



## MODIFICATION OF DEVELOPMENT ASSESSMENT REPORT

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| <b>Assessment Officer:</b>                      | Alex Keller  |
| <b>Address / Property Description:</b>          | Lot 101 DP 1159742, Lot 1 and 2 DP 725754<br>212 Forest Way BELROSE  |
| <b>Proposal Description:</b>                    | Section 96(2) modification of DA2010/1949 for alterations and additions to a Primary School and Further Education Establishment.<br>(Modification is to increase enrolment maximum, from 900 to 1100 students)       |
| <b>Modification Application No:</b>             | MOD2015/0078   |
| <b>Application Lodged:</b>                      | 22/4/15  |
| <b>Plans Reference:</b>                         | Traffic Management Policy V5 June 2015   |
| <b>Amended Plans:</b>                           | N/A  |
| <b>Applicant:</b>                               | Covenant Christian School  |
| <b>Owner:</b>                                   | Trustee Covenant Christian School  |
| <b>Locality:</b>                                | C8 Belrose North   |
| <b>Category:</b>                                | Category 3 – “Further education” and “Primary School”<br>(Existing Category 3 Use)   |
| <b>Variations to Controls (Cl.20/Cl.18(3)):</b> | N/A  |
| <b>Referred to ADP:</b>                         | NO   |
| <b>Referred to WDAP:</b>                        | YES - (Section 96(2) Modification of previous existing Category 3 approval - Independent Public Hearing required)  |
| <b>Land and Environment Court Action:</b>       | NO   |
| <b>SUMMARY</b>                                  |  |
| <b>Submissions:</b>                             | (One) 1 Objection  |
| <b>Submission Issues:</b>                       | Desired Future Character & low intensity low impact, scale of change to enrolments, inadequate on-site parking, retention of bushland setting, traffic, bus use, multiple entry/exit gates, waste water, open space. |
| <b>Assessment Issues:</b>                       | Consistency with Desired Future Character (DFC) & low intensity low impact, traffic parking management, impact on Council assets.  |
| <b>Recommendation:</b>                          | Refusal  |
| <b>Attachments:</b>                             | Conditions of consent for DA2010/1949  |



## LOCALITY PLAN (not to scale)



### Subject Site:

Lot 1 DP 725754 (215.7 sqm)  
Lot 2 DP 725754 (200.9 sqm)  
Lot 101 DP 1159742 (3.536 hectares)

212 Forest Way, Belrose.

### Public Exhibition:

The subject modification application has been publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan (adopted 13<sup>th</sup> December 2005). As a result, the application was notified to 31 adjoining land owners and occupiers, including objections to the original DA. Notification commenced on 5 June 2015 and ceased on 30 June 2015. Furthermore, the application has been advertised within the *Manly Daily* on 6 June 2015, and a notice was placed upon the site.



## **SITE DESCRIPTION**

The subject site is known as the “Covenant Christian School” and is located at 212 Forest Way, Belrose. The school operates as an independent private school, catering for classes from ‘Kindergarten’ to ‘Year 12’. The site is an “L” shape with frontage to Dell Street, Linden Avenue, Bundaleer Street and Forest Way. The main entrance to the school is located at the end of Dell Street adjacent to the Wakehurst Rugby Oval. The site is gently sloping and stormwater from the site drains northwards to a detention facility within the school near a low point in Bundaleer Street. Dimensions of the site are as follows:

- Eastern boundary: 113m (Wakehurst Parkway).
- Southern boundary: 282m (access from Dell Street).
- Western Boundary: 182m (Linden Street).
- Northern Boundary: 195m plus 88m (Bundaleer Street).
- Site Area: 3.5776 Hectares.

Within the parking facilities of the school grounds a total of fifty-one (51) off-street staff car spaces are currently provided on site, plus one (1) disabled persons car space, three (3) visitor car parking spaces, two (2) motor bike spaces, an eighteen (18) bicycle space rack and space for four (4) buses. In addition, the school utilises forty-eight (48) formed and line marked parking spaces within Dell Street for staff and the cul-de-sac of Dell Street is used for a pick/drop off zone for students. Sections of the surrounding streets in Linden Avenue, Bundaleer Street and Waldon Road have unformed gravel kerbside areas which the school also utilises for staff parking (20 cars), student parking (9 cars), bus services (waiting) and additional unrestricted parking. A public bus stop (2 bus capacity) is located on Forest Way adjacent the school oval, which the school utilises for “west bound” transit.

The Covenant Christian School is located within a semi-rural area of mixed land uses, including nurseries, sports fields, schools (‘Kamaroi’, ‘Yanginanook’ and ‘John Colet’ plus the Leonis Foundation), the Belrose Waste Management Centre, Optus Earth Station, a sand and gravel supplier, rural residential land, vacant Crown land and Garigal National Park.

## **SITE HISTORY**

The following chronology details the approvals issued by Council in respect of the subject site:-

- 12 October 1978 – Consent No. 78/244 for an educational establishment issued by Council.
- 11 July 1980 - Consent No. 80/206 for additional classroom block to school (Stage 2).
- 29 June 1981 – Consent No. 81/26 for erection of an educational establishment (Stages 3, 4 and 5) also amending Consent No. 78/244 by relocating and reorientating the classroom buildings.
- 23 December 1981 – Consent No. 81A/385 for erection of a temporary classroom.
- 27 September 1988 – Consent No. 88/312 for erection of a classroom building (Stage 6)
- 27 December 1989 – Consent No. 89/545 for school additions to create a staff room.
- 11 April 1990 – Modification of Consent No. 88/312 involving the temporary retention of demountable classrooms.





4 June 1990 – Consent No. 90/177 for a staff common room.

23 April 1992 – Consent No. 92/123 for additions to a school classroom.

12 February 1996 – Consent No. 96/44 for alterations and additions to existing library.

2 November 2000 – Deferred Commencement Consent No.2000/3741 for a Multi-Purpose Hall to be used in conjunction with the school and additional carparking (This included the formalisation of existing roadside parking in Dell Street for 50 carspaces).

10 July 2003 – Consent No.2003/338 for the construction of a temporary portable classroom building.

8 May 2007 – Consent No.DA2005/0915 - Construction of New Classrooms Amenities Block Carpark New Bus Bay and Removal of Existing Demountable (Not constructed)

2 July 2009 – Modification No.MOD2008/0349 - Construction of New Classrooms Amenities Block Carpark New Bus Bay and Removal of Existing Demountable (to modify DA2005/0915 in relation to 'Building Block A').

8 July 2009 – Complying Development Consent No.2009/0033 – Construction of new classroom facilities. (Ref J080372 / BER Job P21-01-017) (CDC that was issued, used the design for "Building Block A in MOD2008/0349)

20 December 2011 – Consent No.DA2010/1949 for alterations and additions for new library facilities, a music auditorium and four new classrooms.

14 May 2015 – Development Application DA2015/0289 for signage was withdrawn.

## **PROPOSED DEVELOPMENT**

Modification of Condition No.41 "Maximum Enrolments" detailed under development consent DA2010/1949, to increase enrolments from 900 to 1100 students.

## **AMENDMENTS TO THE SUBJECT APPLICATION**

The proposal was originally lodged as a Section 96(1) but was changed to a Section 96(2) on 2 June 2015 following Council's written advice to the Applicant, dated 5 May 2015.

## **STATUTORY CONTROLS**

- a) Environmental Planning and Assessment Act 1979
- b) Environmental Planning and Assessment Regulations 2000
- c) Local Government Act 1993
- d) Disability Discrimination Act 1992
- e) Rural Fires Act 1997
- f) State Environmental Planning Policy No. 55 – Remediation
- g) State Environmental Planning Policy 2007 – (Infrastructure)
- h) Warringah Local Environment Plan 2000
- i) Draft Warringah Local Environment Plan 2009
- j) Warringah Development Control Plan
- k) Section 94A Contributions Plan

## **PUBLIC EXHIBITION**

The subject modification application has been publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development



Control Plan (adopted 13<sup>th</sup> December 2005). As a result, the application was notified to 31 adjoining land owners and occupiers, including objectors to the original DA2010/1959. Notification commenced on 5 June 2015 and ceased on 30 June 2015. Furthermore, the application has been advertised within the *Manly Daily* on 6 June 2015 and a notice was placed upon the site.

One (1) submission was received in response to the notification from the following party:

| Submission                     | Address                   |
|--------------------------------|---------------------------|
| Belrose Rural Community Assoc. | PO Box 401 Frenchs Forest |

Relevant issues raised are summarised and addressed hereunder:

***i) The proposal is not satisfactory having regard to the DFC requirement for low intensity low impact and maintaining the rural character.***

**Comment:**

Consistency with the DFC has been addressed in detail under the heading “Desired Future Character” within this report. In summary, it is considered that sufficient emphasis has not been placed on minimising impacts on the intensity of use by meeting parking requirements for the school to be contained within the site. As a result impacts on traffic and parking are displaced onto Council’s public assets surrounding the site to meet parking and traffic demand. This is not consistent with the DFC for “low intensity low impact” and to ensure that “*the present Character of Belrose North will remain unchanged*”. This issue warrants refusal of the proposal.

***ii) The proposal does not satisfy requirement for a ‘bushland setting’ for 50% of the site.***

**Comment:**

The school has a comprehensive range of facilities on the site, mostly established prior to the WLEP 2000. Any additional parking on-site would need to be designed and positioned to account for the DFC landscaping requirement by maintaining all remaining landscaped open space. It is improbable that the school could fully provide 50% of the site as densely planted bushland areas given the need for open space facilities (i.e. playground). The remaining available space of natural vegetation is within small pockets and marginal areas around the perimeter of the site. Notwithstanding this, opportunities do exist for substantial replacement tree planting to occur within the remaining setback areas to compensate for previous incremental losses of landscape planting. The approved landscaping planting for the site is shown under the plans (L01 & L02) under DA2010/1949. Since the modification does not include any physical works, this issue does not warrant refusal of the application.

***iii) Concern that the proposal does not satisfy requirements for densely landscaped setbacks free of structures, car parking or site facilities and the school has not maintained adequate open space and is dependent on land adjacent street parking.***

**Comment:**

The proposal does not propose any new works as part of the application, therefore changes to landscaped open space is not factored in as part of the proposal. An “open space analysis” has been provided with the application to demonstrate that the school has adequate open space areas within the site at present to provide a balance between



open space for the school building facilities. The school's activities also include use of the adjacent facilities of a recreation club (tennis courts) at No.1 Waldon Road, and the Wakehurst Rugby Oval (Crown Reserve). Any substantive increase in student numbers will place a corresponding demand on adequate provision of open space. It is unclear if any areas of existing open space are suitable for enhancement by supplementary planting to maintain setback requirements and enhance the landscape setting. This issue is further addressed within this report under the heading "Desired Future Character".

**iv) *Concern that the school is not addressing their dependence on parking in surrounding streets including improving "kiss and drop" facilities, utilising buses or mini-buses and creating more on-site parking.***

**Comment:**

The proposal will continue to rely principally on parking off-site for the increased enrolments. Details of the parking management strategy and traffic management plan have been considered by Council's Traffic Engineering section, Roads and Assets section and Property Management section. Concerns with the proposal have been raised by each section which concurs with this issue. Detailed referral responses are provided within this report under the heading "Internal Referrals". In summary, this issue has determining weight and warrants refusal of the modification.

**v) *Concern that the waste water system will be inadequate to cater for the increased enrolments***

Waste water for the school is disposed through an on-site dispersal / evaporation system integrated with the main oval. An increase in school enrolments will place additional demand on the effluent disposal system. Council's Environmental Health Officer has reviewed the proposal and raised no objection to the proposal, subject to an additional condition that the development is not to overly impact the environmental performance of the subsurface waste water disposal area. A recent inspection was conducted on the 5 May 2015 as part of the *Warringah On-Site Sewerage Management Strategy* and the system was deemed to be operating satisfactorily at the time.

## **MEDIATION**

Has mediation been requested by the objectors?

No

## **LAND AND ENVIRONMENT COURT ACTION**

Nil

## **REFERRALS**

### ***External Referrals***

#### **NSW Rural Fire Service**

The original development consent for alterations and additions to the school was 'Integrated Development' pursuant to section 91 of the *Environmental Planning and Assessment Act 1979*. In this regard, a bushfire safety authority has been issued from the Rural Fire Service under *Section 100B of the Rural Fire Services Act 1997*.

The Rural Fire Service issued a bushfire safety authority on the 17<sup>th</sup> January 2011 which has been reviewed by an accredited bushfire consultant and no changes are recommended.

**Ausgrid**

The modification was referred to *Ausgrid* in accordance with the requirement of SEPP 2007 (Infrastructure). *Ausgrid* previously provided a response on the 8<sup>th</sup> December 2010 to the original application with no objection, subject to conditions. No referral response has been provided for the modification of consent within the 21 day statutory period.

**NSW Roads and Maritime Service**

The Roads and Maritime Service has provided a referral response dated 16 July 2015 and raise “no objection to the proposed modification for increase in student numbers”.

**NSW Police Force**

The NSW Police – Local Area Command has considered the modification pursuant to CPTED (Crime Prevention through Environmental Design) and provided a referral response dated 19 June 2015 and raised no objection and no comments.

**Internal Referrals****Development Engineer**

Council's Development Engineer has raised no comments to the modification of condition No.41 Maximum Enrolment as no engineering works are proposed.

**Traffic Engineer**

Council's Traffic Engineer has raised objection to the proposal and cannot support the modification for the following reasons:

*“The proposed modification is for an increase in student numbers from an existing 869 to 1,074 over the next 5-10 years. The traffic report and traffic management plan provided have identified that the current arrangements are satisfactory.*

*There are a number of concerns with the current parking around the school and the impacts of increased enrolments. While it is acknowledged that the school contributed to the provision of the angle parking area in Dell Street there are concerns with the parking that occurs in Waldon Road and Linden Avenue under the current arrangements.*

- 1. There is a degree of illegal parking that occurs at the intersection of Dell Street and Waldon Road, with vehicles angle parking on the unformed area and within 10 metres of the intersection.*
- 2. The staff parking on the eastern side of Linden Avenue reduces the effective travel lane to less than 3m for southbound traffic. This is an unacceptable situation and this parking should be removed to ensure that satisfactory lane widths are provided along this section of road.*
- 3. The proposed student parking on Waldon Road is also on an unformed area of Waldon Road.*
- 4. The bus waiting area in Waldon Road is also on an unformed area which should be referred to Council's Development Engineers to identify suitable works to accommodate this use.*
- 5. There is concern over the use of the cul-de-sac turning area at the end of Dell Street for the pick-up and set down of students and the potential conflict with the entry/exit of buses at school start and finish times with increased enrolments.*



*The proposed modification does not comply with the Warringah DCP for the provision of parking for each staff member in attendance, adequate provision for student parking and, given the reliance on the Forest Way bus stop and the use of Waldon Road for the ranking of buses, provision of a bus standing area.”*

**Planning Comment:**

The Covenant Christian School is increasingly reliant on parking within the surrounding streets due to inadequate on-site facilities to cater for the increasing student enrolments. Comments from Council's Traffic Engineer are concurred with and provided as reasons for refusal to the modification.

**Roads and Assets**

Council's Road and Assets management has provided the following referral response comments:

*“It would appear that expansion of the school may generate additional vehicle and pedestrian access demand. It is noted that the Traffic Management Plan identified areas for additional parking in Linden Avenue and Waldon Road are located on unsealed road shoulders as is a bus layover area.*

*In Linden Avenue, there are no pedestrian facilities or kerb and gutter between Waldon Road and Bundaleer Street. Similarly, in Waldon Road the existing unregulated angle parking between Forest Way and Dell Street, there is a lack of kerb and gutter and pedestrian facilities. Given the expected increase in demand for such facilities by teachers, parents, students and school visitors, it may be reasonable that this demand be met by the applicant with a condition to establish a reasonable standard of access for vehicles and pedestrians given it appears the areas are used for school related parking and access.*

*Council is often in receipt of such requests from school communities for improvements around schools with limited means to provide such facilities.*

*It is requested that Council's Development Engineering Section provide conditions requiring the construction of footpath and kerb and gutter to school frontages in Linden Avenue (all day staff parking zone) and Bundaleer Street, formalize the intersection of Dell St and Waldon Avenue with proper kerbing to prevent adhoc parking on the road verge, and formalizing angle parking along Waldon Avenue where student parking and bus waiting zones are identified in the Traffic Management Plan to prevent damage to existing asphalt road pavement and unsealed road shoulders given the intensification of use.”*

**Planning Comment**

The increased intensity of use for the site will result in greater impact on the surrounding street for parking and traffic management including buses. The school is transferring impacts on public roads and assets by the displacement from inadequate on-site parking and traffic management facilities within the boundaries of the Covenant Christian School. Comments provided by Council's Roads and Assets services warrant refusal of the modification due to the inadequate facilities to cater for the increased enrolment.

**Property, Buildings & Spatial Information**

Council's Property and Commercial development management services have provided the following referral response comments:

*“Sufficient parking must be provided on applicant's site to comply with Council's planning requirements.*





*The application is seeking to utilize all street parking which will impact on the operation of activities upon the adjacent recreation reserve.”*

**Planning Comment**

The increased intensity is reliant on road side reserve land and infrastructure outside the school boundaries. This is inconsistent with the desired future character for the *C8 Belrose North Locality* and *General Principles* of *Warringah LEP 2000*.

**Environmental Health – Unsewered Lands**

Council's Environmental Health Officer has reviewed the proposed modification and no objection is raised to the modification subject to the proposal not impacting the subsurface waste water disposal area which is integrated with the School's main sports oval.

**Planning Comment:**

This issue is may be addressed by conditions, subject to any approval.

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

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

| <b>Section 79C Consideration'</b>                             | <b>'Matters for</b>                                   | <b>Comments</b>   |
|---|---|---|
| <b>Section 79C Provisions of environmental instrument</b>     | <b>(1) (a)(i) – of any planning</b>                   | See discussion on “Environmental Planning Instruments” in this report.  |
| <b>Section 79C Provisions of environmental instrument</b>     | <b>(1) (a)(ii) – of any draft planning</b>            | None applicable.  |
| <b>Section 79C Provisions of any development control plan</b> | <b>(1) (a)(iii) – of any development control plan</b> | Warringah Development Control Plan applies to this proposal. The proposal has been notified and advertised in accordance with the DCP.  |
| <b>Section 79C Provisions of any planning agreement</b>       | <b>(1) (a)(iiia) – of any planning agreement</b>      | None applicable.  |
| <b>Section 79C Provisions of the regulations</b>              | <b>(1) (a)(iv) – of the regulations</b>               | <p>The EPA Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia. This matter is not relevant to the modification.</p> <p>Clause 92 of the EPA Regulations 2000 requires the consent authority to consider AS 2601 - 1991: <i>The Demolition of Structures</i>. This matter is not relevant to the modification.</p> <p>Clause 93 of the EPA Regulation 2000 requires the consent authority to consider the fire safety upgrade of</p> |



| Section 79C 'Matters for Consideration'  | Comments   |
|--|--|
|  | development. This matter is not relevant to the modification.  |
| <b>Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</b> | <p>i) The environmental impacts of the proposed development on the natural and built environment are addressed under the <i>General Principles of Development Control</i> in this report. In summary, concerns are raised with respect to the reliance on surrounding streets for the additional parking demand. Given that the school already has a high dependence on public land to cater for its car parking needs, further intensification of use is not supported as it is symptomatic of an overdevelopment of the site.</p> <p>(ii) The proposed modification will not have a detrimental social impact on the locality considering the educational character of the proposal.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the mixed semi-rural uses within the surrounding locality and the existing and ongoing use of the site for educational purposes.</p>  |
| <b>Section 79C (1) (c) – the suitability of the site for the development</b>   | <p><b>Location</b> - The site is presently developed as a school and has frontages to Dell Street, Linden Avenue, Bundaleer Street and Forest Way. The site is adjacent by a tennis centre and sports field on the south side, rural land to the west and a childcare centre and primary school to the north. The locality of Belrose North has a rural character within bushland surroundings.</p> <p><b>Physical</b> - The site has a modest slope to the north, and stormwater drains to Council's infrastructure, via the existing on-site detention system. The School facilities are intensively clustered through the centre of the site. Recent major development on the site constituted new library facilities, a music auditorium and classrooms.</p> <p>No significant expansion or augmentation of carparking facilities have occurred in recent years. However, parking and traffic management were rationalised under DA2010/1949. The majority of routine parking and traffic activity relating to staff parking, parents and, student parking now occurs outside the site boundaries on the surrounding street frontages.</p> <p>Concerns are raised in relation to traffic engineering</p> |



| Section 79C 'Matters for Consideration'  | Comments   |
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|  | matters, roads/assets engineering and Council property asset management. The intensification of the site is not suitable due to increasing reliance on public assets to support the school expansion.  |
| <b>Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</b> | One (1) submission was received in response to the advertisement and notification of this application. See “Notification and Submissions” in this report.  |
| <b>Section 79C (1) (e) – the public interest</b>   | <p>Issues raised in the public interest have been addressed in this assessment. Assessment matters have arisen that warrant the refusal of the modification in the public interest.</p> <p>The wider public interest is served by ensuring that the proposal is consistent with the relevant planning controls under Warringah LEP 2000, including maintaining the “Desired Future Character” and compliance with the “General Principles of Development”.</p> |

### **Local Government Act 1993**

Council is empowered under the *Local Government Act 1993* to be the approval authority for this proposal and grant any works or permits required in accordance with Section 68 of that Act as part of the development assessment process. This includes the management of stormwater, waste water disposal and access or works to a local public road.

### **Disability Discrimination Act 1992**

Under Section 23 of the *Disability Discrimination Act 1992* provision must be made to ensure equitable and convenient access to the public and semi-public space within the development. Accessibility design standards are defined within Australian Standard (AS) 1428.2 for construction work. In this case, no works are proposed however the school previously completed works under DA2010/1949 for access within the relevant school areas to comply with AS 1428.2.

## **ENVIRONMENTAL PLANNING INSTRUMENTS (EPI's)**

### **State Environmental Planning Policies (SEPPs)**

#### **State Environmental Planning Policy No 55 – Remediation of Land**

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that part of the subject site has been previously used for the purposes of a nursery (prior to consolidation) and the remaining area has been a school for a significant period of time. Investigations for potential contamination from the nursery use were completed as part of a previous DA proposal under DA2005/0915 with the submission of a “*Preliminary Contamination Assessment Report*, prepared by *Geotechnique*



*Pty Ltd*, dated 8 September 2005”. The report concluded that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the site is considered to be suitable for the continuing land use as a school.

### **State Environmental Planning Policy 2007 – (Infrastructure)**

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

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists),
- immediately adjacent to an electricity substation,
- within 5m of an overhead power line
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5m of an overhead electricity power line.

The proposal is not within or immediately adjacent to any of the above electricity infrastructure and does not include a proposal for a swimming pool. In this regard, the subject application is considered to satisfy the provisions of Clause 45 SEPP Infrastructure. Notwithstanding, the development application was referred to *Ausgrid* for comment and no objections were raised.

Clause 101 of SEPP Infrastructure requires the Consent Authority refer matters to the *Roads and Maritime Service* for concurrence where a site has frontage to a main road. In this case the school front Forest Way and is dependant of use of a public bus stop in front of the site on Forest Way. An increase in enrolments by 200 students will increase use of the bus stop and may impact on parking along the road reserve.

The RMS provided a referral response on 16 July 2015, pursuant to the SEPP, and raises “no objection” to the modification of consent to increase enrolments from 900 to a maximum of 1100 students.

### **Regional Environment Plans (REPs)**

None applicable

### **Local Environment Plans (LEPs)**

#### ***Warringah Local Environment Plan 2000 (WLEP 2000)***

#### **Desired Future Character (DFC) - C8 Belrose North Locality**

*“The present character of Belrose North locality will remain unchanged except in circumstances specifically addressed as follows.*

*The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be grouped in areas that will result in the minimum amount of disturbance of vegetation and landforms and buildings which*





*are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.*

*Development will be limited to new houses conforming with the housing density standards set out below and low intensity, low impact uses.*

*A dense bushland buffer will be retained or established along Forest Way. Fencing is not to detract from the landscaped vista of the streetscape.*

*Development in the locality will not create siltation or pollution of Middle Harbour.”*

The applicant submitted the development application on the basis of the proposal being classified as “existing category 3 development” pursuant to Clause 16 of WLEP 2000.

Clause 16 of the WLEP 2000 states:

**“How is existing Category Three development dealt with?”**

- (1) *In this clause, **existing Category Three development** means development classified as Category Three that could have been lawfully carried out immediately before it became so classified, including development that could have been lawfully carried out at that time because it was an existing use, as defined in section 106 of the Act.*
- (2) *Development applications for existing Category Three development consisting of:*
  - (a) *alterations or additions to, or the rebuilding of, a building, or*
  - (b) *the expansion or intensification of existing Category Three development. which, in the opinion of the consent authority, is of a minor nature and does not, to any significant extent, change the scale, size or degree of any building or land use, may be granted consent even if the development is not consistent with the desired future character of the locality.*
- (3) *The provisions of clauses 14 and 15 do not apply to such applications.”*

The proposed changes to the maximum enrolment to increase enrolment by 200 students is not of a “minor nature” on the intensity of use. The proposal involves substantial intensification of the use and follows a previous expansion of facilities constructed under DA2010/1949, without any additional parking facilities to contain or accommodate traffic and parking impacts within the school. The proposal is therefore subject to the provisions of Clause 15. Items listed in Schedule 15 of WLEP 2000 to be addressed as part of this requirement are reviewed later in this report under the heading “Schedule 15”.

Accordingly, an assessment of consistency for the proposed modification of the development against the locality’s DFC is provided hereunder:

**“The present character of Belrose North locality will remain unchanged except in circumstances specifically addressed.”**

Belrose North is predominantly characterised by nurseries, schools, rural residential dwellings and national park areas, as well as some other major land uses including the Optus Earth Station and Belrose Waste Management Centre. The ‘Covenant Christian School’ is one of four (4) schools in the Locality. The school is an existing Category 3 use pursuant to Clause 16 of the WLEP 2000. The change to school enrolments amounts to a 22% intensification of use. Therefore, as the Consent Authority, council must be satisfied the



changes are of consistent with the DFC where there may be impacts on the Locality. The increased enrolments are reliant on parking outside the school boundaries with no new facilities to address traffic, and provide for additional staff parking, students who drive to school, bus parking and parent pick-up drop off-zones for the school. The parking facilities for schools should be responsive to increased enrolments in that this triggers more parking demand by staff, parents who drive students to school, bus services and students who drive to the school. The proposed modification does not adequately cater for the increase in demand to service the land use within its own property boundaries. In the context of the DFC the proposed change impact is being imposed on public land outside the site.

***“The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be grouped in areas that will result in the minimum amount of disturbance of vegetation and landforms and buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.”***

No new building work is proposed to meet the Desired Future Character and assist in enhancing the landscaped setting for the school with the intensification of use of the site.

The establishment of a dense landscaped buffer to enhance the boundary setbacks and provide continuity with the DFC relies on the landscaping plans approved plans under DA2010/1949, to enhance the natural landscape and screen the buildings. No additional street tree planting or screen planting is proposed to enhance the setting of the school where the surrounding road reserves are being utilised for carparking, or to complement the DFC.

***“Development will be limited to new houses conforming with the housing density standards set out below and low intensity, low impact uses.”***

The school was established prior to the Warringah LEP 2000 being gazetted and therefore is regarded as a permissible existing Category 3 use. A number of key changes to traffic and bus parking have occurred in association with the Covenant Christian School recent years. West-bound buses now use a public bus stop in front of the School on Forest Way and Council has approved a pick-up drop-off zone in the cul-de-sac within Dell Street. Local area School buses continue to enter the site from Dell Street and pick-up via the loop driveway within the main staff carpark. The implementation of a traffic management plan by the school under DA2010/1949 ensures that students are supervised at selected assembly points for pedestrian movement to and from both bus loading points. On-site parking is used for staff, with parents required to pick-up/drop-off from Dell Street. Traffic wardens are used to ensure safety within the school in Dell Street, and to ensure buses are not unnecessarily delayed within the site. The school has been managing the bus, pedestrian and carparking in a co-ordinated manner to ensure no adverse traffic impacts affect the peak traffic movements for the current enrolment.

Development Application No.DA2005/0915 supported a maximum enrolment of 900 students following the submission of a traffic report (dated February 2007) detailing the different components of the school within the site including a Kindergarten, primary school and high school elements. Apart from carparking activity, the school's activities are not highly visible to the streetscape, despite the school having four street frontages, due to the configuration of adjoining land uses and restricted access points from Dell Street and Bundaleer Street. The building facilities are clustered together such that the majority of landscaping is concentrated around the periphery of the site to screen the core areas of the school complex.

Overall the extent of modification raises the school enrolment by 22% without any corresponding increase in on-site parking and ancillary traffic facilities. It should be noted that



the school now also has inadequate open space area to provide 50% of the site as a bushland setting, if any remaining landscaped open space is to be converted for parking. Therefore, the proposal cannot be supported as *'low intensity, low impact'* for further expansion in enrolment due to the dependence on land outside the site to meet parking facilities to service higher intensity of use.

***“A dense bushland buffer will be retained or established along Forest Way. Fencing is not to detract from the landscaped vista of the streetscape.”***

The proposal does not include any additional tree planting to enhance the existing landscaped buffer to Forest Way. No change is proposed to landscaping on the surrounding street frontages either and fencing will remain unchanged.

***“Development in the locality will not create siltation or pollution of Middle Harbour.”***

No site works are proposed therefore the modification has no impact on erosion or siltation on Middle Harbour. The site is dependent on an effluent disposal system; however Council's Environmental Health Officer has provided no objection to the higher intensity of use, subject to the on-site waste water system being able to maintain adequate function.

In summary, the proposal to modify consent has not satisfied the key “tests” of the DFC to demonstrate that it is consistent with the locality statement. Therefore, the modification to increase enrolments is not supported as it will detract from the present or long-term character of the Locality and is not acceptable as a *low intensity, low impact* development for an existing Category 3 use.

#### Built Form Controls (Development Standards)

The following table outlines compliance with the Built form Controls of the above locality statement:

| Built Form Compliance Table         |  |   |            |
|-------------------------------------|--|---|------------|
| Built Form Control                  | Required   | Proposed  | Compliance |
| Housing Density                     | 1 dwelling per 20 hectares                             | N/A<br>(No change proposed)                                 | Existing   |
| Building Height (metres)            | 8.5 metres   | N/A<br>(No change proposed)                                 | Existing   |
| Front Building Setback (Linden Ave) | 20 metres  | N/A<br>(No change proposed)                                 | Existing   |
| Rear and Side Building Setback      | 10.0 metres (southern boundary with No. 3 Waldon Road) | N/A<br>(No change proposed)                                 | Existing   |
| Bushland Setting (Site area 3.5776  | 50% of the site to be                                  | 18% (6,428sqm) of the site is “bushland setting”. No change | Existing   |



| Built Form Compliance Table |  |  |            |
|-----------------------------|--|--|------------|
| Built Form Control          | Required   | Proposed   | Compliance |
| hectares)                   | natural bushland or landscaped with local species. | proposed.<br><br>51% of total school site (17,963sqm) is landscaped, including oval areas and other grassed open play space areas that may not be landscaped with local species to support a bushland setting. |            |
| Extractive industry         | Applies to quarry site.                            | N/A  | N/A        |
| National park Setback       | 20 metres  | N/A  | N/A        |

### BUILT FORM CONTROLS

As detailed within the compliance table above, the proposed development does not seek to change the built form control therefore no further merit assessment is required for any existing variations that will remain unchanged.

### General Principles of Development Control

The following General Principles of Development Control as contained in Part 4 of Warringah Local Environmental Plan 2000 are applicable to the proposed development:

| General Principles   | Applies | Comments  | Complies                |
|--|---------|---|-------------------------|
| <b>CL43 Noise</b>  | YES     | Noise associated with the existing use of the site as a school is primarily confined to school hours. The increase in school enrolment numbers and noise impacts will be absorbed by the existing classroom facilities and open space areas. The revised traffic management plan includes provisions for after-hours event management to address noise impacts. | YES.                    |
| <b>CL44 Pollutants</b>   | YES     | Standard conditions are recommended to address ongoing environmental management of the waste water system and its capacity to cater for a higher intensity of use without causing pollution risks or health risks.  | YES, condition required |
| <b>CL48 Potentially Contaminated Land and CL49 Remediation of Contaminated</b> | YES     | Clause 48 requires Council to consider whether the site is likely to be contaminated and if so whether the site can be remediated and made suitable for the proposed development. Council has previously  | YES.                    |





| General Principles   | Applies | Comments  | Complies  |
|--|---------|---|---|
| <b>Land</b>  |         | considered this issue since the school acquired and consolidated with adjacent land that was used for a retail plant nursery. This issue was addressed under the assessment of DA2005/0915 with the submission of a <i>Preliminary Contamination Assessment Report</i> , prepared by <i>Geotechnique Pty Ltd</i> , dated 8 September 2005. The assessment by Council's Environmental Health Officer's concluded then that the site does not pose a risk of harm to human health or the environment. |   |
| <b>CL50 Safety and Security</b>  | YES     | The proposal relies on the revised traffic management plan to ensure safety and security of pedestrian movements associated with students/staff/bus access and parents pick-up drop-off zone.<br><br>The above measures satisfy the requirements of the general principle.  | YES   |
| <b>CL52 Development Near Parks, Bushland Reserves and other public Open Spaces</b> | YES     | Specifically this general principle requires development is compliment the public use and enjoyment of public land, and enable public access to be maximised.<br><br>The proposal will have an impact on the adjacent public open space by the expanding weekday reliance on the unformed road verge and parking areas in the vicinity of Wakehurst Oval.   | NO. Reason for refusal                            |
| <b>CL54 Provision and Location of Utility Services</b>                             | YES     | Water and electricity services are available to the site.<br><br>In terms of sewage disposal, an on-site wastewater system integrated into the existing sports field currently services the school. The existing facility is adequate to accommodate the existing allowable maximum capacity of students and staff, subject to conditions.  | YES, condition required.                          |
| <b>CL63 Landscaped Open Space</b>  | YES     | The approved landscaping for the site is shown on Landscape plans LA01 2/11/2010 and LA02 dated 10/2/2011 drawn by <i>Taylor Brammer</i> .<br><br>While the total landscaping area exceeds 50% for the site the built form controls   | YES. No change to existing conditions of consent. |



| General Principles   | Applies | Comments   | Complies                               |
|--|---------|--|--|
|  |         | require a “Bushland Setting” not “Landscaped Open Space” under the C8 Locality Statement. In this regard, the issue of providing an increased bushland setting for the site is addressed in the DFC consideration previously. Despite the proposed intensification of use the desired outcomes under this general principle for appropriate plantings, landscaped setting, and enhancing privacy, providing outdoor recreation space, service function areas, facilitating water management, and the replacement of significant trees and using suitable local species for supplementary planting have not been triggered by any change to the existing landscaped open space. |  |
| <b>CL69 Accessibility – Public and Semi-Public Buildings</b> | YES     | No change is proposed to the existing facilities or conditions which address compliance with AS1428 with the Construction Certificate.   | YES. No change to existing conditions. |
| <b>CL70 Site facilities</b>                                  | YES     | The modification relies upon the use of existing storage areas and site facilities within the school site.   | YES                                    |
| <b>CL71 Parking facilities (visual impact)</b>               | YES     | No change is proposed to the parking facilities within the site.   | YES                                    |
| <b>CL72 Traffic access and safety</b>                        | YES     | The existing student enrolment will increase by 22%, however no new facilities are being provided to address parking and ensure the demand for car parking is met within the site.<br><br>The application has not satisfied the requirements of this general principle.  | NO. Reason for refusal.                |
| <b>CL73 On-site Loading and Unloading</b>                    | YES     | No change.   | YES                                    |
| <b>CL74 Provision of Carparking</b>                          | YES     | The provision of carparking is primarily based on staff numbers, which in turn is dependent on student enrolment numbers. Carparking provisions under the WLEP 2000 is based on “ <b>1 space per staff member in attendance plus adequate pick-up set down areas, plus bicycle racks plus student parking, plus bus standing &amp; turning areas</b> ”. This   | NO. Reason or refusal.                 |



| General Principles                     | Applies | Comments  | Complies               |
|--|---------|---|------------------------|
|  |         | <p>modification does not propose any change to ensure compliance with on-site parking as detailed under the Schedule 17 of the WLEP 2000.</p> <p>The site currently has 55 on-site spaces for staff and casual visitors/deliveries. In addition to this, the school benefits from formed and marked street carparking spaces near the main entry in Dell Street (formalised as part of DA2000/3741).</p> <p>Bus pick-up/set down will remain as per existing access from Dell Street and using the RMS bus stop (ITS-00259) at Forest Way. Student parking will extend to existing availability of public street parking in Dell Street, Lindrum Avenue and Bundaleer Avenue.</p> <p>The school has provided details of traffic and parking demand within the traffic report prepared by <i>ARC Traffic and Transport, dated March 2015</i></p> <p>Council's Traffic Engineer has provided objection to the proposal with respect to carparking or traffic, and based on the reliance on public assets for private purposes to facilitate the increased enrolment. Further comment is also provided in this report under the heading "Schedule 17 Carparking"</p> <p>The proposal has not satisfied the requirements of this General Principle.</p> |                        |
| <b>CL75 Design of Carparking Areas</b> | YES     | Carparking areas being relied on are unformed and do not clearance and design standards for approval as part of the current use which relies on regular daily use and shared with other public demand.  | NO. Reason for refusal |

#### Other Relevant WLEP 2000 Clauses

#### Schedule 5 - State Policies

|                                |   |
|--------------------------------|---|
| <b>Bushland In Urban Areas</b> | No change to bushland areas is proposed with the modification the therefore the provision of Schedule 5 do not require to be addressed. |
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### Schedule 8 - Site Analysis

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| <b>Site Analysis</b> | No detailed site analysis is required with the modification of Consent. Parking plan details are shown with the site plan included with the Traffic Management Plan. |
|----------------------|--|

### Schedule 11 - Koala Feed Tree Species and Plans of Management

|  |   |
|--|---|
| <b>Koala Feed Tree Species and Plans of Management</b> | The site is not identified as containing any Koala population or Koala habitat. The modification of the proposal is consistent with the requirements for the protection of koala habitat. |
|--|---|

### Schedule 15 - Statement of Environmental Effects

| Category 3 Assessment   |  |
|---|--|
| A Statement of Environmental Effects (SEE) The applicant's <i>Statement of Environmental Effects</i> has identified but not addressed Schedule 15 in any detail. The following summary provides a detailed assessment requirements to comply with Schedule 15 for Category 3 development. |  |
| <b>(1) Summary of the Statement of Environmental Effects.</b>   | <p>This Statement of Environmental Effects (SEE) has been prepared pursuant to Section 79C of the Environmental Planning and Assessment Act 1979 ("the EP&amp;A Act") and accompanies the development application to Warringah Council for improvements to the existing Covenant Christian School (CCS) at 212 Forest Way, Belrose ("the subject site"). The proposal is submitted on behalf of CCS, the owner of the subject site.</p> <p>The subject site is situated in the C8 Belrose North locality and is classified as an existing Category Three Development pursuant to the provisions of Warringah Local Environmental Plan 2000.</p> <p>The statement of environmental effects supports a Section 96(2) modification of consent proposed to increase school enrolments from a maximum of 900 to a maximum of 1100 students.</p> |
| <b>(2) Consistency of the proposal with the desired future character statement and general principles of development control established by the plan.</b>   | <p>The proposal is subject to the provisions of the Warringah Local Environmental Plan 2000 ("LEP 2000") and is located within the C8 - Belrose North locality. The Covenant Christian School Belrose is defined as "Primary School" and "Further Education" under WLEP 2000. The school was approved and constructed prior to WLEP 2000 being made and, by virtue of clause 16 of the WLEP, it is defined as an 'Existing Category Three Development'.</p> <p>Clause 12 of the WLEP 2000 requires that the development is consistent with the relevant general principles of development, the development standards set out in the locality statement and the</p>   |





|  |   |
|--|---|
|  | <p>desired future character (DFC) described in the locality statement.</p> <p>Although the proposal is existing Category Three development, the proposal does require an assessment of permissibility which is set out below.</p> <p>The first paragraph captures the present character of the Belrose North locality and limits any change to that character with only specific exception.</p> <p>The second paragraph of the DFC Statement places restrictions on 'future' or 'new' development. It operates as a restricted exception to the general principles that only development that is consistent with the present character of the Locality is permissible, This is evidenced by the words: <i>'except in circumstances specifically addressed as follows:'</i> in the first paragraph. The second paragraph then reads naturally as examples of development that will also be permissible despite the fact that they might change the present character of the C8 Locality and paints a word picture to envisage those outcomes.</p> <p>Consequently, development will be consistent with the DFC of the C8 Locality and hence permissible with consent if the following can be satisfied:</p> <ul style="list-style-type: none"><li>• the proposal will not change the present character of the C8 Locality. That is, the present character will remain unchanged; or</li><li>• the proposal will change the present character of the C8 Locality, but is both a low intensity and low impact use of the site.</li></ul> <p>The school has existed on the present site since 1978, and is clearly part of the present character of the locality. Importantly, the present character of the immediate surrounding land uses is predominantly non-residential, with low numbers of residential dwellings. In particular, it is noted the school is near two other schools to the north (Yanginanook; Kameri (Rudolf Steiner)), plus the Belrose Waste Management and Recycling Centre, Optus Earth Station and a sand and gravel supplier to the south-west. The current use of the land as a school is thus part of the present mixed rural character of the immediate locality.</p> <p>Consequently the first test triggers the requirement of the second test to demonstrate the change is consistent with the Desire Future Character Statement for 'low intensity, low impact'. The proposal will increase the intensity of the school use, and compound impacts on the environment, including traffic and parking on surrounding streets.</p> <p>The proposal involves a substantial change to the intensity of use requiring the provisions of Clauses 14 and 15 to be applied. The proposal has been assessed against the DFC and it is considered</p> |
|--|---|



|  |  |
|--|--|
|  | that the proposal is inconsistent with the DFC.  |
| <b>(3) Objectives of the proposed development</b>  | The intent and objectives of the proposal are to: <ul style="list-style-type: none"><li>• Increase student enrolments up to a maximum of 1100 to cater for expected growth over the next 5-10 years.</li></ul>   |
| <b>(4) An analysis of feasible alternatives</b>  | <b>(a) The consequences of not carrying out the development</b><br>Impacts not addressed to the satisfaction of Council<br><br><b>(b) The reasons justifying the carrying out of the development</b><br>Impacts not addressed to the satisfaction of Council.  |
| <b>(5) Analysis of the development</b>   | <b>(a) Full description of the development</b><br>Provided within the Statement of Environmental Effects.<br><br><b>(b) Description of the environment likely to be affected</b><br>Details within the Traffic Management Report, however impacts on public assets not addressed to the satisfaction of Council.<br><br><b>(c) Description of likely impact on the environment</b><br>Impacts not addressed to the satisfaction of Council.<br><br><b>(d) Measures to mitigate any adverse effects of the development on the environment</b><br>Impacts not addressed to the satisfaction of Council |
| <b>(6) Justification for the development pursuant to the biophysical economic and social considerations and the principles of ecologically sustainable development</b> | Impacts not addressed to the satisfaction of Council   |
| <b>(7) Statement of measures to mitigate adverse effects of the development</b>  | Impacts not addressed to the satisfaction of Council   |
| <b>(8) A list of approvals to be obtained before the development maybe lawfully carried out.</b>   | The proposed development is integrated development under the Rural Fires Act 1997 and a review of the issued “fire safety authority” approval has been provided with the application by a certified bushfire consultant.   |

Having regard to the above review of the applicants Statement of Environmental Effects, it unsatisfactory having regard to the criteria listed under Schedule 15 of Warringah Local Environmental Plan 2000.

**Clause 15(2) to (5) - Referral and Consideration by an Independent Public Hearing**



Comment: The recommendation attached to this report is required to be referred to Council's WDAP to undertake an independent public hearing to consider the contents of this report and to make its findings and recommendations to the Consent Authority, Council, prior to determination.

## Schedule 17 - Carparking Provision

The proposal does not comply with the provision of Schedule 17 for the provision of parking for staff, parent parking (pick-up/drop-off), students who drive, and bus parking to be contained on site. Details comments are provided under the heading "Internal Referrals" within this report.

### Carparking Summary\*

| Waringah LEP 200 Requirement                   | Required on site                      | Provided on site   | +/-                    | Comment   |
|--|---------------------------------------|--|------------------------|---|
| <b>1 space per staff member in attendance,</b> | <b>85</b>                             | <b>51</b> (plus 1 disabled persons space, 3 visitor parking and 2 motor bike spaces)                 | <b>-34</b>             | Shortfall displaced to Dell Street kerbside and road verge in Linden Avenue or Bundaleer Street.<br><br>Does not comply with WLEP 2000.   |
| <b>plus adequate pick-up set down areas</b>    | <b>Pick up/drop off zone on site.</b> | <b>None</b> (am/pm turnover of 73/74 spread between Dell Street and Linden Avenue /Bundaleer Street) | <b>No zone on site</b> | Pick up drop off Zone am/pm approved by Council for cul-de sac in Dell Street.<br><br>Internal carpark used for staff and bus loading, therefore pick up drop off zone is in Dell Street and kerbside parking in Linden Avenue or Bundaleer Street.<br><br>Does not comply with WLEP 2000 |
| <b>plus bicycle racks</b>                      | <b>6</b>                              | <b>18</b> space bicycle rack – Dell Street entry   | <b>+ 12</b>            | Complies  |
| <b>plus student parking,</b>                   | <b>12</b> (yearly average)            | <b>None</b>  | <b>-12</b>             | Displaced to Waldon Road along unformed road verge.<br><br>Does not comply with WLEP 2000.  |
| <b>plus bus standing &amp; turning areas.</b>  | <b>6</b> at a time                    | <b>4</b> at a time in main carpark within the site. – Dell Street entry                              | <b>-2</b>              | School also uses public bus stop on Forest Way and bus ranking in Waldon Road along unformed road verge on south side of Wakehurst Rugby Park.  |



|  |  |  |  |                                |
|--|--|--|--|--------------------------------|
|  |  |  |  | Does not comply with WLEP 2000 |
|--|--|--|--|--------------------------------|

\*Calculated for an estimated future enrolment of 1074 students as per Table 3.3 of the parking assessment report by *ARC Traffic & Transport*, March 2015, including TMP dwg (site plan), dated 11 June 2015.

It is considered that the maximum enrolment for up to 1100 students and the lack of parking and facilities to cater for transport and traffic to service the school cannot be supported pursuant to Schedule 17 requirements under the WLEP2000.

## **POLICY CONTROLS**

### **Warringah Section 94A Development Contribution Plan**

The modification does not propose any site works and therefore monetary contributions are not applicable to the modification

## **CONCLUSION**

The site has been inspected and the application assessed having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, the provisions of relevant Environmental Planning Instruments, including the Warringah Local Environment Plan 2000, Draft Warringah Local Environmental Plan 2009 and the relevant codes and policies of Council.

The application involves expansion of the school student population by 200 students (or 22%). The school is heavily reliant already on street parking and the proposal will further spread the impacts of parking and traffic on surrounding streets.

The proposed modification relates to an existing Category 3 use and pursuant to Clause 12 (3) of WLEP 2000, must be deemed to be consistent with the DFC for the C8 – Belrose North Locality. The development change proposed is assessed as not being consistent with the DFC in that the impacts of the intensification to 1100 students is not “low intensity / low impact use” is also inconsistent with General Principles of Development Control under WLEP 2000. While the school has revised its prior traffic management strategies the impetus for all traffic and parking impacts to be displaced outside the site boundaries is not supported. Council’s Traffic Engineering section, Roads and Assets section, and Property Management section have raised objection to the proposal since the proposal does not seek to meet demand for impacts on the Locality, including public land.

Residents’ concerns have been considered and are concurred with in so far as those matters reflect inconsistency with the Warringah LEP 2000 and cannot be addressed by conditions. The proposal is assessed as not being satisfactory in relation to these matters and refusal of the application is warranted.

As a direct result of the modification application and the consideration of the matters detailed within this report, it is considered that Council as the consent authority refuse the proposal for increased enrolments for the reasons detailed within the “Recommendation” section of this report.

## **RECOMMENDATION - REFUSAL**



THAT the Warringah Development Assessment Panel recommends the General Manager refuse modification application No.MOD2015/0078 to increase enrolments to a maximum of 1100 students, to modify DA2010/1949 for alterations and additions to a Primary School and Further Education Establishment, being Covenant Christian School at No.212 Forest Way, Belrose. The reasons recommended for refusal are as follows:

**1. Desired Future Character – Warringah Local Environmental Plan 2000**

Pursuant to Section 79C(1) (a) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions of the *Warringah Local Environmental Plan 2000* in that the proposal is inconsistent with the Desired Future Character (DFC) Statement of the C8 Belrose North Locality. In particular, the proposal does not satisfy DFC requirements for a Category 2 development to conform to:

- *Low intensity and low impact uses; and*
- *Enhancing the natural landscape;*

**2. General Principles of Development Control – Warringah Local Environmental Plan 2000**

Pursuant to Section 79C(1) (a) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions of the *Warringah Local Environmental Plan 2000* in that the proposal is inconsistent with the 'General Principles of Development Control'. In particular the proposal does not satisfy the requirements of:

- *Clause 52 Development near parks, bushland reserves and other public open spaces*
- *Clause 72 Traffic, access and safety;*
- *Clause 74 Provision of parking;*
- *Schedule 15 – Statement of Environmental Effects; and*
- *Schedule 17 – Carparking provision.*

**3. Unsuitable as Low impact, Low intensity Development**

Pursuant to Section 79C (1) (c) of the *Environmental Planning and Assessment Act 1979* the proposed development is unsuitable for the site. In particular, the proposal is inconsistent with being 'low intensity low impact' development.

**4. Public Interest under the Environmental Planning and Assessment Act 1979**

Pursuant to Section 79C (1) (e) of the *Environmental Planning and Assessment Act 1979* the proposed development is not in the public interest. In particular, the proposal does not meet the provisions of the relevant local environmental planning instrument for the creation of a better environment and maintaining the desired character of the rural locality.

**5. Inconsistent with the Objects of the Environmental Planning and Assessment Act 1979**

Pursuant to Section 5 (a) (i) of the *Environmental Planning and Assessment Act 1979* the proposal is inconsistent with *Clause 5 Objects*, for the orderly development of land





in a manner that is consistent with the applicable local planning controls to promote a better environment.