

SUPPLEMENTARY COUNCIL ASSESSMENT REPORT

Panel Reference	2018SNH047 St Luke's Grammar School
Application Number	Modification Application No.MOD2018/0412
LGA	Northern Beaches Council
Proposed Development	Section 96(2) Modification of Consent to DA2011/0446 to increase the student enrolment of St Luke's Grammar School from 992 to 1092 students
Street Address	Lot 2112 DP752038, Lot 1 DP749109, Lot 3 DP81394 and Lot 4 DP81394 Collectively known as No.210 Headland Road, Dee Why
Applicant/Owner	Midson Group Pty Ltd (Applicant) St Luke's Anglican School Limited Anglican Schools Corporation
Date of lodgement	7 August 2018
Number of Submissions	33
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 s4.15(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 – Amended Modification application details</i> <i>Attachment 2 – Legal Advice</i> <i>Attachment 3 – Independent Traffic Assessment</i> <i>Attachment 4 – School Traffic Warden statement</i> <i>Attachment 5 – Advice on student parking condition</i> <i>Attachment 6 – Development Consent DA2011/0446 (including MOD2017/0071)</i> <i>Attachment 7 – SNPP Report 2018SNH047 30 January 2019</i> <i>Attachment 8 – Minutes of SNPP meeting 19 March 2019</i>
Report prepared by	Louise Kerr – General Manager Planning, Place and Community
Report date	Deferred on 19 March 2019 (Original report date 30 January 2019)

Summary of s4.15C matters

Have all recommendations in relation to relevant s4.55 & s4.15 matters been summarised in the Executive Summary of the assessment report?

Attachment 7

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 (S9.4EF)?

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 is a supplementary report to the SNPP for item No.2018SNH047 St Luke's Grammar School, Dee Why relating to a modification application (MOD2018/0412) that was considered by the Sydney North Planning Panel (SNPP) on the 30 January 2019.

The matter was deferred pending legal advice. That advice was provided with a supplementary report to the SNPP with the application being further considered by papers circulated electronically between 15 March 2019 and 19 March 2019. The Panel resolved to defer the matter again and sought further information in relation to the identified matters detailed within the Minutes of that meeting.

Those matters are included below and addressed within this supplementary report for the SNPP to consider prior to determination of MOD2018/0412.

A. Information Requested from the Applicant:

On the 19 March 2019 the SNPP resolved to defer the determination of the matter for a second time in order to seek further action / advice from the applicant as follows:

1. *"A formal request to change as part of the amendment application the site of the original application as to include all four allotments (Lot 2112 in DP 752038, Lot 1 in DP749109 and Lots 3 and 4 in DP 81394) in the school's ownership.*
2. *A traffic and parking survey of the area in the vicinity of the school and affected by school traffic extending over five week-days and carried out by and independent consultant agreed to the by the Council and the Applicant.*
3. *A written response by the school's traffic warden to the concerns indicated by the objectors both in writing and orally during the public meeting of 30 January 2019. This should include any suggestions by the traffic warden to ease those concerns and should also deal with the question whether further staggering of school starting and finishing times would reduce the impact.*
4. *A response to the question whether the school could prohibit its students parking within 500 metres of the school during school hours. The Panel is aware that such parking is legal; however, the school would have some authority over its student's actions if these actions are damaging to the amenity of residents near the school."*

Assessment of Information Provided by the Applicant

Item A1 has been provided to formally include all four allotments that consists of the main school campus fronting Headland Road, Quirk Street and Tango Avenue. (Refer to Attachment 1) Council concurs with the legal advice provided by *Hunt & Hunt* that a modification application may be used to include land previously not identified on the original development application form. (Refer to Attachment 2)

This item is considered to have been adequately addressed.

Item A2 has been provided and the report prepared by *TTPP Transport Planning*, dated 7 May 2019 is considered to adequately detail the traffic movements extending over five weekdays in the vicinity of the school in a typical school week. (Refer to Attachment 3)

This item is considered to have been addressed in terms of understanding the daily pattern of traffic and parking around the site. The report includes details of the modification in that the additional students proposed with the modification of consent are part of the Senior School defined as years 7 to 12 in the report. The applicants previous Traffic report included the additional forecasting detail that:

“The proposed development seeks approval to increase student enrolments from 992 students to 1092 students, (ie 100 additional students) including 17 additional Year 12 students.”

It should be noted that the applicant has clarified the current enrolment situation includes a full time equivalent (FTE):

“The current, April 2019, fulltime equivalent enrolment is 1009 students for Preschool to Year 12. The early learning programme is for the majority of pre-school children is based on a 3 day programme. Therefore, on a daily basis the enrolment is 1009 student.

In 2018 when it became apparent the enrolment would exceed the approved enrolment the current Section 4.55 for amendment of student numbers was lodged in July 2018.”

It is unclear what created the current breach of Condition No.3 (as modified) which can be addressed under separate cover by Council’s Compliance section. As such the School is in need of regularising this anomaly, and as such the current modification proposed is partly retrospective.

Council does not support any conditions that would force a “numerical or FTE structure” based on segregating the daily or age based enrolment pattern at the school. This is because the cumulative impact is the same for the site, unless the Junior School and Senior School became physically separate campuses.

Item A3 has been provided in the form of a written statement by the Deputy Principal that explains the pick-up and drop-off process used as part of the revised Traffic Management Plan (TMP). The statement includes a real-time photo record of pick-up and drop-off occurring in practice at the site. The TMP should be brought up-to-date with current traffic and parking practices of the school and any anomalies between the TMP diagrams and TMP content addressed.

Item A4 has been provided in the form of advice provided by *Hunt and Hunt* (refer to Attachment 2). The details however include a change to “50 metres” and not a “500 metre” separation distance for on-street parking by students associated with the school. This is a substantial reduction of the distance requested by the SNPP in relation to this item. A 50 metre parking distance would serve no utility or relief for surrounding residents.

Consideration of this item also includes how such a requirement could be practically, legally and reasonably enforced and by whom (school, council or shared). Impacts of the condition would also be experienced by residents who live near the 500m distance from the school that would observe the displacement of street parking closer to their properties. The Warringah DCP specifies “adequate provision for student parking” for all schools.

B. Information Requested from Council

In addition to the above, the SNPP requested advice from Northern Beaches Council relating to:

1. *The effect of extending the drop off bay by 2 metres.*
2. *The effect of removing the 2 parking bays to allow the school bus to more easily turn at the corner of Headland Road.*

3. *The effect of installing 2 minute limit and parking prohibition along the schools frontage*
4. *Widening the footpath in all or some of the surrounding streets.*

Assessment Information Provided by Council (Traffic Engineering)

Item B1: Council considers that extending the drop-off / pick-up bay by 2 metres (m) would provide no tangible benefit to assist drop-off or pick-up traffic management. Council staff consider that to be beneficial a bay extension of 2 parking bays i.e 12m would be required.

The extension of the existing indented parking bay in Tango Avenue by another 2 bays would provide tangible benefit in reducing queue lengths at peak times and allowing for the safer drop-off and pick-up of junior school students. This change would however require some re-alignment of the kerb, road widening, footpath / fencing adjustments, new landscaping and line marking to comply with the relevant design standards. In addition to this, a design assessment should include investigation of any adjacent infrastructure lines (water, power etc) that may be affected. In the absence of any detailed design proposal plans the modification is not supportable. This is due to the Traffic Committee needing to be given an opportunity consider traffic issues prior to an application to increase student enrolments, as they would affect Council assets and the public road system.

Item B2: Council considers that removing 2 parking bays on the northern side of Headland Road and west of the intersection with Quirk Street would enable buses to turn more easily into Quirk Street. This would however effectively displace 2 carparking spaces that cater for the high parking demands generated by the school and surrounding land uses.

No off-set in parking has been proposed and the school has reduced its net available parking in proportion to its increasing enrolments over recent years. Therefore, at this point in time the removal of kerb side parking, where there is increasing pressure for on-street parking, is not supported.

Item B3: The drop-off pick-up zones on the frontage of most schools are controlled by the use of a 'No Parking' restriction applying between the standard 40km/h School Zone hours of 8:00am-9:30am and 2:30pm-4:00p.m School Days. A 'No Parking' restriction allows for a driver to stop for up to 2 minutes to load or unload goods or passengers provided that the driver stays within 3m of the vehicle. This type of restriction would be compatible with the arrangements in place under the schools 'Traffic Management Plan' and would be preferable to the existing 2minute parking restriction, which is less desirable as the driver is not compelled by that restriction to stay with the vehicle. A 'No Parking' restriction is also more easily enforced by Council's Rangers.

Council may have raised concern over the introduction of the 'No Parking' restriction in the past if the Traffic Committee were not supportive of ad-hoc solutions that are in isolation to holistic changes for traffic management. With better parking and traffic management facilities at the school that issue would be reconsidered more favourably by Council. It is noted that a short length (2 parking spaces) of 'No Parking' (8am-9am & 3pm-4pm Mon-Fri) is present to the west of the indented bus bay on the schools Headland Road frontage. This zone is the only drop-off and pick-up space serving the Senior school / main entry.

Given that the proposed student increase include associated increases to the Senior school Council would expect that the length of this drop-off / pickup zone should be increased to the western boundary of the school site yielding an additional 2 or 3 parking spaces. For safety reasons, and given the narrow width of Headland Road, Council believes this drop-off /pick up zone should be indented and the associated 'No Parking' restriction amended to apply '8:00am-9:30am and 2:30pm-4:00p.m School Days'.

Council would also be supportive of changing the 2 minute restrictions on Tango Avenue to "No Parking (8:00am-9:30am and 2:30pm-4:00p.m School Days)" throughout the length of any

indented drop-off / pick-up zone. The above changes would be subject to Council's Traffic Committee approval.

Item B4: There are parts of the footpath on the schools Headland Road, Tango Avenue and Quirk Road frontages that are only 1.2m-1.5m in width. Given the high volumes of students and parents using these footpaths during peak time's wider footpaths, at a width of 2.0m, would be safer and would eliminate issues associated with trampling of grassed areas / muddy areas on the nature strip. Widening of all paths on the schools frontages on Headland Road and Tango Ave (where possible without property acquisition) and widening of the path to 2.0m on the west side of Quirk Street between Tango Avenue and Headland Road is encouraged.

Acquiring an internal pedestrian link through the rear of No.222 Headland Road to the school facilities within No.224 Headland Road would greatly assist pedestrian safety by reducing pedestrian numbers along the busy school frontage to Headland Road. No further detailed consideration is possible at this point in time for the modification without an appropriate design proposal to consider.

Summary of Council Traffic Engineering Considerations

Most, if not all, physical work within the road reserve detailed under items "B1" to "B4" above would require an application under Section 138 of the *Roads Act 1993*.

While these matters may be encompassed by conditions of consent under the EP&A Act 1979, prior approval of the Traffic Committee should be obtained as those changes are fundamental to the increase in student numbers to 1092. This would enable a holistic approach for the traffic committee approval to be sought prior to consent being granted. Thereby ensuring that any traffic engineering changes recommended are managed appropriately by prior application within the framework of the *Roads Act 1993* and *EP&A Act 1979*.

Modification Assessment Summary

The proposal has been reviewed in the context of the supplementary information provided, and Councils recommendation for refusal remains.

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

- This Supplementary Report and the previous Assessment Report have been prepared taking into account all relevant provisions of the *Environmental Planning and Assessment Act 1979*, and the associated regulations including Section 4.55 (2) & (3) and Section 4.15 as relevant.
- Submission of a new traffic and parking assessment provided by an independent expert selected by agreement between Council and the applicant. This information does not warrant re-notification as the traffic and parking plan maintains the current position of the school with regard to increasing enrolments by 100 students. The information provided was at the request of the SNPP to assist in its consideration and evaluation of the modification. No site works are proposed that would involve additional impact on adjoining or adjacent residents of the site. Notwithstanding this, the revised traffic study is included with the modification application details that can be viewed online via Council's e-services DA tracking system.
- A further review and consideration of all submissions made by the public and community interest groups has been made. This has included consideration of submissions that have associated the modification directly or indirectly with cumulative development at the school;
- A review, site inspection and consideration of previous documents and supplementary documents provided with the modification application has been made;
- Previous referral comments provided by the relevant State Government Authorities/Agencies and Federal Government Authorities/Agencies remain unchanged. The applicant is not a

public school (Crown development) and therefore is not covered by Section 4.33 of the EP&A Act 1979, in terms of any conditions of consent.

- The previous recommendation of Council for refusal is maintained for reasons of inadequate off-street parking and increased traffic impacts associated with the School. This includes the public interest that the school address existing traffic and safety concerns raised by surrounding residents regarding increased enrolment at the school that would better alleviate relevant concerns raised in public submissions.

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 2011;
- Warringah Development Control Plan 2011; and
- Codes and Policies of Council.

The modification seeks amendment to Condition No.3 of DA2011/0446 which currently reads (as modified):

"Maximum Number of Students

The maximum number of students to be enrolled at the school is 992 at any time and is subject to traffic management and parking requirements detailed in the St Lukes Grammar School Traffic Management Plan dated 12 February 2018, as amended by any conditions of consent.

Reason: Traffic, parking and pedestrian safety."

This supplementary report has considered the additional information provided by the applicant to address the issues / questions raised by the SNPP. The report has also considered issues raised by public submissions and the context of the additional information provided by the applicant pursuant to s4.55 (2)(d) of the Act.

At this point in time, it is not recommended the increased enrolment be permitted to a maximum of 1092 students. It is understood that the school currently has 1009 students, being marginally above the permitted enrolment without the school having made any further extension to its parking or pick-up set-down areas. It may be necessary that the extent of the modification be reduced to maintain the status quo, however this has not been offered by the applicant.

Pursuant to s4.55(3) of the Act the modification application and information provided has been considered as is relevant to the original consent and reasons, including conditions, for granting of that consent.

Council considers that, prior to consent being granted to increase the school enrolments to 1092 students, the applicant must:

1. Make provision for future augmentation works to extend the drop off / pick up bays along the school frontages of Tango Avenue northwards by 12 metres and the Headland Road bay westward by up to 18 metres, subject to preliminary design details being provided to Council for works within the road reserve.

2. Make provision to change the 2 minute restrictions on Tango Avenue to “No Parking (8:00am-9:30am and 2:30pm-4:00p.m School Days)” throughout the length of any indented drop-off / pick-up zone, including any similar parking signage as required by Council’s Traffic Committee.
3. Make provision to widen or construct footpaths to a width of 2.0m (where practicable):
 - along the schools frontages on Headland Road
 - along Tango Ave including the length of the bus stop area used opposite and
 - along the west side of Quirk Street between Tango Avenue and Headland Road.

The above matters should be submitted to Council with the appropriate design details to enable environmental assessment and consideration prior to determination pursuant to the Roads Act 1997 and EP&A Act as appropriate. In the absence of such information being provided the proposal is not supported.

Therefore, on balance the modification to increase student enrolments by a further 100 students, from 992 to 1092, at the school is not supported without the appropriate augmentation and changes to drop-off / pick-up areas, on street parking and pedestrian safety to address and accommodate the traffic and parking management concerns raised.

RECOMMENDATION

That the *Sydney North Planning Panel*, as the consent authority, refuse the Modification Application MOD2018/0412 as recommended for the reasons provided in the SNPP report 2018SNH047, dated 30 January 2019, being detailed as follows:

Reasons for Refusal:

1. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the Clause 1.2 Aims of the *Warringah Local Environmental Plan 2011*.
2. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the Objectives of the *Warringah Development Control Plan 2011* to achieve development that responds to the low density residential environment, is a good neighbour and maintains high levels of access for surrounding development.
3. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions of *Part C2 Traffic, Access and Safety* of the *Warringah Development Control Plan 2011*.
4. Pursuant to Section 4.15 (1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions of *Part C3 Parking Facilities* of the *Warringah Development Control Plan 2011*.
5. Pursuant to Section 4.15 (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 St Luke’s Grammar school impacting surrounding residents and through traffic near the site.
6. Pursuant to Section 4.15 (1)(e) of the *Environmental Planning and Assessment Act 1979*, the proposed modification is not in the public interest due to the increased traffic safety risks and parking hazard impacts on Headland Road, Tango Avenue and Quirk Street near the site.

Notwithstanding the recommendation and reasons for refusal, draft conditions of consent (without prejudice) are available for consideration pursuant to the SNPP considerations as Consent Authority.

A. Amended Condition No.3 “Maximum number of Students”, to read as follows:

“3. Maximum Number of Students

The maximum number of students to be enrolled at the school is 1010 at any time and is subject to traffic management and parking requirements detailed in the *St Luke’s Grammar School Traffic Management Plan* dated 12 February 2018, as amended by any conditions of consent.

Reason: Traffic, parking and pedestrian safety.”

B. Amend Condition No.3A “Traffic and Parking Zones”, to read as follows:

“3A Traffic and Parking Zone Works

Pursuant to Section 138 of the *Roads Act 1993* the applicant is to submit to Council for consideration and approval, concept design plans for the following works within the road reserve adjacent the site:

- i. Augmentation works to extend the drop off / pick up indented bays along the school frontages of Tango Avenue northwards by 12 metres and the Headland Road indented bay westward by 18 metres. Details are to include survey detail of existing structures and appropriate changes to landscaping, kerb / services, line-marking and the like.
- ii. Change of signage relating to the 2 minute restrictions on Tango Avenue to “No Parking (8:00am-9:30am and 2:30pm-4:00pm School Days)” throughout the length of any indented drop-off / pick-up zone, including any similar parking signage as required by Council’s Traffic Committee adjacent the site.
- iii. Provision to construct or widen footpaths to a width of 2.0m (where practicable):
 - along the school frontages adjacent No.210 Headland Road;
 - along School’s frontages of Tango Ave, including the length of the bus stop area used opposite; and
 - along the west side of Quirk Street between Tango Avenue and Headland Road.
- iv. An updated *Traffic Management Plan* to include the above changes (i) to (iii) and site / parking changes that have occurred as a result of the redevelopment of the Junior School building at the corner of Quirk Street, Tango Avenue and Headland Road.”
- v. All works approved under Section 138 of the *Roads Act 1993* for the modification are to be constructed at the applicant’s expense and completed to the satisfaction of Council within 18 months of the date of the Roads Act approval.

Reason: Ensure adequate safety and provision of traffic, parking and pedestrian facilities.