenue and Headland Road adjacent the school to be at service level "A" or "good operation" with regard to average delay per vehicle.

The application was referred to the RMS for comment who provided a referral response on 8 November 2017 and raised no objections and no requirements for changes to existing conditions.

Warringah Local Environment Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	No
zone objectives of the LEP?	No

Principal Development Standards

No change is proposed to building height therefore no further consideration is required of the Height of Buildings development standard.

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.3 Development near zone boundaries	Yes

Clause	Compliance with Requirements
5.8 Conversion of fire alarms	Yes
5.10 Heritage conservation	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

Zone R2 Low Density Residential

Land use definition: WLEP 2011	Permitted or Prohibited
Educational Establishment	Permitted without consent

The underlying objectives of the R2 Low Density Residential zone:

- ***To provide for the housing needs of the community within a low density residential environment.***

Comment: The reasonable community expectation in an R2 zone is that land-uses are appropriately sized and scaled in order to prevent loss of amenity and accessibility. Having a school nearby to residential dwellings creates an environment of increased activity, increased parking demands and potential impacts on accessibility.

There are two issues associated with the intensity of the schools land use that will further affect and disrupt the needs of surrounding residents with respect to their expectation for daily convenient and safe traffic residential access to and from their properties. The two most significant impacts on traffic and parking come from the pick-up and set-down period with a high proportion of parents driving children to / from the school and secondly, from the significant number of students who drive to school and park in the surrounding streets.

Both issues are associated with higher school numbers and lack of adequate facilities to cater for associated traffic or parking. The high concentration of traffic during pick-up and set-down periods, creates acute traffic congestion and short periods of grid-lock, preventing or obstructing the traffic movements of the community in the vicinity of the site. In addition, the take up of kerb side parking by students and parents narrows the carriageway width and further restricts movement of traffic near the school, making the easy and safe movement of cars, pedestrians and buses significantly more difficult to manage.

It is considered that the proposal to increase student numbers is not conducive to providing a reasonable level of amenity and accessibility for nearby and surrounding residents, which is contrary to this objective.

- ***To enable other land uses that provide facilities or services to meet the day to day needs of residents.***

Comment: The use of the land for St Luke's Grammar school is a long established and permissible use on this site. Whilst the school provides an important educational land use to meet the local and more distant needs of the community, the intensity of use is having unacceptable impacts on the day to day needs of nearby residents in terms of convenient residential access and parking surrounding their residential properties.

- ***To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.***

Comment: It is considered that the proposed change to the existing maximum student enrolment does not affect this objective in so far as the modification does not require any decrease to landscaped open space on the site.

Warringah Development Control Plan 2011

Built Form Controls

No change is proposed to the wall height, building envelope, front and side boundary setbacks or landscaped open space. Therefore, no further consideration of the Built Form Controls is required for the modification application.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	No	No
C2 Traffic, Access and Safety	No	No
C3 Parking Facilities	No	No
E6 Retaining unique environmental features	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

A.5 Objectives

- *To ensure development responds to the characteristics of the site and the qualities of the surrounding neighbourhood.*
- *To ensure new development is a good neighbour, creates a unified landscape, contributes to the street, reinforces the importance of pedestrian areas and creates an attractive design outcome.*
- *To inspire design innovation for residential, commercial and industrial development.*
- *To provide a high level of access to and within development.*
- *To protect environmentally sensitive areas from overdevelopment or visually intrusive development so that scenic qualities, as well as the biological and ecological values of those areas, are maintained.*
- *To achieve environmentally, economically and socially sustainable development for the community of Warringah.*

Comment:

St Lukes Grammar School dominates the surrounding area as the school has three road frontages and is positioned on a ridgeline location above adjacent industrial land and residential land. The capacity of the school has reached a level that has resulted in a concentration of integrated buildings to cater for the education needs of the school interspersed with multi-use landscape spaces.

High levels of traffic generated by the school during the mid-morning and mid-afternoon periods has become a characteristic of the school which affects the surrounding neighbourhood. The surrounding residential neighbourhood to the east and south of the site is characterised as low density detached residential housing in landscape settings.

Traffic access and kerbside parking for properties near the school is becoming more difficult during school hours, especially as the student enrolment has progressively increased in recent years. Industrial land to the west of the site is less affected by traffic and parking issues due to those industrial uses having their own off-street carparking areas and having closer access to Harbord

Road, away from the school's road frontage. Land to the north of the site comprises a bushland reserve and is not affected by the school's traffic activity.

St Lukes Grammar School is a long established use in the surrounding precinct, however the traffic generation and on-street parking generated by the school has become a significant issue for residential neighbours near the school. The school relies heavily on-street parking and kerbside areas for parents picking up and dropping off students, for students that drive cars to school and bus services to school. While the roads surrounding the school are through roads, the concentration of traffic during a school day in the mid-morning and mid-afternoon makes through access and parking for residents near the school much more difficult. The ongoing parking and traffic issues has raised a number of safety concerns, including pedestrian access. No building or traffic/parking design response changes are proposed within the current proposal to accommodate the increased student enrolments.

Providing a high level of access within the precinct is becoming unsustainable due to the concentrated traffic and parking conditions near St Lukes School during the school term. The most significant factors is the high volume of parents who drive children to school and pick up from school, as well as the on-street parking taken up by senior school students that drive to school.

The impact on traffic access and parking for surrounding residential land is symptomatic of an overdevelopment of the site and any substantial additional enrolments is unsustainable without new off-street parking facilities.

In summary, the proposal is inconsistent with the objectives of the DCP in regards to responding to the surrounding neighbourhood, ensuring development is a good neighbour, achieving a high level of access and maintaining a sustainable intensity of development.

C2 Traffic, Access and Safety

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- ***To minimise traffic hazards***

Comment:

Increasing the student numbers increases the potential traffic hazards in the mid-morning and mid-afternoon periods due to the concentrated traffic movements at this time of day as there is a heavy reliance on the public street for pick-up and drop-off, as well as bus services and student parking. The traffic management plan does not specify what increased measures will be provided to ensure traffic hazards will be managed or minimised despite the significant increase in numbers.

- ***To minimise vehicles queuing on public roads***

Comment: The demand for kerbside parking created by traffic associated with the school narrows the available carriageway and requires vehicles to queue when waiting for turning vehicles, or other traffic and pedestrian movements that restrict vehicles from passing. The proposed modification does not propose any additional parking facilities and relies on the existing assets within the public road reserve to cater for parking and additional pick-up set-down activity. This is inconsistent with this objective to minimise queuing on public roads.

- ***To minimise the number of vehicle crossings in a street***

Comment: No change is proposed to the existing entry and exit crossings from the school premises along Headland Road, Tango Avenue or Quirk Street.

Therefore, no further consideration of this objective is relevant to the application.

- **To minimise traffic, pedestrian and cyclist conflict**

Comment: Traffic and pedestrian activity surrounding the school is high during the mid-morning and mid-afternoon periods on school days. While this time covers a relatively confined period of the day, the intensity of pedestrian and vehicle movement can easily create conflict to the free flow of through traffic and access for neighbouring residential land. A *Traffic Management Plan* was prepared in April 2015 to address this issue and better manage the situation. However, it is apparent that the increased numbers proposed are likely to result in the TMP becoming less effective.

- **To minimise interference with public transport facilities**

Comment: The school is not on a main transport route for bus services to Manly, Dee Why or the City. There are no transit lanes along the road frontages of the school. The school utilises four (4) allocated kerbside bus stops to service the school. These bus stops are along Quirk Street and Tango Avenue with an indented bus bay in Headland Road.

- **To minimise the loss of "on street" kerbside parking**

Comment: The proposal will increase the demand for "on street" kerbside parking due to the occurrence of parents willing to drive their children to school and / or pick up from school as well as a tendency of senior students that will routinely drive to school. While this does not create a "loss" of on street parking it reduces the availability of kerbside parking for surrounding residents that rely on convenient availability to service their needs.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979.

Accordingly, this assessment finds that the proposal is not supported.

C3 Parking Facilities

Description of non-compliance

Insufficient off-street parking and pick-up drop-off facilities is available to cater for the increased student numbers.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- **To provide adequate off street carparking.**

Comment: The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Educational establishment	1 space per staff member in attendance, plus as relevant, adequate pickup/set down area on site, plus adequate provision of bicycle racks, plus	118 staff (EFT) Nominal	114 staff spaces, plus 2 disabled persons spaces, plus 2 loading dock spaces, plus 1 visitor car space. Nominal bike rack	Adequate staff parking and disabled persons parking. No off-street pickup / set down. No change required

	adequate provision for student parking, plus provision of bus standing and turning area	bicycle rack 115 year 12 students. Bus service	10 car spaces for students 1 kerbside bus bay and 3 bus stops	Reliant on kerbside parking. No internal bus bay.
Total			132 spaces	

- A diagram of the schools car parking facilities and pick-up drop off zones is illustrated in the coloured diagram of the School TMP. However, the diagram shows inconsistencies between the Traffic Management Report and the Statement of Environmental Effects.
- ***To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.***

Comment: Undercover parking areas are already constructed and in use for the site. No further construction is proposed for additional parking facilities to accommodate traffic management associated with the increase in student numbers.

- ***To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.***

Comment: The school has buildings that contain car parking facilities on site. However, insufficient space is available to accommodate all parking and pick-up set-down facilities. During peak periods at mid-morning and mid-afternoon, the traffic and parking generated by the school dominates the street frontages around the school and the public roads close to the school, making access for residents along Headland Road, Quirk Street and Tango Avenue more difficult on school days.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

The aim of this Policy is to facilitate the effective delivery of educational establishments and early education and care facilities across the State by:

(a) improving regulatory certainty and efficiency through a consistent planning regime for educational establishments and early education and care facilities, and

(b) simplifying and standardising planning approval pathways for educational establishments and early education and care facilities (including identifying certain development of minimal environmental impact as exempt development), and

(c) establishing consistent State-wide assessment requirements and design considerations for educational establishments and early education and care facilities to improve the quality of infrastructure delivered and to minimise impacts on surrounding areas, and

(d) allowing for the efficient development, redevelopment or use of surplus government-owned land (including providing for consultation with communities regarding educational establishments in their local area), and

(e) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and

(f) aligning the NSW planning framework with the National Quality Framework that regulates early education and care services, and

(g) ensuring that proponents of new developments or modified premises meet the applicable requirements of the National Quality Framework for early education and care services, and of the corresponding regime for State regulated education and care services, as part of the planning approval and development process, and

(h) encouraging proponents of new developments or modified premises and consent authorities to facilitate the joint and shared use of the facilities of educational establishments with the community through appropriate design.

Part 4 Schools - Specific development controls

This part of the SEPP applies specific development controls for schools, including development "with" or "without" consent, and "exempt" and "complying development" matters. The modification does not propose any new building works and therefore no further consideration of this part of the SEPP is required.

Part 7 General development

Clause 57 Traffic generating development applies to the proposal.

(1) This clause applies to development for the purpose of an educational establishment:

(a) that will result in the educational establishment being able to accommodate 50 or more additional students, and

(b) that involves:

(i) an enlargement or extension of existing premises, or

(ii) new premises,

on a site that has direct vehicular or pedestrian access to any road.

(2) Before determining a development application for development to which this clause applies, the consent authority must:

(a) give written notice of the application to Roads and Maritime Services (RMS) within 7 days after the application is made, and

(b) take into consideration the matters referred to in subclause (3).

(3) The consent authority must take into consideration:

(a) any submission that RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, RMS advises that it will not be making a submission), and

(b) the accessibility of the site concerned, including:

(i) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and

(ii) the potential to minimise the need for travel by car, and

(c) any potential traffic safety, road congestion or parking implications of the development.

(4) The consent authority must give RMS a copy of the determination of the application within 7 days after the determination is made.

Comment: The SEPP includes Savings and Transitional Provisions as follows:

"This Policy does not apply to or in respect of the determination of a development application made under Part 4 of the Act, but not finally determined before the commencement of this Policy."

The SEPP came into effect on 1 September 2017, however since the modification does not involve *an enlargement or extension of existing premises*, being building works to *accommodate 50 or more additional students*, the proposal is not subject to the provisions of the SEPP.

Notwithstanding the above, the modification application was referred to the RMS in relation to traffic generating impacts and considerations pursuant SEPP (Infrastructure) 2007 as discussed in this report.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental

Effects, all other documentation supporting the application and public submissions; in this regard the application is not considered to be acceptable and is recommended for refusal.

The proposal to increase student numbers at St Luke's Grammar School from 884 to 1092 students does not involve any additional building works or conversion of existing rooms to accommodate the extra students. No change is proposed to staff numbers as the additional students will be placed on an "infill" basis where there is additional capacity in existing classes or where some teachers have spare capacity in their timetables for extra classes.

The modification seeks amendment to Condition No.3 of DA2011/0446 which states "*The maximum number of students to be enrolled at the school is 884 at any time. In this regard, any proposal to increase student numbers as part of a future development application will not be approved without a corresponding increase in on-site parking and pick up set down capacity.*" In this case, an increase of 23% in the student maximum enrolments is proposed with no corresponding increase in on-site parking and pick up set down capacity.

The applicant maintains that the pre-determinate element of Condition No.3 has been satisfied by the construction of the multi-level parking and associated works under the later consent of DA No.FG2010/0011. This consent post-dated the granting of DA2011/0446. Therefore, the applicant argues that the modification of consent can be approved to amend the first part of the condition, to increase enrolments, since the second part of the condition has already been satisfied by new car parking facilities completed since 2011.

The pre-determinative wording of the condition has not been sought to be amended or deleted from the consent by the applicant based on its "lawfulness". The condition does not allow for an assessment on merit regardless of the change to student numbers without an accompanying increase in parking.

The Consent operates on the basis that the current allocation of parking facilities are only sufficient to cope with the present enrolment limit. Therefore, this issue cannot be further addressed under this assessment as the applicant has not sought that the condition be deleted or replaced with an alternative condition.

Notwithstanding this, the modification proposal raises two principle concerns. Firstly, the School's ongoing reliance on kerbside parking principally generated by Year 12 students who drive to school and secondly, the increased traffic congestion created by parents picking-up and dropping-off students at the school.

Contrary to the terms of Condition No.3, the modification does not propose any additional off-street parking or additional pick-up drop off facilities to cater for the increased student numbers. The impacts of traffic and parking congestion created during the school term is an on-going concern for residents that live near St Luke's Grammar School in Headland Road, Tango Avenue and Quirk Street. While the school has a multi storey staff car park and some ancillary parking off Headland Road, there has been a net decline in available parking in recent years from past in-fill development within the site. As such, the proposal is not supported pursuant to *Part C2 Traffic, Access and Safety* and *Part C3 Parking Facilities of the Warringah DCP 2011*.

In summary, the Section 96(2) must be "substantially the same" having regard to the relevant matters for consideration under section 79(c) of the Act, and the existing consent. The consent clearly states that "*any proposal to increase student numbers as part of a future development application will not be approved without a corresponding increase in on-site parking and pick up set down capacity*". This is a critical element to the modification in enabling it to be considered "substantially the same". However, the school proposes no corresponding increase to on-site parking or pick-up set-down capacity and therefore is inconsistent with Condition No.3 of Consent No. DA2011/0446.

This issue has determining weight and warrants the principle reason for refusal of the application

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

RECOMMENDATION - REFUSAL

That the Sydney North Planning Panel, as the consent authority REFUSE the Modification Application No. Mod2017/0071 for Modification of Development Consent DA2011/0446 granted for Alterations and additions to a School (St Lukes Grammar School) on land at Lot 3 & 4 DP 8139, 2-4 Tango Avenue and Lot 2112 DP 752038 and Lot 1 DP 749109, 210 Headland Road DEE WHY, for the reasons outlined as follows:

1. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with Clause 1.2 "Aims of The Plan" of the Warringah Local Environmental Plan 2011.
2. Pursuant to Section 79C(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions of *Clause C2 Traffic, Access and Safety* of the *Warringah Development Control Plan*.
3. Pursuant to Section 79C(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions of *Clause C3 Parking Facilities* of the *Warringah Development Control Plan*.
4. Pursuant to Section 79C (1) (c) of the *Environmental Planning and Assessment Act 1979* and *Regulations* the site is considered unsuitable for the proposed modification due to the congested traffic and parking management generated by the school impacting surrounding residents and through traffic.
5. Pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed modification of the development is not in the public interest due to the increased traffic and parking impacts on Headland Road, Tango Avenue and Quirk Street near the site.