

Presentation to the IPC - Issues with Trinity Grammar SSD 10371

Thank you for the opportunity to present to the Commission. My name is Paul Grech and I have resided 200m from the school at 1 Victoria Square, with my wife Heather for the last 20 years. There are lots I would like to say but will confine myself to 2 issues that have the most impact on us.

1. The maintenance building on Seaview Street
2. Student/staff numbers and traffic

The maintenance building

- Victoria Square is a fantastic community resource. A popular walking route for us and many in the community, is through the Square, then up Seaview Street and down Victoria Street to Yeo Park.
- Unlike the main school site, the four dwellings to be demolished in Seaview Street are zoned Residential R2.
- The proposed building (as amended), is described as being 2-3 storey and compatible with the streetscape – but it is not – it is 10 m high, it is 3 storeys, and presents an industrial-like building – see Figure 17 in the Department’s AR. [See link to relevant drawings]:

<https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SD-10371%2120210304T230121.362%20GMT>

- This would have to be the be the worst looking building on the school site.
- The site is large, so surely the maintenance building could be placed in a less prominent location, inside the site and not on a residential street. The upper two levels are to be used for offices and storage – these functions do not need a street presence.
- The Traffic Impact Study (TIA) shows that the proposed wide driveway, not typical of a residential setting, will cater for Heavy Rigid Vehicles – it is not apparent that these will be able to safely enter and exit from the site, nor is it clear from the swept path diagrams that they will be able to do so without crossing on the other side of a what is a narrow street, and at the crest of a hill – see Drawing DA141 Rev A.
- Seaview Street is a light traffic thoroughfare.
- The documentation in the DA glosses over the impact of this aspect of the development.
- The Heritage Impact Statement (original and updated) has one small statement that the proposed building is of suitable scale and in keeping with the residential context, but does not adequately address the significant visual impact on the adjoining Heritage Items. Notably the visual impact on the catchment of the Glentworth heritage item, on the opposite corner of Victoria Street and Seaview Street. The removal of large figs in this part of the street on request from the school because they were damaging the existing dwellings, ironically followed by an application to

demolish these dwellings, will make the maintenance building prominent in the street. The Cardinal Freeman Village redevelopment has restored this building and its setting providing a magnificent uplift to the area only to have it trashed by a maintenance building.

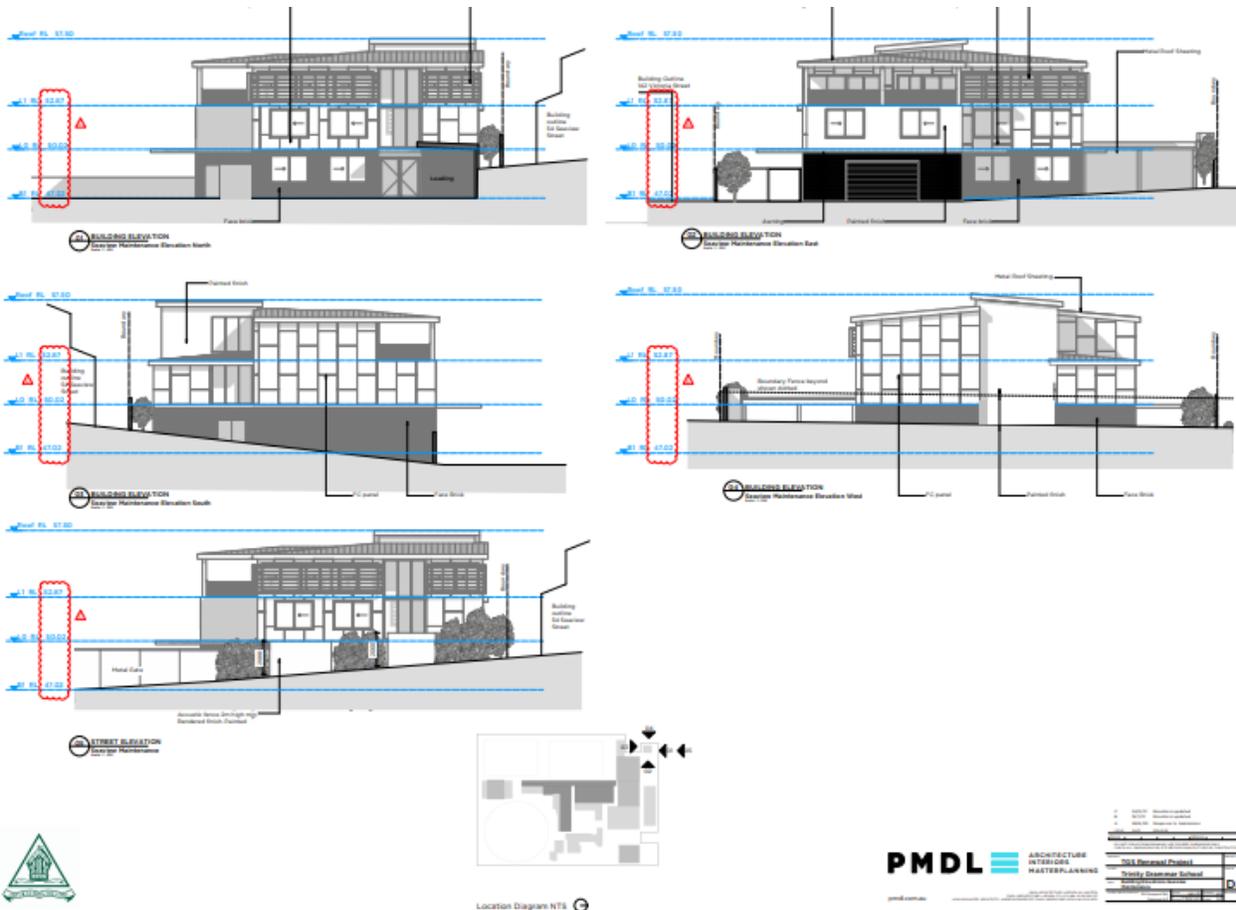
- The proposed form is not akin to a residential dwelling; the unfortunate legacy of the current school buildings on Seaview Steet should not be emulated in this location, opposite heritage conservation areas.
- The blank 2m high rendered and painted walls are not appropriate to the street, even with the tokenistic planting proposed – and it is not clear if the proposed wide metal gate shown on the amended drawing will be a solid or not, adding to the poor streetscape presentation.
- A prominent part of the building extends substantially forward of the building line.
- If this was a DA for this building only, one would question the suitability of the structure and its function opposite residences and directly adjoining the remaining non-Trinity dwelling on the corner of Seaview and Victoria Street.
- The addendum Heritage Statement by Urbis that addressed the heritage significance of the four dwellings to be demolished, and concludes there is none, but the loss of streetscape values and the character of the street, and the suitability of the building that will replace them in part is not adequately addressed.
- As a local resident, one despairs about the erosion of the local Residential amenity due to the continued expansion of the school.
- The Department's assessment fails to adequately address the heritage and streetscape impacts as well as the functional aspects of the traffic movements of this building.
- The school does not need to have the maintenance depot located in such a prominent location. This aspect of the development needs to be refused and the facility relocated within the site. While not an accurate representation the following figures depict the most favourable view of the maintenance facility and a view back towards Glentworth from the site of the facility as well as the plans available for it.



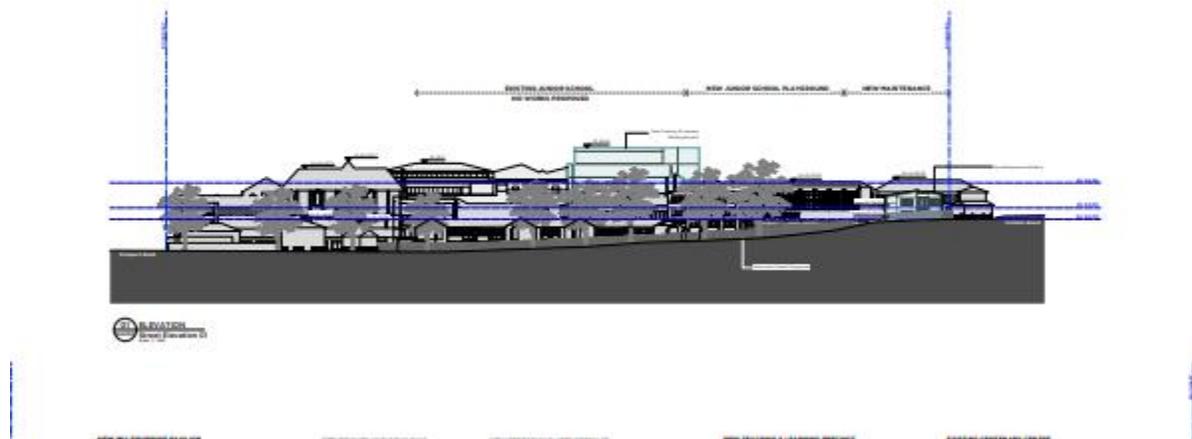
Figure 12. New Maintenance Area from Seaview Street (Source: Richard Lamb, 2020)



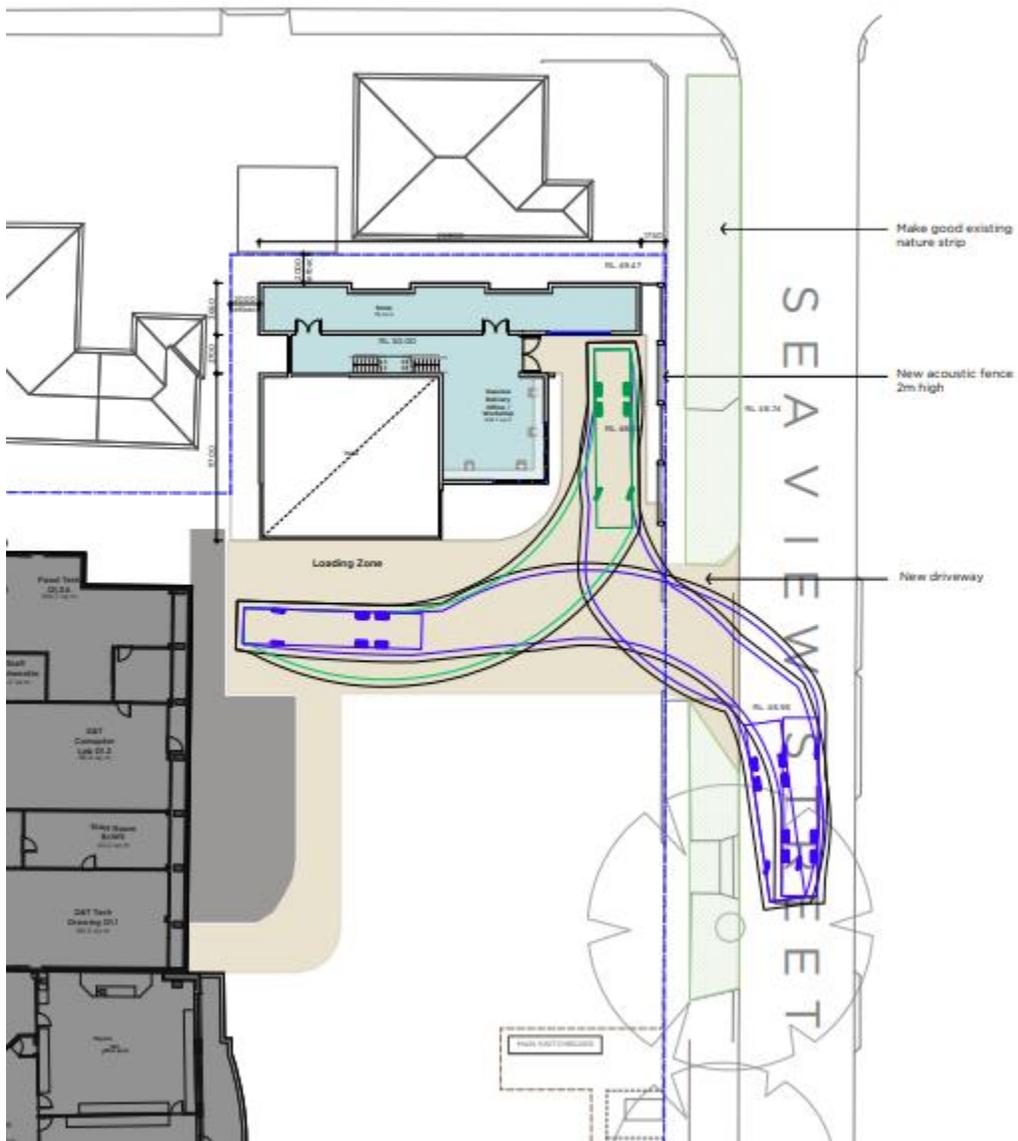
Photo taken by P Grech July 2021



Extract from Amended drawing DA308 REV C



Extract Drawing DA200 Rev A Seaview Street Elevation



Extract drawing DA141 Rev A

The second issue is the increase in student numbers and resultant impacts.

Proposed is an increase”

- **Of 1.2ha of new floorspace**
- **From 1500 students to 2100 students – 600 more**
- **And 277 to 321 full time equivalent staff**
- I urge the Panel to read the Judgements of the 2007 and 2015 court cases as they give a good overview of the facts of the existing development and the long-standing issues that will be exacerbated by the proposal.

2007 Court Case

- The current student numbers are capped by condition of consent in November 2007 to a **maximum of 1500** as a result of a 2007 Land and Environment Court judgment by then Senior Commissioner Roseth: *Trinity Grammar School v Ashfield Council [2007] NSWLEC 733*. <https://www.caselaw.nsw.gov.au/decision/549f92ce3004262463af5bc0>
- That application was to:
 - erect a 50-metre swimming pool building
 - a multi-purpose hall
 - a building containing 18 classrooms
 - an underground carpark for 230 cars.
- There is reference in the Judgement that there was no increase in student numbers proposed as part of that application. The School had argued that there was no power for the court to impose a condition limiting the student numbers but to the contrary Senior Commissioner Roseth concluded there was an obligation to impose limit of 1,500 students based on the traffic conditions at that time.
- The Senior Commissioner states in paragraph 53 of the Judgement:

53 In my opinion, the Court has not only the power but the obligation to impose a condition limiting student numbers, though the reason is not related to either of the above submissions, but arises out of the facts of the case. On page 5 of the Statement of Environmental Effects accompanying the application, is the following statement:

There will be no increase in student numbers and only a small increase in staff numbers.
- In paragraphs 60 and 61, the Commissioner sets out the rationale for the existing condition that applies, that the school numbers be limited to 1500:

60 I turn to the question of the actual number of students to which the school should be limited. While the assessment of traffic impact was based on 1,400 students, the applicant provided two further numbers during the hearing, with a third number (1,490) for the students enrolled for 2008. The council submits that the number should be 1,400, since that is the number given in the application and the briefing of the traffic consultants. However, if the number of students enrolled for 2008 is 1,490, it is reasonable to assume that the existing school can accommodate that number without the new classrooms.

61 It would be unreasonable to set the limit at a smaller number than the students already enrolled for 2008, since this would require the school to reverse decisions it has already taken. If I accept the existing number of students as 1,490, the limit of 1,500 suggests itself. There is expert opinion before the Court (albeit from one side only) that the traffic impact for that number is acceptable. Balancing all the facts and considerations, it seems to me that a limit of 1,500 students is a reasonable compromise between competing claims. Condition 5 therefore becomes:

The number of students at the Summer Hill campus shall not exceed 1,500

- The EIS fails to even identify this current constraint on student numbers.
- This Judgment and the current student numbers was a result of consideration by the court, including expert traffic evidence of the capacity of the it and the resultant impacts.

2015 Court Case

Council of Trinity Grammar School v Ashfield Council [2015] NSWLEC 10

<https://www.caselaw.nsw.gov.au/decision/55249082e4b0fc828c9953f7>

- This states that there is 320 on-site car spaces, whereas the proposal indicates that there are 317.
- In 2015, the School sought to modify the above condition to increase the numbers to 1700, an increase of 200.
- Interestingly, the Judgement relied on traffic counts over 5 days, both inside and outside of school holidays. With regards to traffic impacts, at paragraphs 57 to 59, Commissioner Dixon (now Senior Commissioner) summarised the issue:

What impact will the increase in students have on traffic volumes and trips?

57. According to the Gennaoui report the increase onsite student population of 234 from 1466 (on the day of survey) to 1700 would comprise:

- ... some 123 cars would be arriving in the morning 2 hour period, 95 of which would also depart. During the afternoon 2 hour period the reverse would apply.
- About 145 and 135 additional trips are estimated to be generated during the morning and afternoon peak hour respectively (table 14 p65 Exhibit 1 tab 5).

- *Some additional 70 students may use buses to and from school. It is anticipated that the existing buses serving the school would be able to cater for this increase.
(p 64 of exhibit 1, tab 50)*

59. *Table 17 of the Gennaoui report details that the existing and potential traffic volumes during morning and afternoon peak in Victoria Street are expected to experience an increase in traffic of between 14-18% during the morning peak and between 15 -18 % increase during the afternoon.*

- The Panel will need to reconcile, as I cannot, why:
 - the tested Court evidence was based on traffic analysis based on a two hours peak period (and not one hour peak) using traffic counts taken over 5 days, both inside and outside of school holidays
 - the Court accepted expert evidence that a 234 student increase would result in an 145 additional trips in the morning for example, whereas the current TIA, states that with an increase of 445 students only 196 additional vehicle trips will result
 - the traffic reports analysed the impacts on Victoria Street as a local collector road, and this type of analysis is absent from the current TIA
- The Court REFUSED the proposed 200 increase in student numbers. The judgement notes:

Findings - Traffic

60. *In my assessment of the evidence the proposed increase in the number of student numbers at the campus will have a significant environmental impact on traffic volumes particularly in Victoria Street.*
61. *The 13% increase in students is expected to generate an additional 95 vehicle in the AM and 65 in the PM. According to the School's traffic evidence this is about 145 and 135 additional trips generated during the morning and afternoon peak hour respectively (table 14 p65 Exhibit 1 tab 5).*
62. *From a quantitative perspective I am of the opinion that the increase in vehicles generated by an additional 200 students at the campus is significant*
63. *As the expert and resident evidence stands I am of the opinion that Victoria Street is not presently coping with the current traffic generated by the School under the original consent. It seems this is in part due the operational problems identified with the flow of traffic in the existing Jubilee Drive car park. In that circumstance it logically follows that any increase in traffic generated by more students to the campus will exacerbate the existing traffic problems on Victoria Street which is the only access to the Jubilee Drive and this translates into further unacceptable environment impacts for the residents namely: traffic congestion in Victoria Street caused by queues into and out of the car park, bad driver behaviour such as setting children down on the road or double parking rather than entering a congested car park.*

In the summarising paragraphs the Commissioner said:

105 According to the evidence Victoria Street already operates at a level during school term above collector road level of 300 under the Guideline (exhibit 12). The survey taken when the school was on holidays demonstrates a significant reduction in cars on Victoria Street which suggests much of the school term traffic is associated with the School use.

106 The Court in 2007 issued development consent for a school with a maximum number of students at the summer Hill campus. While the Council invites me to scrutinise the judgment in order to appreciate that the number of students was important in the circumstances in which the consent was granted I do not need to do that. I accept having regard to the terms of the Court consent which includes condition 5 that a maximum limitation on the number of students at the campus at 1500 was essential to the acceptable operation of the school and the issue of the original consent. It was an essential aspect of the development consent: .

In summary:

- The school has disregarded the conditions of a Court granted development. Rather than being punished for blatantly committing an offence under the Act, the Department is recommending they be rewarded. I am astounded that the Department has so little regard of the Land and Environment Court and appropriate process that it appears to have simply adopted a position to “regularise” the offence!
- The fact that the EIS and the traffic report fails to identify this current constraint puts into question the analysis or impact presented. The increase that is being proposed is not from 1655 to 2100 but from 1500 to 2100, **a 40% increase!**
- The fact that at least 230 car spaces in the then new car park were required for the existing facilities is completely at odds with the proposal that with an increase an **additional 12,210sqm** only provides an additional 12 car spaces.
- The application glibly states that the Ashfield DCP requires too many car parking spaces, and is not consistent with government policies to encourage public transport usage, but the information provided in the EIS of the modal split (even if this is accurate) it is evident that the school is heavily reliant on travel to school by car – and not by public transport.
- It is not particularly close to public transport (it’s a minimum 20 -25 minute slightly uphill walk to Summer Hill or Ashfield Stations).
- The Assessment report recognises no students or staff cycle to the school.
- I can tell you as a resident of 20 years that it is uncommon to see students and staff walk to the school.

- In any case, it cannot be assumed that in post-COVID times, that here will be the same modal split as there was in the one survey conducted in October 2019 (its statistical reliability being unknown).
- Contrary to the statement in the POM, a significant number of students do not use public transport – only 47 %; and only 16% of staff.
- More than half of the 47% is via Trinity buses that currently struggle to find somewhere to park.
- As 84% of staff drive – the additional 44 staff alone would require 37 car spaces.
- Despite a significant increase in student and staff numbers, the numbers of car spaces on the site will increase by only 12 from 312 to 324 spaces – the result will only be further impacts on resident's street parking
- The greatest flaw appears to be that for such a large increase in student numbers, the original TIA is based on traffic counts taken on only one day (Tuesday 4 February 2020) and that it comes to the conclusion that the resultant traffic impact will be acceptable. This is the result of the SIDRA analysis on the congestion at traffic intersections.
- It is unbelievable that the current intersections all operate at Level of Service A at the peak times of the school, and that adding a 40% increase in students will not affect the LOS.
- Traffic counts need to be undertaken on several occasions, on representative dates throughout the school year. At the beginning of term, Year 7 students all attend an offsite camp, so it is not known if this was the case when the counts were taken. **For such a significant increase in student numbers a more detailed traffic impact assessment and independent review is required.**
- The original TIA did not identify or address the significant queuing issues that occur every morning along Victoria Street, and the congestion in Holwood Avenue and Harland Street. The traffic impacts are not merely one of the LOS of intersections – that measures the impacts on traffic flow, but also that of residential amenity. This is not addressed in the EIS or the Department's assessment report.
- The original TIA did not address the impacts on other significant intersections, including Harland Street and Holden Street and Victoria Street and Liverpool Road. The updated TIA dated 2 June 2021 undertook more traffic counts (again one single day 21 April 2021) but this was the second day back of term and is in COVID times, so it not representative of normal traffic volumes.
- As an example, contrary to the conclusions made about the Victoria Street and Liverpool Road intersection the problematic leg is turning right into Liverpool Road from Victoria Street, which is already at LOS D. In the morning peak, this intersection is frequently choked back to past the round- about at the intersection of Victoria Street and Norton Street – yet that intersection was not analysed. See June 2021 Traffic Report link

<https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachmentRef=RFI-17578958%2120210629T040639.707%20GM>

- The Victoria Street – Liverpool Rd intersection currently does not work in the peak and it can only get worse.
- I am not a traffic expert, but I question that the LOS is averaged across the intersection legs as done in the TIA, although individual legs clearly shows diminished and unacceptable drop in LOS. Surely a drop in the LOS in any leg should be considered, not the average?
- At the moment there is one access point on Victoria Street out of the car park used by parents. The school has a self-imposed ban on right hand turns out of the car park during peak hours which means only those that ignore the sign inside the school driveway or those that turn left and soon after do a U-turn (causing additional traffic chaos and safety issues) travel north along Victoria Street to Liverpool Road.
- The proposal to introduce a right hand turn onto Victoria Road will be a disaster for the environmental amenity of residents along Victoria Street and because of the backing up at Liverpool Road, a disaster for people like us when traffic will look for alternate routes via like Clissold Street.
- The problem for us is the traffic noise, access out of our driveway, traffic congestion and safety. There are already periodically accidents at intersections such as Clissold and Victoria Street, most of which would not be reported. The streets being parked out near us occurs only occasionally at present, mainly during special events, but the proposal can only make this a regular occurrence.
- There is no consideration of the other special events, as was undertaken for the Court cases, which will now either be more frequent or have higher number of attendees. In addition to parent teacher events, which lead to our street (Victoria Square) being parked out, this includes (this was considered in the Court appeal but not so far as part of this application):
 - *Sports centre: weekdays, no weekends;*
 - *Swimming pool: Weekdays, Saturday noon to 2 pm, 8 days per year on weekends;*
 - *Ovals: Wednesdays and Fridays;*
 - *Delmar Gallery 6 exhibitions of 4 weeks per year;*
 - *Functions: 12 per year plus 4 dinners per year;*
 - *Concerts: 12 per year;*
 - *Chapel time unspecified for weddings, funerals,*
- It appears that the Department has accepted the Applicant's traffic impacts analysis and some engineering based (not amenity based) mitigation measures proposed, and with what appears to be very little scrutiny – there is only 8 short paragraphs of supposed assessment of this critical issue. Was a traffic expert engaged to interrogate the reports? It is the role of the assessment body, not the residents, Council or even TfNSW to do so.

- At a minimum, the Department/ IPC needs to
 - undertake a detailed review of the TIA by an independent expert
 - the applicant needs to provide the raw traffic count data for times required by that expert; who needs to spend time observing the traffic behaviour at the site (outside of the current covid period)
 - the applicant needs to identify the current queuing and inconvenience issues that exist at present and explain how these will be mitigated; and
 - post COVID restrictions, a more representative traffic and amenity analysis of the current parking and traffic situation is required.
- I add that I say this not from my own observations as a local resident of the mayhem including unsafe driver behaviour that occurs at the school particularly in the mornings, but as a town planner with 39 years experience who has been involved with over 500 appeals in the Land and Environment Court – there is simply not enough analysis done either by the applicant or in the assessment. I have separately sent a Video to the Commission which shows this.
- This goes to the heart of consideration of section 4.15(1)(c) of the EPA Act by the Commission – the suitability of the site.
- The traffic impacts on local residents will not be alleviated in any way by the somewhat after thought proposal mentioned in the TIA that there should be a Green Travel Plan. It is highly unlikely that parent behaviour will change – a large number of boys will be driven to school or in later years, will drive themselves. This is likely to be more so the case Post COVID.
- In any case, the submitted POM, which contains only a description of the development and no actual traffic and parking management measures, and makes no mention at all of a proposed Green Travel Plan.

There is simply inadequate information and analysis provided to understand the impact of the development. But based on the more detailed analysis undertaken by the Court, which could only have got worse with background traffic growth, it is unbelievable that any increase in student numbers beyond the last increase to 1500 students granted by the Court, could ever be justified.

I urge the Panel to refuse the development but if you are not prepared to do that then to defer the application for an independent review of the traffic report by an external expert and take the opportunity to revisit some basic design issues such as the maintenance building in Seaview Street.

Thanks you for your time.

Paul Grech

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