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**From:** John Truszewski  
**Sent:** 2/02/2022 11:42:42 PM  
**To:** Council Northernbeaches Mailbox  
**Subject:** DA2021/2567 - Submission Re St Augustines  
**Attachments:** DA 2021-2567 - Submission from J Truszewski.pdf;

Dear Planning Officer,

I have attached a letter containing my submission.

Thank you.

Regards,  
John Truszewski  
76 Federal Pde, Brookvale NSW 2100



**TO: Northern Beaches Council**  
**Re: Development Application DA2021/2567**

Objector:  
J. Truszewski  
76 Federal Parade Brookvale.

**Objection to New - Demolition works, construction of a car park and increase in student numbers at an education establishment.**

I am a resident and owner of a property directly facing the school. I object to this Development application on several grounds which I will further detail in the body of this letter.

This development application and the supporting documentation is focussed on providing additional car parking for teachers, who effectively are employees of the College.

I do not see the DA as a straightforward development application. On the surface it appears to be a DA to increase student numbers add parking spaces. Although his DA attempts to retrospectively correct a breach of a condition of an existing development application, this DA is inherently more complex. This DA is inextricably linked to the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (SEPP) complying development provisions and runs contrary to the rationale behind the SEPP.

St Augustine's College has a current student cap of 1200 students and no cap on staff numbers. The cap of 1200 students was set by the Land and Environment Court to "Manage impacts on the Locality".

Extract from Consolidated Conditions of Consent:

**ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES**

42. **Maintenance period for civil works under the provisions of the Roads Act 1993 and Environmental Planning and Assessment Act 1979**  
 A Maintenance Period of six (6) months shall apply to the drainage works located in, on or over a public road as approved under the provisions of Section 139 of the Roads Act 1993 and Section 80A of the Environmental Planning and Assessment Act 1979, after it has been completed and approved in writing by the appropriate Roads Authority. In that period the applicant shall be liable for any part of the work which fails to perform in the manner outlined in Roads Authority's specifications, or as would be reasonably be expected under the design conditions.
- Reason: To ensure works are appropriately constructed and repaired where defective. (DACENG01)
43. **Linemarking / Allocation of Parking**  
 All on-site parking spaces provided shall be provided and maintained available for their designated purpose as per the approved Traffic and Parking Management Plan. On-site parking spaces shall be clearly line marked or sign posted, as practicable, to ensure ease of identification by users and maintain effective daily operation of the Traffic and Parking Management Plan

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*Appeal No: 10424 of 2015*

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

Reason: To ensure that adequate parking facilities to service the development are provided on site. (DACPLG01)

44. **Residential Privacy**  
 Storage lockers / racks and the like are not to be placed along the eastern elevation of Senior Science rooms.
- Reason: Maintain privacy to No.10 Gulliver Street (DACPLGOG1)
45. **Maximum Enrollment**  
 The school/college campus site is limited to a **maximum student enrolment of 1200 students.**
- Reason: **To manage impacts on the locality.** (DACPLGOG2)

I would like to once again emphasise the 1200 student cap exists it is to **manage impacts on the locality.**

The current impacts on the locality are Traffic congestion, Safety Noise and excessively large, out of character developments that have been built in the past 3 years. This development application only addresses additional parking for teachers, but does not remedy existing traffic, pedestrian and student safety issues.

The College has disregarded the cap of 1200 students that “Must be complied with at all times” , and has knowingly published the increased numbers its 2020 Annual Report,

<https://media.digistormhosting.com.au/sac-au-nsw-250-website/documents/Community/Publications/2020-Annual-Report.pdf?mtime=20210709130217>

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### Student Enrolment Figures and Trends

Year	2018		2019		2020	
	Domestic	International	Domestic	International	Domestic	International
5	84		84		112	
6	84		84		84	
7	206		225		233	2
8	187		212		225	
9	194	5	187	6	206	13
10	157	23	190	19	184	16
11	156	19	138	20	170	13
12	163	17	155	19	137	18
<b>All</b>	1231	64	1275	64	1351	62
<b>Total Number of Students</b>	1295		1339		1413	

In 2019, Under the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (SEPP) complying development provisions, the College increased the building footprint, adding additional floors, classrooms and an outdoor rooftop terrace, thus creating additional space to house an increase in the student population. Although the College claimed that its intention was not to increase student numbers, the facts are that the College already had increased the student numbers and continued to increase the numbers. Extract from SEPP:

### 39 Existing schools—complying development

- (1) Development carried out by or on behalf of any person on land within the boundaries of an existing school is complying development if:
- (a) it consists of the construction of, or alterations or additions to, any of the following:
    - (i) a library, an administration building or office premises for the purposes of the school,
    - (ii) a gym, indoor sporting facility or hall,
    - (iii) a teaching facility (including lecture theatre), laboratory, trade facility or training facility,
    - (iv) a cafeteria that is carried out in accordance with AS 4674—2004, *Design, construction and fit-out of food premises*, published by Standards Australia on 11 February 2004,
    - (v) a kiosk or bookshop for students or staff (or both),
    - (vi) a hall with associated covered outdoor learning area or kiosk,
    - (vii) an outdoor learning or play area and associated awning or canopy,
    - (viii) demolition of a building or structure (unless a State heritage item or local heritage item),
    - (ix) minor alterations or additions (such as internal fitouts, structural upgrades, or alterations or additions to enable plant or equipment to be installed, to address work health and safety requirements or to provide access for people with a disability),
    - (x) restoration, replacement or repair of a damaged building or structure, and
  - (b) it complies with this clause.
- Note.** Complying development must also comply with the general requirements in clause 19.
- (2) Development carried out by or on behalf of any person on land within the boundaries of an existing school is complying development if:
- (a) it is an alteration or addition referred to in subclause (1) or clause 40 (2) (c) that is carried out for the purpose of a change of use to another use specified in subclause (1), and
  - (b) it complies with this clause.
- Note 1.** Complying development must also comply with the general requirements in clause 19.
- Note 2.** Development to which section 100B (1) of the *Rural Fires Act 1997* applies is not complying development under this Policy.
- (3) The development standards for complying development under this clause (other than for development referred to in subclause (1) (a) (viii), (ix) or (x)) are set out in Schedule 2.
- (4) Nothing in this clause authorises the carrying out of development in contravention of any existing condition of the most recent development consent (other than a complying development certificate) that applies to any part of the school, relating to hours of operation, noise, car parking, vehicular movement, traffic generation, loading, waste management, landscaping or student or staff numbers.

The College built the development as a Complying Development, bypassing the DA requirement for Public Exhibition, community participation, Council, and local planning panel consideration and approval. Neighbours did not have an opportunity to voice their concerns around impacts to Views, Privacy, Noise, out of scale development, and other impact to resident's amenity.

The College acted in a dishonest or deceiving manner in that assured neighbours that the student caps would remain, when they had already been exceeded.

Extract from Circular to neighbours:



# ST AUGUSTINE'S COLLEGE - SYDNEY

A Catholic Congregational school for boys in Years 5 to 12, teaching the Augustinian values of  
*'Truth, Love & Community'*

November 9, 2018

Dear Neighbours,

In December 2018, St Augustine's College is proposing to commence work to refurbish and develop the academic heart of the school, in order to ensure learning spaces continue to keep pace with quality teaching practices. Our College campus is located on the corner of Alfred Road and Federal Parade, Brookvale. This communication is to ensure our neighbours are well informed and have opportunities to communicate and interact with the College. At all times, we will be working closely with the builders to minimise any potential impacts on the neighbourhood, including traffic safety, noise management and environmental care.

#### **Our Needs:**

The build is a necessary requirement of meeting the College's current needs and it is not our intention, at this stage, to increase student numbers. To vary this, a Development Application through Council would be required.

The College's 2016-2020 Mission Statement and Strategic Intent document, housed on our website, ([www.saintaug.nsw.edu.au/newsandevents/publications](http://www.saintaug.nsw.edu.au/newsandevents/publications)) outlines our challenges to embrace new ways of teaching students in an ever-changing world.

#### **Building and Refurbishment Activities:**

St Augustine's College opened in 1956 and since then has staged numerous development builds to provide quality learning facilities for our students.

Under the Complying Development Provisions, the current proposed build will include the removal of classrooms known as the Possidius Chalets, housed along the site boundary on Federal Parade (western facing), and the refurbishment and extension of the Goold Wing and Lecceto Arts Centre. The Goold Wing will be extended towards the western boundary and will include the addition of a fourth level. This work will deliver refined spaces for general learning, library and specialist Art and Music learning.

The lower level of the Brimson Centre, also adjacent to the Federal Parade boundary, will be refurbished internally to house the TAS (Technical and Applied Science) Faculty which will be relocated from the Goold Wing. The current loud extraction equipment will be removed and repositioned in a less invasive location.

The College is committed to positive community relations and the proposed work will be undertaken in a manner sensitive to neighbours' concerns about noise, traffic safety of students and residents, and general amenity of the surrounding streets. The build is also considerate to the teaching and learning requirements of an operational school.

The Complying Development Legislation has strict requirements regarding acoustic impacts that must be adhered. Therefore, we have engaged an Acoustic Engineer to complete a review of the proposed design to ensure compliance.

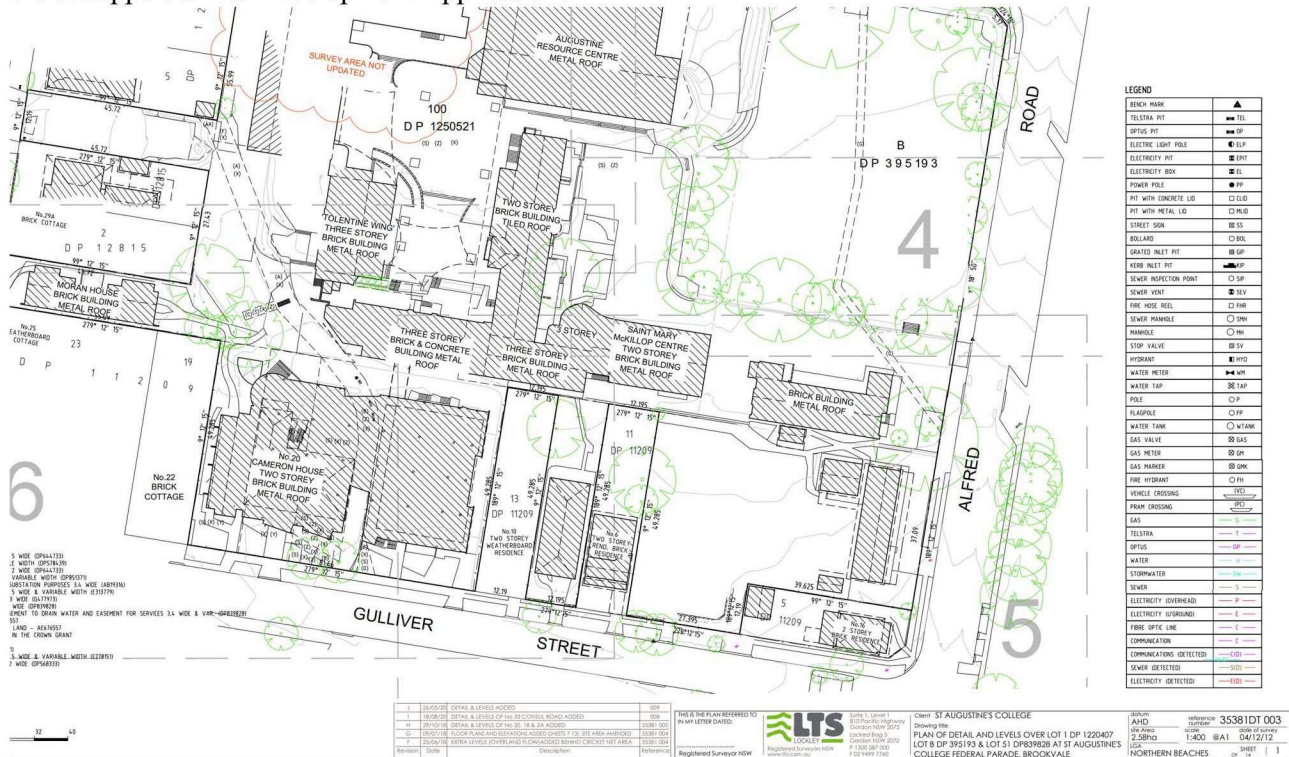
Despite the assurance to neighbours that the College population would not increase, the College subsequently increased its student population from 1200 to 1400+ during 2019-2020, either due to poor

governance, or deliberately flouting the conditions of development consent. An increase in population requires a corresponding increase in College staff, rooms and facilities.

Under Complying Development provisions, the College has built large, an out of character school development which would not have been permitted to be built in its current form should a Development Application had been required. These photos illustrate the oversized, out of character development. Neighbours complain about loss of privacy, light spill from illuminated school windows at night and noise from the rooftop terrace.



The Survey Plan submitted for this DA is outdated (4/12/2012), and the “Survey Area Not Updated” is where this new building is located. Does the Council permit the use of an inaccurate survey that 10 years old to support a new Development Application?



This DA is linking the addition of teachers parking spaces to increasing student numbers. The addition of teachers parking spaces is immaterial to the primary need for the College accommodate the increased number of students.

The College did construct additional classrooms under a Complying Development Certificate. Circular PS 17-004 clarifies the complying development provisions of the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 “Some types of College developments will be permitted as ‘complying development’ provided that certain predetermined standards are complied with, including height limits and setbacks requirements. This includes the construction of additional classrooms, **but only if the works do not contravene any existing conditions on development consents relating to student or staff numbers that apply to the land within the boundaries of an existing College**”

The College is at this current Development Application as an instrument to retrospectively rectify a non-compliance, i.e., increase student population, which was facilitated by creating additional classrooms and teaching spaces by using the CDC of 2018. The act of increasing the student population as a result of creating additional classrooms to house the students, negates the CDC’s compliance. The Complying Development Certificate should not have been issued, because of noncompliance to the requirement of increasing the student population.



Furthermore, this development application does not include any reasons that led to the to the Colleges increase of student and staff numbers, nor any assurances that the College would adhere to its caps. The development application does not mention any corrective actions to address the non-compliance in the Colleges governance processes that led to the current increase students above the current cap. If an increase was permitted, what assurances would the College provide to the Council and the Community that the new caps would be observed?

The development application does not address how the College will cater for the increase in student numbers regarding the increase in recreation space that is required. Reducing the College's playground space to accommodate teachers parking does not facilitate additional student's recreation space, particularly when year groups require isolation during these pandemic times.

### **Safety issues:**

The queues at the drop off and pick up spots are so excessive that some parents decide to use No Stopping Zones alongside marked School Zones for drop off and pick up. This is a regular occurrence. This creates safety issues for both the motorists, and students who need to cross the road when it is busy. Students regularly cross the road looking at mobile phones after they are dropped of on the opposite side. Here are some photos from the past couple of days showing Drop off. It is only a matter of time before we see an accident.

This photo shows the parent unloading a bicycle whilst stopped in a No Stopping zone in Federal Parade.



This photo shows P Plated students unloading in the No Stopping Zone:



Pick up time. Some parents wait here for upwards of 15 minutes in the No Stopping for pick up:



**Traffic issues:**

This photo shows traffic stationary from Consul Road near Federal Parade. The queue extends all the way to the pick up zone in Gulliver Road.





Additionally, here are links to some videos showing the stationary traffic in Consul Road/Gulliver street afternoon pick up and how long it takes to navigate through the school pick up time.

<https://vimeo.com/672687189/93a99a7c21> This shows > 15-minute stationary traffic queue.

### **Comments regarding Statement of Environmental Effects:**

#### **3.3 Surrounding development :**

This section states “The College is located at the interface of the Brookvale industrial precinct and the Brookvale residential area.” This statement is misleading. The College is bound by residential properties on 3 sides, and Brookvale Park on the other side. It is not possible for the College to “interface” with an Industrial precinct if it is not located next to it.

Traffic from the College must pass residences, some of these in Gulliver Street to the south becoming unit developments, with an increase in residential population.

#### **Section 5.1.2 –**

Principle 4 – Health and Safety does not take into consideration the additional impacts that the increased number of students will have on the locality. It does not address student/motorist and pedestrian safety that is currently not managed and will only get worse with further increase in student numbers.

Principle 5 – Amenity.

This only addresses the amenity and landscaping of the car parks, not the amenity of neighbouring residents that are impacted by the increase in student numbers,

Principle 6 – Whole of Life, flexible and adaptive.

Whilst the College has identified an increase in demand in enrolments and the proposed cap of 1600 students as optimum, the Land and Environment Court has ordered the maximum cap of 1200 students as a way to “Manage the impacts on the locality”.

## Section 5.2

The road infrastructure in the area cannot cope with the existing traffic and impacts to motorist and pedestrian safety. This is not addressed.

**5.2.1** The questionnaire to understand the travel characteristics of students and staff was conducted in Term 4 2019, when Year 12 students who would make up the majority of the student population travelling by car would have left school. The number of Student cars increases throughout the year, as students gain their license, and peaks in Term 3. The number of students is misrepresented.

It states that the majority of students arrive by 8am. This is inconsistent with the increase in traffic which occurs from 8:10 am to approx. 9 45am.

Stantec’s conclusion is incorrect. The photo and video evidence I have shows that the surrounding roads do not have sufficient capacity to service the existing 1400 students, notwithstanding the increase.

As a nearby resident I am impacted by unacceptable severe traffic congestion at times during the morning and afternoon peak times, which directly impact my travel times

**Acoustic Impacts:** The noise survey relies on previous noise monitoring, the latest measurements being taken during September 2018, before the Rooftop Terrace was built.

The rooftop terrace that was completed for the commencement of the 2020 year under SEPP, the College is required to comply with Schedule 2 – 6 – Noise, “A new building or (if the development is an alteration or addition to an existing building for the purpose of changing its use) an existing building that is to be used for the purpose of a College or College-based child care must be designed so as not to emit noise exceeding an LAeq of 5 dB(A) above background noise when measured at any lot boundary.” This Rooftop terrace is already used by students during recreation activities, creating noise above the 5db(A) level. It is also used for after College events, sometimes with amplified music. It impacts the amenity of nearby residents and increasing student numbers will only increase the noise.

Circular PS 17-004 mentions “appropriate siting and design of buildings, facilities and play areas to minimise visual and amenity impacts (including noise) on surrounding areas. Where relevant, applications should be supported by a noise impact assessment, prepared by an appropriately qualified professional”.

As a nearby resident, I am impacted by noise emitted from the Rooftop Terrace Area situated directly opposite my residence. An increase in student numbers will further exacerbate the acoustic impacts.

### Concerns around the Colleges future expansion plans.

Observing the events that have taken place in over the past 3 years, I conclude that the Colleges approach to expansion is:

1. Develop a master plan.
2. Use loopholes in legislation and complying development processes to bypass Development Application requirements in order to build developments (which the College claims didn't increase student numbers). This bypasses the Councils and Local Planning Panels.
3. Increase Student numbers by disregarding existing student caps imposed on the College. This action in itself is enough to render the Complying development into a non-complying development.
4. Submit another Development Application to rectify the non compliant increase in student numbers directly related to the non compliance relating to the non-complying development. Constrain the development application to apply to a small insignificant development <\$500k e.g. car parking spaces. Assume that "existing conditions" i.e. with already increased student numbers and associated impacts to traffic, transport, noise issues are acceptable in the development application. The application is too small to need to be submitted to the local planning panels.

The College could have followed steps like:

1. Develop Master Plan.
2. Be upfront and transparent with its intentions to expand population. Engage with the community. Obtain Development approval for the construction of buildings, car parks, and increase in student numbers prospectively.
3. Build the works and increase the student numbers as permitted.

Council is empowered to order the College to comply with its existing student cap has not yet exercised this power.

I believe that the presumption that a school can use the Complying Development provisions of the SEPP, and subsequently retrospectively apply for additional approvals to address non compliances by using a development application runs contrary to the rationale behind the existence of the SEPPs complying development provisions. It appears that the College has misused a combination of elements of this the SEPP by acting in either in a dishonest or incompetent manner to gain an advantage.

If the Council approved this development application in light of the background of this DA and related CDC, is it possible that a precedent will be set for all kinds of non-complying CDCs to be retrospectively made compliant by the non-complying seeking ex post facto approval via an application development process.

Looking this Development Application holistically, in combination with the other events that have taken place implies that the College is not acting in the spirit of the SEPP

I ask the Council not to approve this application, on the basis that the safety of the public is paramount. The road around the College can't handle the traffic volumes. This is a residential area, and this DA does not address how an increase in student numbers will not further impact the locality.

Furthermore, I ask the Council to act in the interest and safety of the public and order the College to comply with the existing DA conditions.

Regards,  
J. Truszewski