

Application under Section 96(1A)

Modification of Consent No DA 2010/1949

**To increase student enrolment
at Covenant Christian School,
212 Forest Way, Belrose**

**Prepared for: Covenant Christian
School**

Date: April 2015

Project No. 10313



Section 96(1A) Application
Modification to the Enrolment Cap
Covenant Christian School
212 Forest Way, Belrose

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Table of Contents

1 0	Introduction	2
1 1	Background	3
2.0	The Site and Locality	5
2 1	Site Description and Context	5
3 0	Proposed Modification and Traffic Assessment	7
4.0	Statutory Planning Framework	9
4 1	Section 96 of the EP&A Act 1979	9
4 2	Warringah Local Environmental Plan 2000	10
4 3	Section 79C of the EP&A Act 1979	11
4 3 1	Environmental Planning Instruments (section 79C(1)(a))	11
4 3 2	Impacts of the Development (section 79C(1)(b))	11
4 3 3	Suitability of the Site (section 79C(1)(c))	12
4 3 4	Submissions (section 79C(1)(d))	12
4 3 5	The Public Interest (section 79C(1)(e))	12
5.0	Conclusion	13
Appendices		
Appendix A – Traffic Impact Assessment		

1.0 Introduction

This Report has been prepared on behalf of the Covenant Christian School to support an application to modify Condition No 41 of Development Consent DA 2010/1949, which introduced an enrolment cap of 900 students as part of the approval for 'Alterations and Additions to a Primary School and Further Education Establishment' at Lot 101 DP 1159742 and Lots 1 & 2 DP 725754, No 212 Forest Way, Belrose. The application for modification is made under Section 96(1A) of the *Environmental Planning and Assessment Act 1979*.

Condition No 41 of DA 2010/1949 granted on 20 December 2011 states

Maximum Enrolment

The maximum allowable enrolment of the Covenant Christian School on the subject site shall not exceed 900 students

Reason *Limit maximum enrolment and the intensity of development on the site including traffic and land use impacts*

The Covenant Christian School has projected its future growth to a maximum of 1,100 students over the next 5 to 10 years. Notably, the additional students can be accommodated by taking up the spare capacity in existing classrooms.

The area in which the site is located remains a 'deferred matter' from the new Warringah Local Environmental Plan (LEP) 2011 and hence the planning controls for Locality C8 Belrose North from the "place based" Warringah LEP 2000 apply, together with relevant administrative provisions.

The Belrose North Locality includes a remarkable range of non residential uses, with the street block in which the school is located also containing a new unrelated kindergarten, Wakehurst Rugby Club and oval as well as leased tennis courts. The Kamoroi Rudolf Steiner School and Yanginanoook School are located to the north of Bundaleer Street, while a large retail plant nursery is located south on Waldon Road toward the Forrest Way frontage. The proposed modification as outlined in this report ensures that the school remains a low impact use on adjoining land uses and in the locality.

Previous reports considered by Council for the expansion of the school confirm that the student cap primarily related to perceived traffic issues and their potential to impact on the locality. To help address the traffic impacts associated with the increased enrolment, the Covenant Christian School engaged ARC Traffic and Transport who has found that the additional students can be accommodated without adverse impact to the surrounding road system or without parking impacts based primarily on improvements and traffic management since the last consent was granted.

This Report provides a detailed review of previous applications to confirm considerations surrounding the student cap now encapsulated in Condition No 41 of DA 2010/1949. The Report then addresses the requirements of Section 96(1A) of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*, concluding that Condition No 41 of DA 2010/1949 can be modified to increase the student enrolments to a maximum 1,100 students.

1.1 Background

The Covenant Christian School was established on the site in 1978 as a primary school and has been increased to accommodate a secondary school function. The expansion of the school has resulted in a number of development applications (**DAs**) to Council. The main DAs considering the expansion of the school and the key issues considered are summarised below.

- DA 2005/0915 proposed the construction of new classrooms, amenities block, car park, bus bay and the removal of an existing demountable classroom. The application nominated a maximum enrolment of 900 students based on the conclusions of a Traffic and Parking Report, prepared by Traffic Solutions Pty Ltd (dated February 2007). Condition No. 97 of Consent No. 2005/0915 limited the maximum enrolment at the school to 900 students. However, this consent was never commenced and hence the maximum student cap under this consent was never implemented.
- DA 2010/1949 proposed the staged construction of a new school building comprising classrooms, library, and music/drama learning space, relocation of a demountable classroom and shade structure, removal of three (3) demountable buildings (2 classrooms in each), re-configuration of the existing school car park off the Dell Street entry (number of spaces unchanged), relocated uniform store, covered walkways, pathways, steps, landscaping and associated site works. No increase in student numbers was nominated as part of the application.

As DA 2010/1949 was a Category Three (3) Application under the Warringah LEP 2000, it was considered at a public hearing conducted by the Warringah Development Assessment Panel (**WDAP**) on 8 June 2011. At that meeting, the WDAP considered a Development Assessment Report, which stated:

The proposal does not seek to increase student enrolments by the additional facilities. However, the issue of how the current capacity of the school for 750 students is able to remain as a "low intensity / low impact use" has been addressed. This includes detailed consideration against the DFC and relevant comparison against a previous site proposal to reconfigure bus servicing and car parking within the site. The school has revised its prior traffic management strategies and the impetus for a separate bus bay has become redundant. The availability of some 100 car spaces also enables the school to manage staff and student parking requirements without any significant impact on surrounding traffic movements in Bundaleer Street, Linden Street, Waldon Road and the Locality.

Council's Traffic Engineer has raised no objection to the proposal with respect to traffic planning issues and the recent construction of an RTA bus bay on Forest Way has assisted with improving the remaining bus services that use the main car park. Notwithstanding this, in the absence of a revised Traffic Management Plan, and the fact that DA2005/0915 was never activated, it is considered that the school enrolment should remain at its prior enrolment limit as assessed in September 2005, which was 750 students.

In considering the application, the WDAP resolved to require an amended plan showing the relocation of a classroom and, among other things, delete Condition No. 41 requiring a 750 student cap.

In a Report to the General Manager dated 5 December 2011 which assessed the amended documentation in response to the WDAP resolution (above), the following commentary revisited the student enrolment for the school, as repeated below

The amended plans submitted as per the WDAP recommendation are satisfactory, however Condition 41 (as per item B(c) above) is recommended to be retained, in a modified form, following discussions with the Applicant and detailed consideration by Council's Traffic Management Section

In relation to Condition 41, the Supplementary Traffic Consultants Statement report submitted at Council's request assesses that the proposed car parking and bus pick-up and drop-off facilities can adequately cater for 900 students

Importantly, the development application stated that the school already has approval for a maximum of 900 students, however this is not the case as Development Consent No DA2005/0915, which contained a condition limiting the number of students to 900 for that particular approval, was never enacted and hence the maximum number of students under that consent has no effect (unless the consent is taken up at some future stage)

Therefore, the Covenant Christian School currently has no official maximum number of students enrolled under any approvals issued by Council. Hence, it is considered important to impose such a maximum, having regard to the fact that the school is a Category 3 land use and the operations must be consistent with "low intensity-low impact"

The traffic report and other supporting documentation submitted in response to Council's request for justification of a maximum student number was reviewed by Council's Traffic Management Section and no concerns were raised with the figure of 900. Therefore, based on the traffic consultant's findings, it is appropriate that the consent be conditioned to reflect a maximum student number of 900

Accordingly, it is recommended that Condition 41 be imposed on the consent which restricts the student numbers to 900

On 20 December 2011, the General Manager approved Development Application 2010/1949 subject to the conditions (as amended) with Condition No 41 imposing the current 900 student cap

2.0 The Site and Locality

This Section describes the physical characteristics of the site, adjoining development and character of the locality, which are relevant considerations in understanding of the locality in which the school is located

2.1 Site Description and Context

The Covenant Christian School operates as an independent school catering for classes from Kindergarten to Year 12 and as at the February Department of Education Census 2015, has a current population of 850 students, plus 19 pre-school children (totalling 869 enrolments) and 92 full-time equivalent staff on a large site known as Lot 101 DP 1159742 and Lots 1 & 2 DP 725754, No 212 Forest Way, Belrose

The site on which the school is located is irregular shaped with an area of 35,126m² and is located within the street block bounded by Forest Way, Waldon Road, Linden Ave and Bundaleer Street. The site itself extends between Forest Way and Linden Ave and also has frontage to part of Bundaleer Street.

The main entrance to the School is situated at the end of Dell Street adjacent to the Wakehurst Rugby Park. A total of 47 off-street car spaces are currently provided on the site, including 37 car spaces in the School's existing main car park off Dell Street. An additional 50 sealed and line-marked car spaces are available in Dell Street (refer **Figure 1**).

The School's upper car park has recently been expanded so as to accommodate the sweep path of articulated buses, around the central staff parking area, allowing them to queue and load/unload students from a designated footpath immediately adjacent to the main pedestrian entrance. This on site bus facility accommodates those buses generally arriving from and departing to the south. Buses departing to the north use a constructed bus bay on Forest Way, which is located immediately adjacent to the School's playing field. This bus bay provides a standing for 2 – 3 buses. If required, additional buses can queue in Waldon Road before being called via radio/phone to the Forest Way bus bay as standing room becomes available.

The Covenant Christian School is located within a semi-rural area accommodating a broad range of mixed land uses, including nurseries, seniors living development, sports fields, schools ('Kamoroi Rudolf Steiner' and 'Yanginanook'), the Belrose Waste Transfer Station, Optus earth station, landscape supply business, riding schools, rural residential land, vacant Crown land and the Garigal National Park land (refer to **Figure 2**).

Also along the Bundaleer Street frontage is a new independent kindergarten and a residential property nearer the Forest Way frontage. The only other residential property in the street block is on the corner of Waldon Road and Linden Ave which contains a dwelling house with tennis courts at the rear which are leased by the school. There are some residential properties in the vicinity located on the northern side of Bundaleer Road toward Forest Way, on Waldon Road opposite Dell Ave and on Linden Avenue.

The proximity of the school to Forest Way and other non residential uses means that there is elevated background noise levels. The location of the school in this precinct and design incorporating perimeter buildings behind generous setbacks means that student noise is generally quarantined within the school grounds.



Figure 1 Existing School site (Source Nearmap)



Figure 1: Aerial Photograph Identifying the Subject Land and Surrounds
 (Source: Six Maps, January 2015 (as adapted by GLN Planning))

3.0 Proposed Modification and Traffic Assessment

It is proposed to modify Condition 41 of DA 2010/1949 to increase the current cap of 900 students to 1,100 students to accommodate the school's projected future growth.

The proposal does not require any new building works or classrooms to accommodate the increased student numbers. There is existing and adequate spare classroom capacity that will be utilised to accommodate the additional students.

The proposed increase to student numbers will be progressive over approximately 5-10 years and will require a minor increase to staff numbers, which is expected to be approximately 6 additional staff once the student numbers reach 1,100.

As shown in **Table 1** below, the projected student increases will not be proportional across all classes. Rather, the major growth is expected in Year 5 and Year 6 of the Primary School component, and then across the High School component.

Table 1: Current and Projected Future Student Numbers

Class Year	2015 Student Nos.	Future Student Nos.	% Change from 2014
Pre-School	19	20	0%
Kindergarten	37	44	76%
Year 1	21	48	17.1%
Year 2	43	52	8.3%
Year 3	50	56	51.4%
Year 4	41	56	21.7%
Year 5	51	84	47.4%
Year 6	62	84	47.4%
Year 7	100	105	-0.94%
Year 8	107	105	36.4%
Year 9	75	105	12.9%
Year 10	99	105	25.0%
Year 11	83	105	25.0%
Year 12	81	105	31.3%
TOTAL	869	1074	25.6%

In order to assess whether the school can accommodate the increased number of students, the Covenant Christian School engaged ARC Traffic and Transport to prepare a Traffic Impact Assessment (TIA) to examine the access, traffic and parking implications associated with the proposal. To do this, the consultant undertook the following tasks:

- Observed conditions around the School during the AM arrival peak and PM departure peak periods.

- Reviewed previous traffic reports relating to the School. In particular, the reports prepared by Traffic Solutions between 2005 and 2010 in regard to previous upgrade works and bus travel planning.
- In consultation with the School, prepared and assessed a student Travel Survey to determine student travel characteristics.
- Commissioned traffic and parking surveys in the local area to quantify current demand, by which to assess the impacts of the Proposal at key locations.
- Referenced appropriate safety and design guidelines.

The Traffic Impact Assessment concludes that:

- The key activity areas during the School peak periods, being the on-site bus facility and Dell Street, operate at a high level of safety and efficiency, which is a product of good design and excellent supervision. The additional vehicle trips expected to be generated by the Proposal would not compromise current operations. Nonetheless, any additional demand for the on-site bus facility could be appropriately managed subject to further consultation with Forest Coach Lines and Council.
- During peak periods, the local road network will continue to operate well within RMS capacity limits and would not be compromised by the additional vehicle trips expected to be generated by the Proposal.
- The key intersections to Forest Way at Crozier Road, Waldon Road and Bundaleer Street all operate at a good level of service, and would not be impacted by the additional trips generated by the proposal.
- A significant amount of spare parking is available in the immediate vicinity of the School, which can meet (and exceed) peak demands further to the Proposal.
- The Forest Way bus stop operates safely and efficiently under the supervision of senior staff. The School's existing Traffic Management Policy, which ensures queued buses do not impact on Forest Way through traffic, could equally be applied should additional buses be required in the future further to the Proposal.

In addition to the above conclusions, the TIA provided the following recommendations:

- The Covenant Christian School's Traffic Management Policy should continue to be implemented daily, and updated regularly (at least yearly).
- Further to consultation with Council, the section of sealed verge on the northern side of Waldon Road (immediately east of Dell Street) be marked to provide 90° angled parking comprising approximately 20-22 spaces. Space dimensions should conform to AS 2890.1:2004.
- Further to the identification of a student bus demand in excess of current capacity, the School enter into consultation with Forest Coach Lines to initially determine the potential for the use of larger buses, or if required, means of safely and efficiently moving additional buses through both the on-site bus facility and the Forest Way bus stop.

A copy of the Traffic Impact Assessment prepared by ARC Traffic and Transport is at **Appendix A**.

4.0 Statutory Planning Framework

The statutory framework for the assessment of the application requires consideration of the matters under Section 96(1A) of the Environmental Planning and Assessment Act (Act) 1979, which include consideration of relevant matters under Section 79C and hence the local planning controls.

The relevant provisions are discussed below:

4.1 Section 96 of the EP&A Act 1979

Section 96(1A) of the EP&A Act provides that:

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*
 - (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
 - (c) it has notified the application in accordance with:*
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
 - (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*
- (3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application.*

The key assessment criteria from Section 96(1A) of the Act is summarised below into a series of questions and answers:

1. *Is the proposed modification of minimal environmental impact?*

The application is considered minor with minimal environmental impacts. The Traffic Impact Assessment has confirmed that car parking and transport infrastructure is provided to cater for the increased enrolments. There are no works proposed or required as part of this application to accommodate the increased enrolment.

2. *Is the development substantially the same as originally granted consent?*

The proposed modification sought is to amend Condition No. 41 of DA 2010/1949, which relates to the maximum allowable student enrolment. The proposed modification is considered to be substantially the same as the development for which the Consent was originally granted. No other conditions or plan references require amendment, only the student number referenced in Condition 41.

3. *Does the modification require notification and are there any submissions?*

Council will notify the application in accordance with its DCP and consider submissions.

4. *What are the matters of relevance under Section 79C of the Act to be considered?*

The key matters under Section 79C of relevance require consideration against the local planning controls applicable to the assessment of the application. The site of the Covenant Christian School is a deferred matter under the current Warringah LEP 2011. This means that the provisions of the Warringah LEP 2000 (**WLEP 2000**) still apply. The requirements of Warringah LEP 2000 is discussed further below:

4.2 Warringah Local Environmental Plan 2000

The subject site is situated within Locality C8 – Belrose North. The Desired Future Character Statement for Locality C8 – Belrose North is as follows:

The present character of the 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 detached style housing conforming with the 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 existing 'primary school' and 'further education' components of the subject site are defined as Category Three (3) land uses in the C8 – Belrose North Locality Statement, and are permissible with development consent. Typically, the assessment of applications and in particular Category Three (3) land uses require:

- that the development is consistent with the Desired Future Character Statement described in the relevant Locality Statement.
- the assessment of any Category Three (3) land uses requires extra procedures, including the consideration of a range of additional matters listed in Schedule 15 of the WLEP 2000 as well as the consideration of the findings and recommendations of an independent public hearing, which was carried out to consider the previous proposal.

The requirements listed above do not, however, apply, for development described as 'Existing Category 3 development'. Under Clause 16 *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.

In these cases an independent public hearing can be dispensed with and the proposal does not need to be assessed against the Desired Future Character Statement for the Locality.

The application to increase student enrolments does not result in any change to buildings or land use but does proposed an intensification of use. The intensification to increase the maximum allowable student enrolment is considered minor for the following reasons:

- the existing School has adequate buildings, infrastructure, playing fields, landscaping, staff and site management to accommodate 1,100 students.
- a TIA concludes that there will not be significant access, traffic or parking impacts on the local traffic and parking environment as a result of the proposed increase to student enrolments.
- noise associated with the existing use of the site as a school is primarily confined to school hours and more intense noise producing activities are carried out in parts of the school generally shielded by buildings and are actively managed by staff to ensure noise is minimised. The standard noise conditions imposed on the Consent will ensure that the school use complies with relevant noise legislation.

It is considered that the proposed intensification by increasing the student cap is minor and will not, in any event, detract from the present or future character of the Belrose North Locality.

4.3 Section 79C of the EP&A Act 1979

4.3.1 Environmental Planning Instruments (section 79C(1)(a))

This Application has been assessed against the relevant provisions of the EP&A Act, the EP&A Regulations and the provisions of the WLEP and accompanying DCP. As detailed within this Report, the proposal has been found to comply with all relevant provisions.

4.3.2 Impacts of the Development (section 79C(1)(b))

This Modification Application does not involve any physical works, but rather relates to an amendment to Condition No. 41 of DA 2010/1949 to increase the maximum allowable student enrolment.

The purpose of the proposal is to cater for the School's maximum projected future growth to 1,100 students, for which there is existing and adequate spare classroom capacity. The proposal will have no significant access, traffic or parking impacts nor would it unreasonably diminish the amenity of the area or nearby residents.

Based on the above, the proposal is considered not to have any adverse environmental, social or economic impacts to the locality.

4.3.3 Suitability of the Site (section 79C(1)(c))

Given that there is existing and adequate spare classroom capacity to accommodate the proposed increase to the maximum allowable student enrolment, the site is considered to be suitable. The proposal will not adversely impact on the surrounding locality with uses remaining consistent with those previously approved.

4.3.4 Submissions (section 79C(1)(d))

The proposal will be notified in accordance with Council's notification procedures. We request the opportunity to respond to any issues received during the notification period that may arise.

4.3.5 The Public Interest (section 79C(1)(e))

The approval of the proposed modification to Notice of Determination DA2010/1949 is considered to be in the public interest.

5.0 Conclusion

This Section 96(1A) Application seeks approval for a minor modification to the approved DA 2010/1949. Specifically, the proposed modification seeks to delete Consent Condition No. 41 of DA 2010/1949 and replace it with the following:

41 Maximum Enrolment

The maximum allowable enrolment of the Covenant Christian School on the subject site shall not exceed 1,100 students.

Reason: *Limit maximum enrolment and the intensity of development on the site including traffic and land use impacts.*

The proposed modification has been assessed against the requirements of Section 96(1A) and 79C(1) of the EP&A Act and has been found to be acceptable.

It is considered that the proposal will not result in any adverse impacts to the surrounding locality.

Based on the information contained within this Statement, the proposed modification to Condition 41 of Notice of Determination DA2010/1949 should be approved.