

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2023/0314
<b>Responsible Officer:</b>	Anne-Marie Young
<b>Land to be developed (Address):</b>	Lot B DP 395193, 0 L Federal Parade BROOKVALE NSW 2100 Lot 100 DP 1250521, 37 - 43 Federal Parade BROOKVALE NSW 2100 Lot 13 DP 568333, 60 Federal Parade BROOKVALE NSW 2100
<b>Proposed Development:</b>	Modification of Development Consent DA2021/2567 granted for Demolition works, construction of two carparks and an increase in student numbers at an educational establishment
<b>Zoning:</b>	Warringah LEP2011 - Land zoned R2 Low Density Residential
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	The Trustees of the Order of Hermits of St Augustine
<b>Applicant:</b>	St Augustine's College Sydney

<b>Application Lodged:</b>	22/06/2023
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Refer to Development Application
<b>Notified:</b>	Not Notified
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

### PROPOSED DEVELOPMENT IN DETAIL

#### ASSESSMENT INTRODUCTION

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.

## SITE DESCRIPTION

<p><b>Property Description:</b></p>	<p>Lot B DP 395193 , 0 L Federal Parade BROOKVALE NSW 2100          Lot 100 DP 1250521 , 37 - 43 Federal Parade BROOKVALE NSW 2100          Lot 13 DP 568333 , 60 Federal Parade BROOKVALE NSW 2100</p>
<p><b>Detailed Site Description:</b></p>	<p>The subject site consists of three (3) allotments.</p> <p><u>37-41 Federal Parade and Lot B DP 395193</u>          The main part of the St Augustine’s College campus (Primary and Secondary school) site is located at 37-41 Federal Parade, Brookvale. It comprises of two (2) allotments Lot 100 DP 1250521 (2.141 Ha) and Lot B DP 395193 (6,222sqm). The College campus has frontages to Federal Parade to the north, Alfred Road to the east, Gulliver Street to the south and Consul Road to the west.</p> <p>The main campus contains a range of buildings of varying size and scale including one two and three storey buildings with open space located to the eastern side of the site associated with Lot B. The formal car parking for the school is within the school grounds and the open car park facing Gulliver Street.</p> <p><u>60 Federal Parade</u>          Lot 13 DP 568333, measures 901.5sqm and comprises dwelling with a detached garage. The site has been approved as an educational establishment (ancillary administration) associated with the College and as a car park under DA2021/2567.</p> <p>The site is located within the R2 Low Density Residential Land Use from WLEP 2011. The site adjoins an R3 zone to the immediate south and a RE1 zone to the east. Pittwater Road, a classified road is located approximately 130m with adjoining B5 Business Development and an Educational land use associate with Brookvale Primary school located at</p>

the intersection of Old Pittwater Road.

Map:



## SITE HISTORY

On 12 May 2023, DA2021/2567 granted consent for Demolition works, construction of two carparks and an increase in student numbers at an educational establishment.

### Subject Modification

On 7 June 2023, the applicant lodged the subject modification. The application was not accepted by Council until 21 June 2023.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

### **Background**

DA2021/2567

The abovementioned development consent was granted by Council on 12 May 2023 for Demolition works, construction of two carparks and an increase in student numbers at an educational establishment.

### **Details of Modification Application**

Under Section 4.55(1) of the EPA Act 1979, a consent containing an error or mis-description may be amended. The Northern Beaches Community Participation Plan does not require the notification of Section 4.55(1) modification applications as they are considered to be of minimal environmental impact.

The application seeks to modify condition(s) No.1 in (Reports / Documents ) in relation to the date of the Noise and Vibration Impact Assessment Assessment and condition 2 (a) (in relation to the

timeframe within which to commence construction works, which reads as follows:

### 1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

Reports / Documents - All recommendations and requirements contained within:

Noise and Vibration Impact Assessment Project P00054 Rev 006 **Dated 05.04.2021** Prepared by E-LAB Consulting

### 2. Maximum Student Numbers - construction of car parks

The maximum student numbers are limited to a maximum 1200. The maximum student numbers may be increased to 1600 on completion of both the Federal Parade and Alfred Road carparks.

On a trial basis the school can operate with a maximum number of 1560 students for period of up to 270 days from the date of this consent, subject to meeting the following criteria:

- (a) The construction of the Federal Parade and Alfred Road carparks are to be commenced ***within 90 days from the date the consent is granted***, and
- (b) Both carparks are to be fully constructed and operational within 180 days from the date of the commencement of construction, and
- (c) During the period from the date of the consent to the date of completion of the carparks, the traffic safety measures contained in the approved Traffic and Parking Management Plan are to be fully implemented.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of final Occupation Certificate.

**Note:** Emphasis (***bold and italics***) added by Assessing Planner

### Consideration of error or mis-description

#### Condition 1: Approved Plans and Supporting Documentation

The application seeks consent to correct the typographical error with the date of the Noise and Vibration Impact Assessment from 05.04.2021 to 05.04.2023. The request to modify and correct the condition is supported as it reflects the relevant version of the report on which the Panel made determination.

#### Condition 2: Maximum Student Numbers - construction of car parks

The section 4.55(1) application also seeks to amend Condition 2(a) in relation to the timeframe within which to commence construction works. The condition, in part, currently reads: "*The construction of the Federal Parade and Alfred Road carparks are to be commenced ***within 90 days from the date the consent is granted***".*

The date the development consent was granted is 12 May 2023. However, the development consent was not issued / uploaded to the planning portal until on 29 May 2023. The Applicant has provided the following justification for the modification.

*The applicant lost 17 days of the 90 day time period within which to commence works. Noting the intention of the Panel was to provide the applicant with 90 days, and the difficulty with engaging*

contractors in the current construction market, it is requested that the condition be reworded to provide for the full 90 days.

Accordingly, it is requested that Condition 2 be amended to:

(i) delete the words: “(a) The construction of the Federal Parade and Alfred Road carparks are to be commenced within 90 days from the date the consent is granted” and

(ii) insert in its place the following: “(a) The construction of the Federal Parade and Alfred Road carparks are to be commenced within 90 days from the date the consent is issued via the NSW planning portal”.

**Note:** Emphasis (***bold and italics***) added by the Assessing Planner.

**Response:**

The application was deferred from the NBLPP meeting on 15 February 2023 to give the applicant the opportunity to provide updated Transport & Parking Management Plan, Acoustic report and Operational Plan of Management. The information was subsequently provided and assessed by Council.

On 12 May the NBLPP Panel met again to determine the application. The application was determined on **12/05/2023**, however, the Notice of Determination was not issued / uploaded to the Planning Portal until **29 May 2023** (17 days later).

The delay in issuing the consent related to the the timeframe in obtaining the supplementary minutes from the NBLPP following the second NBLPP meeting on the 12 May 2023 and the additional work involved in consolidating the final set of conditions.

It is therefore reasonable to change the date for the commencement of work from 90 days from the *date of the consent* to 90 days from the *date the consent was issued via the NSW Planning Portal, namely 29 May 2023*.

**Warringah Development Control Plan**

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes

**POLICY CONTROLS**

**Northern Beaches Section 7.12 Contributions Plan 2022**

Section 7.12 contributions were levied on the Development Application.

**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 2021;
- 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, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

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

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

## RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2023/0314 for Modification of Development Consent DA2021/2567 granted for Demolition works, construction of two carparks and an increase in student numbers at an educational establishment on land at Lot B DP 395193,0 L Federal Parade, BROOKVALE, Lot 100 DP 1250521,37 - 43 Federal Parade, BROOKVALE, Lot 13 DP 568333,60 Federal Parade, BROOKVALE, subject to the conditions printed below:

## Modification Summary

The development consent is modified as follows:

### MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
PAN-339768 MOD2023/0314	The date of this notice of determination - 19 July 2023	Modification description - The application seeks to modify the following conditions Condition (1) (Approved Reports) so as to update the date of the approved Noise and Vibration Impact Assessment from 05.04.2021 to 05.04.2023 to reflect the relevant version of report on the Panel made the determination.  Condition 2 (Maximum Student Numbers - construction of

		<p>car parks) (a) to amend the timeframe within which to commence construction works to reflect the date the consent was issued / uploaded to the Planning Portal which was 29 May 2023 as opposed to the date of the determination by the NBLPP which was 12 May 2023.</p> <p><u>Amended conditions:</u></p> <p>Condition 1 (Approved Reports) - Noise and Vibration Assessment Project P00054 Rev 006 Dated 05.04.2023 Prepared by E-LAB Consulting</p> <p>Condition 2 (Maximum Student Numbers - construction o car parks) (a) - The construction of the Federal Parade and Alfred Road carparks are to be commenced within 90 days the consent is issued via the Planning Portal (29 May 2021)</p>
PAN-181105 DA2021/2567	Date of determination 12 May 2023	There have been no previous Modifications to the original DA.

### **Modified conditions**

#### **A. Condition 1 is amended to the extent as follows:**

#### **Condition No.1 - Approved Plans and supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

#### a) Approved Plans

<b>Engineering Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
C100 Rev 4 Demolition and Site Management Plan 60 Federal Parade	06.12.2021	Core Project Consulting
C101 Rev 4 Demolition and Site Management Plan Alfred Road	06.12.2021	Core Project Consulting
C200 Rev 4 Sediment and Erosion (SED) Control Plan and Details 60 Federal Parade	06.12.2021	Core Project Consulting
C201 Rev 4 Sediment and Erosion (SED) Control Plan and Details Alfred Road	06.12.2021	Core Project Consulting
C002 Rev 4 Area Analysis and SED Details	06.12.2021	Core Project Consulting
C300 Rev 4 Stormwater Management Plan 60 Federal Parade	06.12.2021	Core Project Consulting
C301 Rev 4 Stormwater Management Plan Alfred Road	06.12.2021	Core Project Consulting
C302 Rev 4 OSD Details 60 Federal Parade	06.12.2021	Core Project Consulting

C303 Rev 4 OSD Details Alfred Road	06.12.2021	Core Project Consulting
C304 Rev 4 Footpath and SW Pit Detail	06.12.2021	Core Project Consulting
C401 Rev 04 Car Park Layout Alfred Road	06.12.2021	Core Project Consulting
C402 Rev 4 Standard Detail Car Park	06.12.2021	Core Project Consulting
C501 Rev 4 Delineation and Line Marking Alfred Road	06.12.2021	Core Project Consulting

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Noise and Vibration Impact Assessment Project P00054 Rev 006	05.04.2023	E-LAB Consulting
Preliminary Arboricultural Impact Assessment Report Ref No 11121	14.07.2021	Rain Tree Consulting
Transport Impact Assessment Ref N19000 Issue C	12.12.2021	Stantec
Traffic and Parking Management Plan Ref N190000 Issue G	06.04.2023	Stantec
Flood Impact Assessment Rev 1	28.07.2022	Core Project Consultants
Operational Plan of Management	06.04.2023	St St Augustine's College

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
L-01 Rev E Landscape Master Plan	10.11.2022	SPACE Landscape Design
L-02 Rev E Landscape Plan Sheet 1	10.11.2022	SPACE Landscape Design
L-03 Rev E Landscape Plan Sheet 2	10.11.2022	SPACE Landscape Design
L-03 Rev E Landscape Details and Specifications	10.11.2022	SPACE Landscape Design

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

**B. Condition 2 is amended to the extent as follows:**

**2. Maximum Student Numbers - construction of car parks**

The maximum student numbers are limited to a maximum 1200. The maximum student numbers may be increased to 1600 on completion of both the Federal Parade and Alfred Road carparks.

On a trial basis the school can operate with a maximum number of 1560 students for period of up to 270 days from the date of this consent, subject to meeting the following criteria:



- (a) The construction of the Federal Parade and Alfred Road carparks are to be commenced within 90 days from the date the consent is issued via the NSW Planning Portal (29 May 2023).
- (b) Both carparks are to be fully constructed and operational within 180 days from the date of the commencement of construction, and
- (c) During the period from the date of the consent to the date of completion of the carparks, the traffic safety measures contained in the approved Traffic and Parking Management Plan are to be fully implemented.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of final Occupation Certificate.

Reason: To ensure there is sufficient carparking to support the increase in student enrolments and minimise impacts on the availability of on street carparking.

In signing this report, I declare that I do not have a Conflict of Interest.

**Signed**



**Anne-Marie Young, Principal Planner**

The application is determined on 19/07/2023, under the delegated authority of:



**Daniel Milliken, Manager Development Assessments**