

<b>Panel Reference</b>	PPSHCC-32
<b>DA Number</b>	DA2019/00966
<b>LGA</b>	Newcastle
<b>Proposed Development</b>	Alterations / Additions to Educational establishment (630 students), new Childcare centre (79 places) and Subdivision – Community title (two into three lots), associated site works, landscaping and signage
<b>Street Address</b>	30 and 31 Vista Parade Kotara (Lot 12 DP 560852 and Lot 131 DP 262057 and Lot 12 DP 607174)
<b>Applicant/Owner</b>	Trustees Diocese of Maitland-Newcastle C/- Webber Architects
<b>Date of DA lodgement</b>	30 August 2019
<b>Total Number of Submissions - Originally</b>	13 (10 unique objections)
<b>Total Number of Submissions – Renotification</b>	27
<b>Recommendation</b>	Refusal

## Background

The subject application (DA2019/00966) was reported to the Hunter Central Coast Regional Planning Panel (HCCRPP) on 2 December 2020.

The applicant requested that the matter be deferred to provide the opportunity to lodge a Traffic Plan of Management and requested draft conditions of consent be issued by The City of Newcastle (CN).

HCCRPP determined to defer the matter on 2 December 2020 to allow the submission of specific additional information and amendments. A copy of the Record of Deferral was provided to CN on 8 December 2020. The key reasons for the deferral related to the requirement for the Applicant to address traffic and parking related matters identified in CN's assessment report. HCCRPP were of the view that those matters would not be able to be satisfied by a Traffic Management Plan alone, which heavily reinforces and relies on expanded on street parking to support the increased site capacity, as was offered by the Applicant. Additional and varied solutions were required to mitigate broader traffic and amenity impacts (refer to Record of Deferral).

The Record of Deferral prescribed a two-week timeframe for the Applicant to confirm in writing of their intention to provide a response that addresses the full extent of Point 1 of the Record of Deferral. If the Applicant intended to genuinely explore additional solutions that substantially address CN's recommendation for refusal, the Panel was to be given a timeframe for this response by mid-January 2021.

During the prescribed deferral period, the Applicant requested an extension of time for final information to be lodged to the end of February 2021. HCCRPP granted the extension of time with submission of information to CN by the end of February 2021.

CN staff held a meeting with the Applicant and their representatives on 18 February 2021 seeking an update on how information was progressing and to gain an understanding of the information to be submitted. This meeting was also to assist with the assessment given tight timeframes associated with the assessment, requirement for renotification and reporting timeframes to the HCCRPP.

CN advised the applicant at the meeting that final submission of information was required by the 23 February 2021. The Applicant expressed some concern in relation to this timeframe and suggested that the timeframe would not allow all information to be adequately finalised and submitted, noting the end February 2021 timeframe set by HCCRPP.

CN noted the Applicant's concerns, however expressed a view that CN's concerns with this application have been raised during the assessment and it is CN's view that sufficient time has been afforded to the Applicant throughout the assessment and reporting of the application to have satisfied the information previously requested and then required in the Record of Deferral. Furthermore, it was noted that the deadline set by CN was only brought forward three days prior to the end of February.

The Applicant submitted their response to the Record of Deferral on 23 February 2021 to CN for assessment and final reporting to HCCRPP. The Applicant's submission consisted of a Cover letter of response (Sparke Helmore Lawyers dated 23 February 2021), additional traffic information letter dated 23 February 2021 and a St James School Kotara - Traffic Management Plan (TMP) both prepared by Seca Solutions.

### **Re-notification of Application**

The application was placed on public exhibition from 25 February to 12 March 2021, as the application was amended to include No.31 Vista Parade (St Philips Church) into the development application, to enable the use of the car park within the church grounds. Additional information in response to the HCCRPP Record of Deferral was also available for public review during the re-notification of the application.

A total of 27 submissions were received objecting to the development.

All submissions received raised concerns over traffic, access, safety and parking, with several also objecting to the loss of vegetation, land contamination, air quality and visual / acoustic impacts along the western boundary.

The key issues raised within the submissions include:

1. Traffic, access and parking
2. Pedestrian safety
3. Residential amenity
4. Land contamination
5. Air quality
6. Vegetation loss

Further information on the submissions is discussed later in the report.

The application was notified to both Subsidence Advisory NSW and NSW Rural Fire Service for their information only, as their original 'general terms of approval' (GTAs) granted remain valid.





**Figure 2:** Aerial map with approximate boundaries of St Philips Church (Source: City of Newcastle, OneMap)

The Applicant seeks to rely on the extended car parking area which does not appear to have been approved.

The additional information prepared by Seca Solutions dated 23 February 2021 proposes the continued use of the 37 car parking spaces located on the St Philips Church site for morning and afternoon drop-off and pick-up activity. While it is acknowledged that the site is under common ownership it remains a separate parcel of land and therefore subject to change in ownership. Furthermore, there is no legally binding requirement for the church to make this parking available for the school and potential conflicts may arise with a church activity being scheduled during school pick-up /drop-off periods. Unless this parking can be secured for school use at all times it is recommended that it not be included as part of this development application proposal. The subsequent loss of these 37 spaces will result in increased demands for parking not addressed by the Applicant's traffic consultant.

The Applicant has not provided any information that indicates the implications on the operational needs of the existing church use on this site and as approved. The Applicant references the use of this car park for school purposes for more than 15 years, however, there does not appear to be any development consent granted to extend the school activities onto the church site, nor any modified development consent on the church site to share the use of this carparking and assessment of any implications on the approved uses of the church site.

Several submissions raised questions over the carparking within the church grounds, stating that as the church grounds are currently being used for school purposes, how does this resolve any concerns relating to traffic, access and parking post-development. The use of the church grounds does not resolve any of the existing traffic congestion currently experienced within this local road network.

- b) Identify road infrastructure works and road environment changes that could occur within Vista Parade (between Princeton and Grayson) and to the site access and internal design to maximise the attractiveness and efficiency of on-site solution.**

The Applicant's traffic consultant has not identified any public road infrastructure improvements to cater for the 60% increase in school student numbers proposed under this development application.

It is stated that with the exception of residential amenity no other technical traffic issues exist, thereby ignoring the concerns raised by the City of Newcastle in relation to traffic congestion and the adverse impacts on the surrounding road network operational efficiencies and safety.

No attempt has been made by the Applicant to reduce the public road parking footprint or introduce mitigation measures. The proposed single lane entry/exit to the schools proposed tear drop kiss and ride facility remains unchanged. A view has been adopted by the Applicant that because the school provides a community facility and has historically used public streets for school pick-up /set-down activity they have a right to expand this practice.

- c) Broader consideration of the function of Vista Parade to service the school and its activities, inclusive of land ownership both sides of the street. This should include a review of carriageway and road reserve widening (and associated works) to provide additional on street capacity, reduced queuing and the like. This may also include widening of the on-site access to both left and right turn out movements concurrently and review of proposed on site operations.**

The applicant has not undertaken the requested review of Vista Parade or the surrounding road network with the proposed expansion of the on-street parking footprint under this development application. No public road infrastructure improvements are proposed in association with this development proposal.

- d) Provide baseline traffic counts of usage and flow of Vista Parade and any streets where on street parking is being considered as part of the response and analysis (not for SIDRA analysis) to articulate a baseline that impacts and works can be analysed against.**

Limited survey counts have been undertaken to establish the nature and operation of Vista Parade and surrounding streets - one additional survey in Vista Parade was undertaken on Thursday 11 February 2021. CN notes that the school has already implemented its proposed traffic management plan which principally relocates parent pick-up activity in the afternoon peak to the local streets of Princeton Avenue, Grayson Avenue and Casey Avenue. This results in a reduction in congestion in Vista Parade however transfers the impacts to neighbouring residential streets.

- e) Identify what reduction in on street parking expansion beyond Vista Parade may arise from these works.**

There is no reduction but rather a significant expansion in on-street parking proposed under the development application beyond the frontage of the school in Vista Parade. Of particular concern is the narrow carriageway width in Grayson Avenue and the congestion likely to occur in this street.



- f) **Where reliance is sought on expanded on street parking arising from the proposed development, provide:**
- i) **a plan identifying the location of on street parking expansion.**
  - ii) **in each location, provide appropriate observations on availability of that parking during peak periods (ie that it is not otherwise utilised for parking associated with existing activities for example of Nesbitt Park or limits flexibility in use of those over time).**
  - iii) **in each location, provide sections / information that demonstrates how on street parking sought to be relied upon, will not disrupt two way traffic flow within the street environment, without reliance on weaving in and around parked cars or slowing flow to one way at times (or quantify the impacts of that weaving in terms of road network efficiency and justify why that is acceptable).**

A plan detailing the nature and extent of existing and proposed on-street parking has been submitted by the traffic consultant. This plan indicates a significant increase in the levels of on-street parking in Princeton Avenue, Grayson Avenue and Casey Avenue. The on-street parking Zones No.1 & 2 extend well beyond the school site the subject of this development application. The school also intends to utilise the designated car park for the local sporting field potentially conflicting with the use of this community sporting facility.

No detail has been provided in relation to the availability of the on-street parking proposed to be utilised. Furthermore, no detail has been provided in relation to the impacts of this on-street parking in relation to the disruption to two-way traffic flows, congestion, traffic safety and road network efficiency.

In addition, the reliance on such an expanded, on street parking strategy, is considered to result in increased adverse impacts on residential amenity and potential change in streetscape character in these residential streets. These issues have not been adequately addressed and mitigated with the additional information submitted.

- g) **Identify changes to capacity / intensity or nature of the proposal to achieve the objective of limiting on street parking footprint expansion and mitigation of traffic impact.**

As stated previously there is no attempt to reduce the on-street parking footprint but rather significantly increase on-street parking to cater for the proposed parking demands of the school.

- h) **A detailed Traffic Plan of Management, which also clearly identifies what is in the applicant's control and what relies on Council actions eg parking limits.**

A Traffic Management Plan (TMP) has been submitted by the Applicant that does not rely on Council actions. The TMP calls for parents /carers not to utilise Grayson Avenue between Casey and Bryson Avenue, however this relies on parents / carers complying with the plan as it is not illegal to park kerbside in this area.

- i) **Identify measures that will mitigate impacts on the surrounding residential area.**

No measures have been identified to mitigate the traffic/parking impacts on surrounding residential streets.

No road network infrastructure improvements or upgrades such as acquiring properties within Vista Parade to facilitate widening of Vista Parade to assist with both function of the carriage way and access arrangements into both the St James School and St Philips Church properties,

have been proposed by the Applicant.

The Applicant has also not proposed improvements to the existing pedestrian footpath network within the area to assist with improving pedestrian safety. The footpath network is an existing concern that will be impacted upon by additional student numbers and the introduction of a child-care centre to the site.

**j) Review the retention of vegetation along the western boundary**

The Applicant in response considers it very difficult to retain existing vegetation along this boundary while ensuring the overall functionality of the proposed development. A Biodiversity Development Assessment Report was submitted with the application and the Applicant has indicated they will accept a condition offsetting the vegetation loss in accordance with the requirements of the Biodiversity Conservation Act 2016 (BC Act). If the Panel is not satisfied that compliance with the offset requirements of the BC Act address this concern, a condition would be accepted by the Applicant requiring an amended landscaping plan to provide mature compensatory planting of the species of trees that will need to be removed along the western boundary. This revised plan could be provided prior to the issue of a Construction Certificate and should address any residual concerns about the removal of vegetation (as stated by the Applicant).

CN's original assessment did not raise this issue specifically in the reasons for refusal. It would be reasonable to require mature compensatory planting of the species of trees that are proposed for removal along the western boundary as offered by the Applicant. This would assist in terms of maintaining and enhancing a natural landscape screen and a reasonable level of visual amenity by minimising privacy impacts along this boundary.

**2. The applicant is to confirm in writing within two (2) weeks of this decision their intention to provide a response that addresses the full extent of Point 1.**

The Applicant confirmed their intention to provide a response to the Record of Deferral matters in line with Point 2 of the Record of Deferral.

**3. If a response is not received, or is received in the negative, the Panel will proceed to determine the matter electronically based on the information currently before the Panel.**

The Applicant provided written confirmation of their intention to provide a response to the Record of Deferral. Final additional information was submitted to the City of Newcastle on 23 February 2021.

**4. If the applicant intends to genuinely explore additional solutions that substantially address Council's recommendation for refusal, the Panel is to be advised of a timeframe in which the applicant can appropriately and properly undertake that work and submit to Council for re-exhibition and a further assessment report by mid-January 2021.**

The Applicant submitted their additional information to the City of Newcastle on 23 February 2021, in line with the HCCRPP deadline of end of February 2021.

**5. Consultation with Transport for NSW is to occur to confirm that any intended management of the pedestrian crossing via supervision, to assist platooning of traffic in Vista Parade, is supported**

The Applicant has not provided any information or documentation that addresses the above. CN's original concern that the Applicant was relying on the use of a 'traffic controller' without having consulted TNSW and gaining at minimum 'in principle' support remains an outstanding

concern. Part of the strategy for traffic and pedestrian management at this existing crossing in Vista Parade is reliant on gaining approval from TNSW.

### Re-notification of Application

The application was re-exhibited for a period of 14 days from 25 February 2021 to 12 March 2021 in accordance with Section 8 of the Newcastle Development Control Plan 2012 and 27 submissions were received.

The key issues raised within the submissions are essentially the same issues raised when the original application was publicly exhibited.

**Table 1:** Summary and response to issues raised in submissions

Issue	Comment
<p><b>Traffic, access and parking</b></p> <p>Existing road network unable to cater for existing traffic volumes and any further increase will add to existing traffic congestion.</p> <p>Traffic gridlock around the school is currently experienced and with no road network upgrade, post development experiences will be worse.</p> <p>Vista Ave is too narrow to deal with current traffic volumes associated with St James School and St Philips Church. Without any upgrade and roadwork/widening of Vista Ave, post-development traffic volumes will further exacerbate current traffic congestion.</p> <p>Princeton Ave is a busy bus route and 'rat run' regardless of speed humps, as no-one slows down.</p> <p>Grayson Ave is unable to cater for the traffic flows that have increased over time due to new developments, population increase and the school and church activities within this area. This is made more problematic due to traffic volumes along Park Ave and the intersection from Park Ave into Grayson Ave and intersection of Grayson Ave into Vista Pde.</p> <p>Current experiences evidence cars parked on both sides of street, resulting in Grayson Ave being capable of one-way traffic flow only, so vehicles have to pull over to let others through.</p> <p>Traffic in Grayson Ave and into Vista Pde is left at a stand-still by parents queuing up to enter the school drop off zone.</p> <p>Since St James school introduced the drop off / pick up – drive in bay, the traffic in Vista Pde is horrendous with complaints made to the school from residents.</p>	<p>Consideration of traffic, access and parking has been discussed within the original assessment report considered by HCCRPP at public meeting held on 2 December 2020.</p> <p>The additional information in response to the HCCRPP Record of Deferral has not addressed the original concerns of the City of Newcastle and has not satisfied the Record of Deferral matters determined to be addressed by the HCCRPP on 2 December 2020.</p> <p>On this basis, the significant concerns of traffic, access and parking remain and the original reasons for recommending refusal of the application remain valid.</p>



<p>The Traffic Management Plan (TMP) is flawed as it is considered to underestimate post-development traffic.</p> <p>TMP puts forward solutions that the school are already implementing (ie. church carparking, walking students to off site points for pick up) which is not resolving current traffic issues, so will not resolve post-development concerns given scale of expansion involved with the proposal.</p> <p>TMP does not demonstrate any improvements in safety or flow for traffic and pedestrians.</p> <p>Applicant has not appropriately classified Vista Parade, Grayson Avenue and Princeton Avenue as 'urban roads' to justify increase peak traffic movements from 502vph to 900vph. The local road distributor network to Vista Avenue is at capacity of a residential street, typically accepted as 500vph.</p> <p>Original proposal stated a one-way system would be in operation – vehicles are to enter the school off Vista Parade from Grayson Avenue and exit via Vista Parade onto Princeton Avenue. Is this still proposed and if so it is not acceptable given implications for surrounding road network.</p>	
<p><b>Pedestrian safety</b></p> <p>Existing road network cannot cater for existing traffic congestion, which in turn increases the threat of public safety.</p> <p>Infrastructure within the area, such as formalised footpaths are limited and/or do not exist which contributes to the risks associated with traffic, parking and pedestrians within the area.</p> <p>TMP is flawed as the key solution (as it is already in operation), in that parents / carers are to walk / meet up with students off-site in Zone 1 and Zone 2 areas. The road network environment is not supportive of the extent of pedestrian activities currently and proposed, therefore, further increasing pedestrian safety concerns.</p> <p>No infrastructure works are proposed by the school to assist with continued implementation of their TMP, which reinforces that these solutions will not resolve or manage pedestrian safety.</p>	<p>Consideration of pedestrian safety has been discussed within the original assessment report considered by HCCRPP at public meeting held on 2 December 2020.</p> <p>Pedestrian safety impacts will result from the proposal, given the key issues raised have not been adequately resolved in the latest information provided in response to HCCRPP Record of Deferral.</p> <p>No amendments are proposed to the scale of expansion of the school and new childcare centre, no purchase of properties to facilitate upgrade of the road network and associated public infrastructure such as footpaths within the area have been proposed. Therefore pedestrian safety remains a significant concern.</p> <p>The latest information submitted, further extends the risk to pedestrian safety by reliance on a broader footprint of surrounding streets to manage traffic, parking and student drop off and pick up whereby increasing the potential risk for traffic and pedestrian conflict.</p>



	original assessment report considered by the HCCRPP at the public meeting held on 2 December 2020.
<b>Air Quality</b> <p>No real air quality assessment has been undertaken for such a scale of expansion which sees on-site carparking and queuing of vehicles for up to 198m concentrated along the western side boundary, with little scope for buffering and setback to assist with mitigating adverse air quality impacts on the adjoining residential properties fronting Grayson Ave (backing onto Styx Creek drain).</p>	<p>Consideration of air quality has been discussed within the original assessment report considered by the HCCRPP at the public meeting held on 2 December 2020. The proposal will generate additional traffic within the site and on surrounding roads. However, the use of any site generates vehicular use both on and off site. Notwithstanding, the proposed development is not considered likely to result in unreasonable air quality impacts.</p>
<b>Loss of vegetation</b> <p>The scale of development is inappropriate given the significance of existing vegetation on this site and on surrounding land.</p> <p>How much bushland will be lost before development is kept to an appropriate scale on a site.</p> <p>The Arborist Report and BDAR report have not adequately addressed vegetation loss across the site.</p>	<p>Consideration of vegetation loss has been discussed within the original assessment report considered by HCCRPP at public meeting held on 2 December 2020.</p> <p>Vegetation will be removed from the site to make way for the development including bushfire protection works as required under relevant legislation.</p> <p>Documentation submitted with the application included an Arborist Report and BDAR. As previously reported the concerns raised about vegetation loss has satisfied the provisions of the SEPP – Vegetation in Non-Rural Areas 2017 and NDCP 2012. Several conditions of consent are recommended if the application is supported to address vegetation loss.</p>

## Conclusion

New schools proposed in green field areas are typically being designed with parent drop-off and pick-up facilities being located within the school grounds. This is a commitment being made by schools to minimise the impact of this activity on surrounding local streets and provide a controlled safe environment. While it is acknowledged that this is an existing school that has historically relied upon on-street parking, it is considered appropriate that a similar commitment should be made to minimise any increase in the existing on-street parking footprint. This could be achieved through the provision of appropriate public road and site access improvements in Vista Parade to facilitate vehicle access to the school's proposed on-site tear drop kiss and ride facility. No public road infrastructure improvements or alterations to the single lane entry/exit access driveway are proposed by the school in association with this development application.

It is concluded that the Applicant has not adequately addressed the traffic related matters outlined in the HCCRPP's 'Record of Deferral' dated the 2 December 2020 Items No. 1 and 5 respectively. The application is therefore not supported on traffic grounds and the City of Newcastle's original concerns relating to the adverse impact on road network operational efficiency, traffic safety and residential amenity remain valid.

CN's original reasons for refusal remain valid. As such, the application is recommended for refusal subject to reasons for refusal as contained in the original assessment report and provided in **Attachment B**.

**Attachment A** – Applicants written response / additional information

**Attachment B** – Reasons for Refusal