
Sent: 17/10/2022 7:46:03 PM
Subject: DA2021/2567 Submission
Attachments: 11771 Submission 2.pdf;

Please find attached submission to DA 12021/2567

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17 October 2022

Our Ref: 11771 Submission 2

Northern Beaches Council
799 Pittwater Rd
DEE WHY NSW 2099

Attention: Anne-Marie Young

Dear Anne-Marie,

RE: DA 2021/2567

Property: 60 & 37- 43 Federal Parade, Brookvale St Augustine's College Brookvale

Our clients are owners and residents of 31 Consul Road Brookvale. This submission is resubmitted and updated in response to renotification of the proposed development in October 2022. In preparing this submission we have reviewed all documents available on Council's DA tracking website associated with the current application and past approvals for St Augustine's College and the recently lodged (25 August 2022) additional information. As Council will be aware the College has undertaken an incremental expansion of the College premises whilst at the same time increasing the overall school enrolment beyond the 1200 maximum student cap. Our clients are concerned with the impact of this incremental expansion upon their residential amenity and that of the immediate locality. The manner in which this application has been and prior applications lodged by the College, facilitates the incremental expansion without ensuring adequate and detailed assessment of the likely impact of the overall College development.

Renotification

The renotification of the application to remedy the failure to identify the main St Augustine's site at 37-43 Federal Parade as part of the subject site, is indicative of the need for a comprehensive application providing a masterplan approach for expansion of the school. As is detailed within this submission, St Augustine's have not addressed use of vacant land within the approved School site at 37- 43 Federal Parade nor land within the immediate locality which has been acquired more recently.

Our client's concern remains that the application has been framed to limit consideration of the growth of the student numbers on adjoining and nearby residents. Notably, No. 33 Consul Road to the north of our client's home was approved for ancillary school purposes and is now a vacant lot. The possible use of No 33 Consul Road is not considered within the application before Council nor in the internal referrals. The main areas of concern are:

- access to and from Consul Road
- traffic impacts



- future use of by more active school activities, such as active recreation spaces (cricket nets or basketball courts)
- uncertain acoustic impacts;
- stormwater impacts of complying development within the easement and modified overland flow path.

Our client's also remain concerned that the renotification of this application has not resulted in all previous submissions being resubmitted and would expect that all matters raised in the first notification including all submissions are reported when the application is being considered by the Northern Beaches Local Planning Panel.

Expansion and manner of the College Development

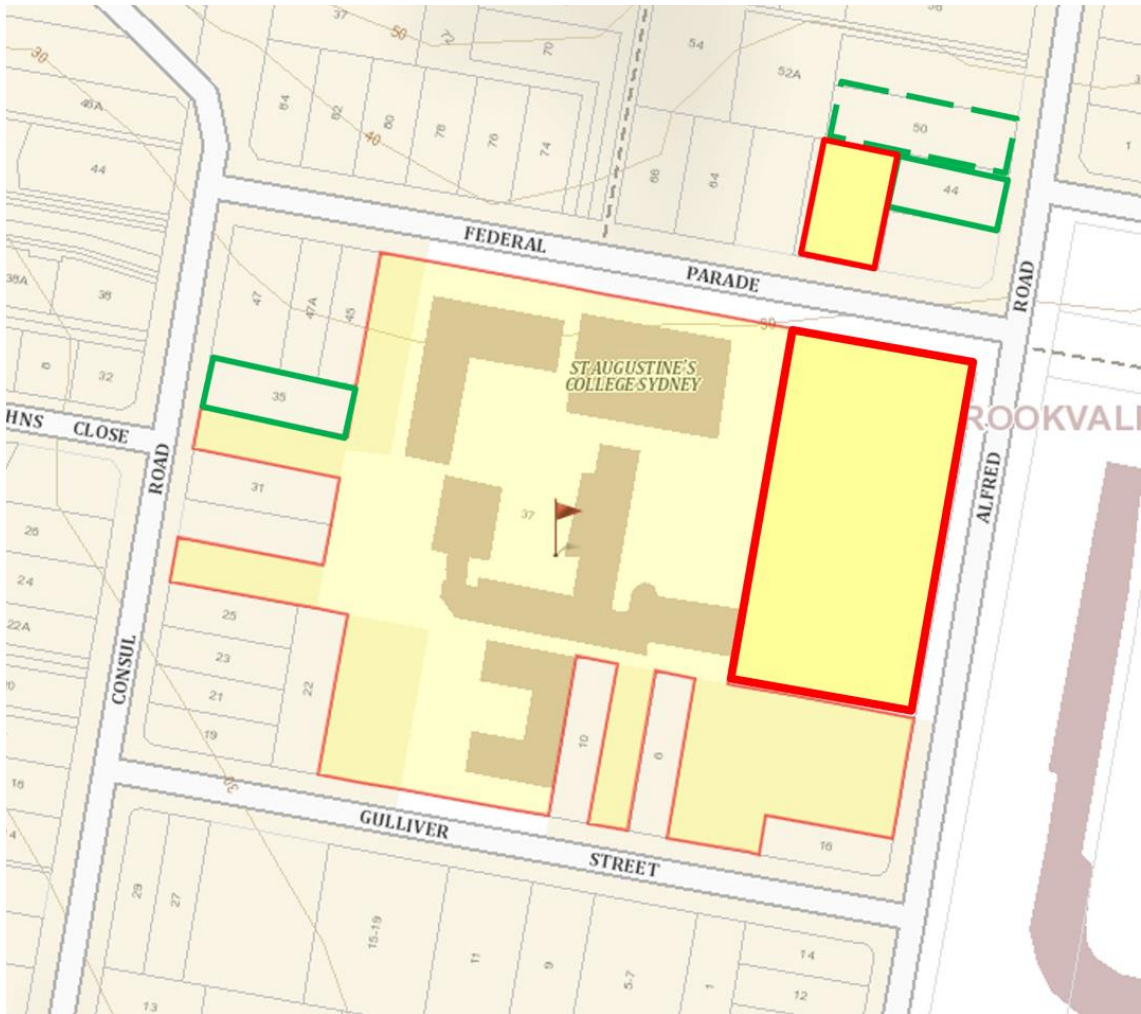
The most recent comprehensive consent was DA2013/1336 granted by the NSW Land and Environment Court on 19 June 2014 for: "*Alterations and additions to an Educational Establishment (St. Augustine's College)*". Despite the imposition of Condition No. 45 of DA2013/1336 which states school/college campus site is limited to a maximum student enrolment of 1200 students, to manage impacts on the locality.'

This application is in response to correspondence in 2020 from Council to the School advising that student enrolment was in excess of 1,200 students. This non-compliance is intentional, St Augustine's College as a private school has control over their enrolments and has actively increased the number of students by close to 400 (a 33% increase to the current and approved student numbers). The overall student numbers and intentions of the College have already and will continue to impact upon the residential amenity within the immediate locality.

Unlike a public school, within a residential area, where the student population come from the local area and enrolments will increase and fall with the demographics of the local population, St Augustine's College has over the last 20 years seen constant growth in the school grounds, facilities offered and overall student numbers. It is not anticipated that the student numbers will be reduced as the operation of the College is a commercial venture that must support the investment in the site as existing and proposed expansion.

It is clear that St Augustine's does not intend to limit the development to the sites identified in this application. A review of land ownership within the vicinity of the site has revealed the college now owns at least two additional properties as identified in red below. In light of these purchases and a failure to identify a potential use for these properties within this application, it is premature to consider an increase in student numbers beyond the current enrolment which is indicated to be in the order of 1400 -1500 students and exceeds the approved student cap.

The SEE describes that despite the increase in student numbers there is no proposal within this DA, for any additional floor area increase on the site. This position is inconsistent with the recent improvements and site acquisitions within the locality. A review of the landownership within the vicinity indicates in addition the properties approved for use identified within the SEE, the parcels in green outline are also owned by St Augustine's. It is also understood within the neighbourhood that No 50 Alfred Street (green dash outline) has now been acquired. No 50 Alfred is located immediately to the north of the Federal Parade proposed carpark.



St Augustine's owned properties.

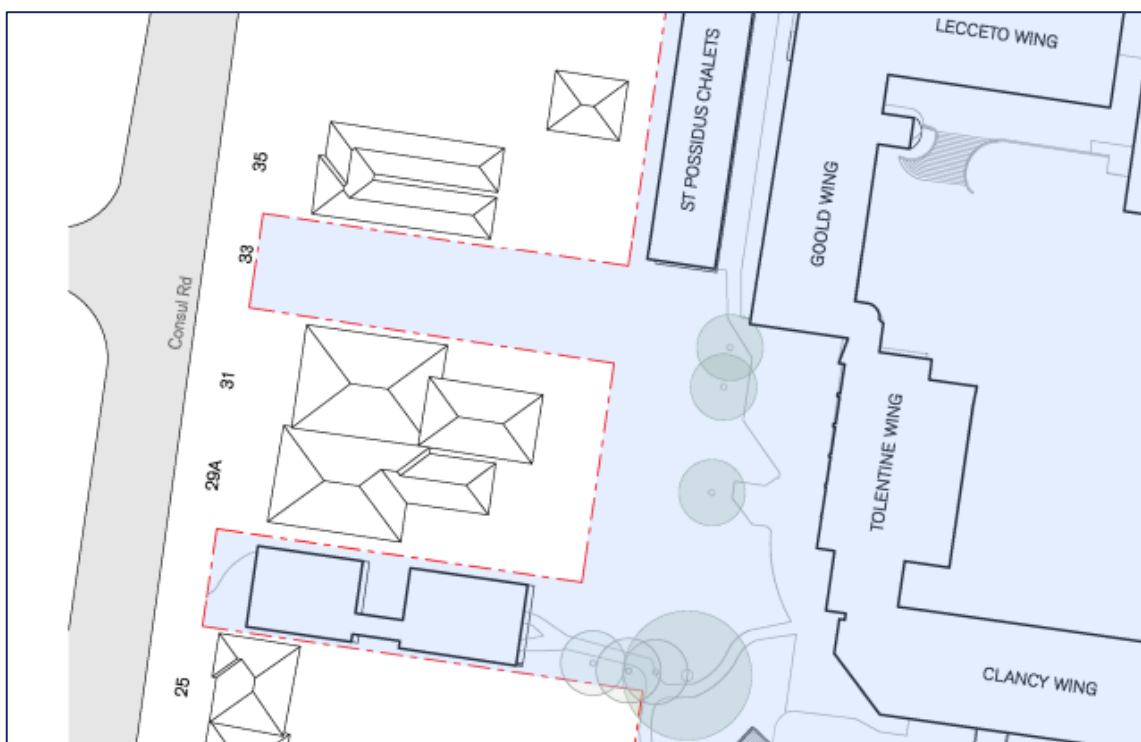
The School has previously purchased multiple allotments adjoining the St Augustine's College campus which now form part of the School in this application. Each of the allotments identified in the DA as being school premises have sought and obtained change of use development consent in place for use as an educational establishment. This practice of incremental growth has enabled the School to make use of the former State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 provisions, now State Environmental Planning Policy (Transport and Infrastructure) 2021 to subsequently redevelop the site without the need to seek approval for subsequent buildings and facilities from Council.

The practice of minimising the scale of the development for which approval is sought and then applying exempt and complying development provisions enables the incremental growth and gives rise to potential amenity impacts for which no assessment is made. Whilst the use of exempt and complying development provisions may be suitable within the body of school site and where there is no increase in student numbers, the approach taken has resulted in residential dwellings being surrounded by school development. The improvement in school facilities has enabled the increase in student numbers and so the approval process is circumvented.



The SEE describes that despite the increase in student numbers there is no proposal within this DA, for any additional floor area increase on the site. To prevent the incremental growth, Council could condition the proposed consent of the upper limit of this DA at 1600 students on the provision that no further expansion or addition of floor area is achieved for any further classrooms, active or passive activities, administration, or any other ancillary uses without the implementation of an overall site specific masterplan showing all current and new lots acquired.

Our clients remain particularly concerned as to the likely impacts as a result of the inclusion of No 35 Consul Road by a similar practice. Notably, the current Development Application does not provide for any works within No 33 Consul Road. The existing dwelling at No 33 Consul Road was demolished immediately prior to the lodgement of DA2018/1804 . The stamped plans provided for no physical works as illustrated in the extract of the approved plans below.



Extract of Stamped Approved Plans for DA2018/1804

During 2019, No 33 Consul Road was used for construction access, notably for building works that were not identified within DA 2018/1804 as shown in the aerial photograph below dated 12 March 2019.



Aerial Photograph 12 March 2019

These construction works resulted in filling at the rear of No. 33 including a ramp over the Greendale Creek overland flow path and Council easement (within the yellow circle). Upon the completion of works the overland flow path was partially cleared but the filling has remained within the fence line of No 33. Our client is unaware of any approval for these works and does not recall any notification being given. The land is yet to be stabilised from a soil and water management point of view and in times of rain turbid water and sediment is washed off these unstabilised works, onto our clients property.

Our client would be interested to see a copy of the Council approved plans for these filling works and supporting stormwater and flooding report supporting the modification to Council overland flow path prior to the commencement of those works. If Council consent was not obtained one as part of those works, it should be required as part of this current DA, as this approval may be a default approval for works for which consent is required. We note the recent decision in *Ku-ring-gai Council v Buyozo Pty Ltd* [2021] NSWCA 177 that requires that works the subject of a development or modification application must be prospective. The lack of detail as to works within and adjacent to No 33 Consul Road requires greater scrutiny prior to the granting of any development consent.

A recent aerial photograph indicates that there have been no landscape improvements and the site is being used for storage purposes without approval.

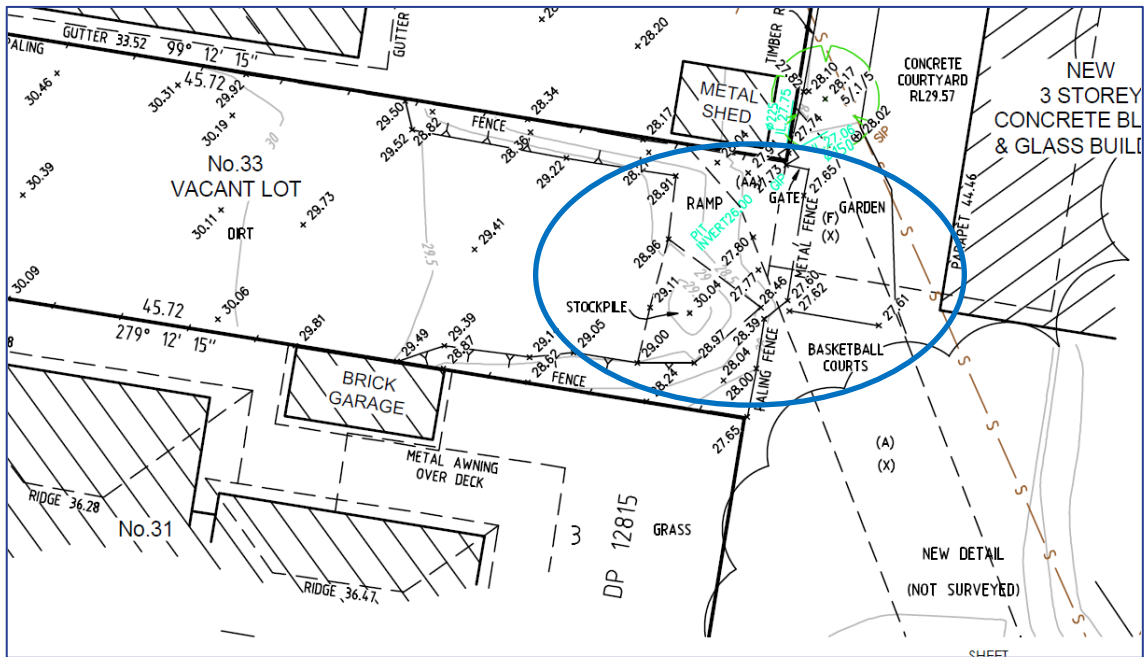


Aerial Photograph 28 Jul 2022

Extract of Plans for DA2020/1514 (Withdrawn)

DA 2020/1514 for "Alterations and additions to an existing educational establishment to accommodate an increase of student numbers" was submitted in November 2020 and withdrawn in March 2021. The SEE that supported the withdrawn DA indicated the school was seeking approval for an increase in school numbers from 1200 to 1500 students with a request to provide parking facilities on No 33 Consul for 15 additional spaces. We understand that this application was withdrawn as a result of Council's initial assessment.

We note that in the withdrawn submission is a survey undertaken by LTS Lockley (Rev I dated 18/8/2020) and submitted as part of DA2020/1514. The survey shows the unapproved filling works and stockpile as an "existing" landform, and not as unapproved filling works. It also shows the batters from these works extending across the Council easement modifying the existing overland flow path. Refer to plan extract below.



Extract of survey undertaken by LTS Lockley (Rev I dated 18/8/2020)

The unapproved filling works are also evidenced by the extract from the Waste Management Plan submitted within the DA package and shown below. This plan was prepared by Core Project Consulting dated 20/9/2020. The plans show a batter area (hatched blue) and photographs indicating the batters falling to the base of the existing fence. The fence was erected prior to the commencement of works for the new building behind No 33 Consul Road. The base of the existing fence indicates the original ground level prior to the placement of the unapproved fill during the construction, and was never removed.



Extract Waste Management Plan Core Project Consulting dated 20/9/2020



Upon review of the documents also provided with DA2020/1514 the overland flow assessment shows a concerning modification to the Council stormwater system an 1/100 overland flow regime as part of these works, redirecting flood waters onto the rear of No. 31 Consul Road. The overland flow path should have been contained and maintained within the existing easement passing through No.s 35, 33 and the school, as a result of the new building and overland path modification works. No easement has been acquired by the school over our client's property for the modification to the overland flow path, to allow it to now spread and flow outside the existing easement and within their property.

An extract of the Overland Flow assessment prepared by Cardno dated 4 July 2018 as part of the withdrawn submission shows a realignment of the overland flow path away from the easement (marked (A) and (X) on the survey plan above). This realignment is now moved towards No 31 Consul Road. This is noted by Cardno on Figure 2 within the report. Refer to extract below.



Overland Flow assessment prepared by Cardno dated 4 July 2018

The results table within the Overland Flow Report shows a tabulated representation of the modified 1/100 year flood levels with a top water level of 27.95m at Chainage 38, which is the closest section to the north east corner of 31 Consul Road. (refer to extract below). The survey plan extract above shows the ground level within our client's property at 27.65m indicating that the overland flow is now **300mm deep** across our client's property in the 1/100 year event and not contained within the school site. We would request Council require the School to undertake necessary flood analysis with adequate modification works to demonstrate the realignment and appropriate depth of the overland



flow path though the school site to contain these flood waters within the existing easement, prior to the approval the current DA to rectify this matter.

Location	1% AEP Water Level (RLm)	Comments
CH 54.00	28.69	At the metal shed in the neighbouring property. Existing surface level at the school boundary RL 28.25m. Proposed Goold Building Ground Floor RL 29.59m
CH 52.00	28.49	
CH 50.00	28.34	
CH 48.00	28.22	At the corner of the Goold Building
CH 42.66	28.16	Fore court of the Goold Building
CH 40.00	28.10	At the top of the retaining wall adjacent to the cricket nets
CH 38.00	27.95	At the bottom of the retaining wall, within the cricket nets area

During the recent intense storm event in March of 2022, my clients observed waters flowing from the school onto the grassed areas within the rear of property causing ponding of up to 100mm during and after that storm event.

Whilst this information was initially submitted to address the incremental development of the school and the works on No 33 as part of the DA relating to an increase in student numbers and subsequently withdrawn, it does not appear to be adequately carried though or addressed within the current DA to increase student numbers to 1600 students, noting that Nos 33 forms part of the school site and No 35 is in school ownership.

Insufficient Information

A detailed masterplan is warranted given the intensification of the use of the School property and the recent adjoining properties purchased.

Neither the Transport Impact Assessment, Traffic and Parking Assessment or SEE submitted with DA2021/2567 detail the proposed cohort increases proposed. This lack of detail would enable the ongoing use of the site without sufficient clarity to determine the likely impacts which may vary. For example, the site provides Yrs 5 to 12 education, typically younger children are less likely to use public transport, equally senior students are more likely to drive. The breakup of the additional student numbers will impact upon the use of the site and so vary the likely impacts. Whilst noted that senior students will be required to seek School approval to drive to school, given the extent of the School boundary this would be difficult to enforce. In addition, there is no limit as to the number of approvals likely to be issued for the current or future acquisition the school has or will make.



The Amended Traffic and Parking Assessment dated 25 August 2022 and SEE is silent as to access from Consul Road via No 33. Consul Road despite the fencing and gate which could be accessed at any time by either vehicles or pedestrians as illustrated in the photograph below.



Google Streetview image of No 33 Consul Road

The Noise and Vibration Impact Statement submitted with DA 2021/2567 prepared by E-Lab Consulting dated 13 December 2021 does not consider the potential acoustic impacts upon our client's property should No 33 Consul Road be used for active uses. As the current application seeks to increase the student numbers there at the least should be a level of assessment of the likely use of No. 33 Consul Road which could be even greater if No. 35 Consul Road is amalgamated with the site. The School Operation Noise Impact Assessment *"assumed that students are evenly distributed throughout all school outdoor play areas and sports fields."* We would anticipate that even distribution of students cannot be achieved with appropriate supervision also that some levels of amplification systems or Public Address (PA) would continue to be used and need extension, as is currently the case.

This application should be accompanied by a Plan of Management, indicating the areas of the site that will be used for active purposes. Council could in the same manner as a condition of consent is included for overall student numbers and parking, the Plan of Management would be a binding document and provide greater certainty and opportunity for assessment and review as further sites are acquired and new buildings and facilities proposed.

In addition to these matters, the flooding matter raised earlier in this letter is also insufficiently dealt with and should also be addressed prior to any approval being granted.



Conclusion

The submission of DA2021/2567 provides an opportunity for a thorough assessment of the School's on going use and future development and likely impacts upon the adjoining residential development by increased finger like and enclosing property acquisitions. The current application despite seeking an increase of 400 students, representing an increase of one third again student numbers above the approved student numbers, only provides additional parking. There are no ameliorating or operational proposals/protocols included to seek to minimise the impact of the School use upon the residential amenity of the adjoining and nearby properties. The impacts of the incremental building expansion works at the rear of No 33 Consul Road have not been fully addressed, including the modified flooding impacts on their surrounds in this vicinity and should be included as part of this assessment.

This application appears to leave No.33 Consul Road available for any type of school use that may be enabled as either exempt and/or complying development without any consideration of the likely impacts upon the residential amenity of our client's property.

We note that amended details have been submitted 25 – 29 August 2022. It is unclear as to the (if any) amendments to the proposal have been made as the plan references have not been amended. The Core Project Consulting Report dated 28/07/2022 is marked as "Draft" and refers to a Survey Plan not attached or referenced. In light of the realignment of the overland flow path and likely future works over 33 and 35 Consul Road, the stormwater management of the site needs to be considered wholistically as opposed to piecemeal over the sites for which actual physical works are proposed. The Development Engineering referral only considers the works within No. 60 Federal Parade.

Given the previous disregard for conditions of consent, incremental growth of the school and general lack of details provided with this application, an approval to increase the overall student numbers should not be supported. Incremental growth in accordance with a well-developed approved masterplan and plan of management would assist in enabling the school to improve facilities and grow whilst also respecting the residential amenity of the neighbourhood.

Yours faithfully

GLN PLANNING PTY LTD

**JILLIAN SNEYD
CONSULTANT TOWN PLANNER**