

Report to Sydney Central City Planning Panel

Panel reference	2016SYW191
DA number	JRPP-16-03335
Proposed development	Place of public worship
Street address	33 Hamilton Street, Riverstone
Applicant	Donald Cant Watts Corke (NSW) Pty Ltd
Owner	Anglican Church Property Trust Diocese of Sydney
Date of DA lodgement	2 September 2016
Number of submissions	Nil
Regional development criteria (s9.1 EP & A Act and Ministerial Direction)	Capital investment value (CIV) over \$5 million for a place of public worship (DA has CIV of \$7.66 million)
All relevant s4.15 matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy (Infrastructure) 2007 • Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River • State Environmental Planning Policy No. 55 – Remediation of Land • Central City District Plan 2018 • State Environmental Planning Policy (Sydney Region Growth Centres) 2006 • Blacktown City Council Growth Centre Precincts Development Control Plan 2018
Report prepared by	Blacktown City Council
Report date	16 March 2018
Recommendation	Approval subject to conditions

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments, where the consent authority must be satisfied about a particular matter, been listed and relevant recommendations summarised in the Executive Summary of the assessment report? Yes

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard has been received, has it been attached to the assessment report? Yes

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (s4.11)? Yes

Conditions

Have draft conditions been provided to the applicant for comment? Yes

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ATTACHMENTS

- Attachment 1 – Location map
 - Attachment 2 – Aerial image
 - Attachment 3 – Zoning extract
 - Attachment 4 – Detailed information about proposal and DA submission material
 - Attachment 5 – Development application plans
 - Attachment 6 – Applicant's Schedule of Activities for Stages 1 and 2
 - Attachment 7 – Assessment against planning controls
 - Attachment 8 – Applicant's clause 4.6 request for variation
 - Attachment 9 – Assessment of the proposed clause 4.6 request for variation
 - Attachment 10 – Draft conditions of consent
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1 Executive summary

- 1.1 This report considers a proposal for the construction, fitout and operation of a Ministry Centre (Place of public worship) in 2 stages and associated landscaping, car parking and stormwater drainage works. The proposed works are within Residue Lot 19 in approved Subdivision DA-15-02708 at 33 Hamilton Street, Riverstone.
- 1.2 The key issues that need to be considered by the Panel in respect of this application are:
 - a. Building height (Section 7.1)

Despite exceeding the maximum permitted building height for point encroachments only, the application is considered to result in a better planning outcome which adds to the architectural merit of the building.
 - b. Height of the boundary fencing (Section 7.2)

The acoustic barrier boundary of 2.8 m in height is an appropriate response to potential impacts of the proposal on the visual and acoustic privacy, and shadow impacts of the adjoining residential properties.

c. Hours of operation (Section 7.3)

The Applicant has demonstrated that the proposal has suitably considered a design and layout which respects the amenity of the surrounding properties and is capable of managing the ongoing operation of the proposal and its visitors and attendees during the hours of operation of 8 am to 10 pm, 7 days a week, including public holidays.

d. Acoustic impacts (Section 7.4)

The Applicant has demonstrated that it is capable of implementing appropriate measures during the operation of the Centre to limit potential acoustic impacts prior to and following Sunday services and Thursday and Friday evening activities, which is considered to be acceptable.

e. Overshadowing impact (Section 7.5)

Although this proposal results in overshadowing impacts on the adjoining residential lots to the south-east, the redevelopment of the subject site for standard residential lots with 2 storey dwellings and boundary fencing would also be expected to result in overshadowing impacts. The overshadowing impact of this proposal is minimal and is considered to be acceptable.

- 1.3 Assessment of the application against the relevant planning framework, and consideration of matters by Council's technical departments, has not identified any issues of concern that cannot be dealt with by conditions of consent.
- 1.4 The application is therefore satisfactory when evaluated against Section 4.15 of the Environmental Planning and Assessment Act 1979.
- 1.5 This report recommends that the Panel approve the application subject to the recommended conditions.

2 Location

- 2.1 The site is located within the suburb of Riverstone as shown in **attachment 1**.
- 2.2 The existing locality to the west of Hamilton Street is characterised by established single and two storey dwellings. The locality to the north and east of Hamilton Street is in transition and the subject of recent small lot residential subdivisions. Site preparation works have commenced on some nearby sites to the north-east and south as shown in **attachment 2**.
- 2.3 The site is located within the Riverstone Precinct as identified by the Growth Centres SEPP 2006. The subject site, and land surrounding the site, is zoned R2 Low Density Residential as shown in **attachment 3**.
- 2.4 The Ambulatory Service of NSW adjoins the site to the south. The Kingdom Hall of Jehovah's Witnesses is located 190 m to the north, the Riverstone Community Church of Christian Brethren and Riverstone Sports Centre are located 350 m to the south, and St John the Evangelist Parish and St John's Primary School are located 400 m to the south.
- 2.5 The area is suitably serviced by the surrounding road network of Hamilton Street, McCulloch Street, Crown Street and Garfield Road East. Windsor Road is located approximately 2.9 km to the north-east. Riverstone Railway Station is located 1.5 km to the south-west.

3 Site description

- 3.1 The proposal is on residue Lot 19 in approved Subdivision DA-15-02708 at Lot 1 DP 1115215, 33 Hamilton Street, Riverstone.
- 3.2 The site is rectangular in shape with an area of 10,310 sqm. The site fronts Hamilton Street along its south-western boundary and new public road, Loane Avenue, along its north-western boundary. The existing improvements on the site include a residential dwelling, a shed and some trees and vegetation. The northern portion of the site is currently being used for site access and as a construction site office for the site preparation works of the approved subdivision (DA-15-02708). The site slopes from the western corner to the eastern corner by 4.8 m. As a result of the approved subdivision works, the site is being regraded to reduce the total fall across the site to 4 m.
- 3.3 An aerial image of the site and surrounding area is at **attachment 2**.

4 Background

- 4.1 Subdivision DA-15-02708 was approved on 19 July 2016 at 33 Hamilton Street, Riverstone for demolition of the existing structures and subdivision into 18 residential lots and 1 residue lot (Residue Lot 19), tree removal, associated site works and construction of new roads.
- 4.2 On 15 March 2016, a Pre Application Meeting for the proposed place of public worship was held with Council officers.
- 4.3 On 2 September 2016, the subject DA was lodged with Council.
- 4.4 On 16 May 2017, the Applicant requested the assessment of this application be held in abeyance to revise their costings and ability to pay the section 7.11 (formerly section 94) monetary contributions.

5 The proposal

- 5.1 The Development Application (DA) has been lodged by Donald Cant Watts Corke (NSW) Pty Ltd for the construction, fitout and operation of a Ministry Centre (Place of public worship) in 2 stages, comprising a church auditorium with 500 seats, a meeting foyer (hub), meeting and administration rooms, a youth hall and meeting spaces, external play areas, landscaping, lighting, directional signage and 201 car parking spaces.
- 5.2 A 2.8 m high acoustic barrier fence is proposed along the southern and eastern boundaries of the site which adjoin residential lots. This fence is proposed to be a 'Slimwall AcoustiMax' wall panel (which is 50 mm thick with an expanded polystyrene core and fibre cement outer walls) to a height of 1.8 m, and has 25 mm of Plexiglass set 1 m above the fence that is angled inwards at a 45 degree angle.
- 5.3 Activities to be held within the proposed buildings on the site include worship services, wedding ceremonies, funerals, community and youth groups, seminars, meetings and recreational activities involving the use of internal amplified speech and music (for example guitars, singing and drums). The Centre may also be hired for local and community events, such as school events.

- 5.4 The proposed hours of operation are 8 am to 10 pm, 7 days a week including public holidays. This includes weeknight events, including meetings, training courses, music practice and youth groups on weeknights up to 9.30 pm, with an allowance for the congregation to leave the premises by 10 pm. The periods of highest activity are the Sunday services (scheduled to be held between 8.30 am and 8 pm) and Friday evening youth group (5 pm to 10 pm).
- 5.5 Other details about the proposal are at **attachment 4**, including matters regarding traffic and parking, acoustic impacts, stormwater management and contamination and salinity. A copy of the development plans is included at **attachment 5**. The Applicant's schedule of activities to be held at the Ministry Centre, including the days, times and number of attendees, is provided at **attachment 6**.

6 Assessment against planning controls

- 6.1 A full assessment of the DA against relevant planning controls is provided in **Attachment 7**, including:
 - a. Environmental Planning and Assessment Act 1979
 - b. State Environmental Planning Policy (State and Regional Development) 2011
 - c. State Environmental Planning Policy (Infrastructure) 2007
 - d. Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River
 - e. State Environmental Planning Policy No. 55 – Remediation of Land
 - f. Central City District Plan 2018
 - g. State Environmental Planning Policy (Sydney Region Growth Centres) 2006
 - h. Blacktown City Council Growth Centre Precincts Development Control Plan 2018 (Growth Centre DCP).

7 Key planning issues assessment

- 7.1 **Variation to the Growth Centres SEPP development standard for building height**
 - a. The proposal generally satisfies the maximum permitted building height of 9 m, with the exception of the main auditorium at the eastern portion of the building which has a height of up to 13.7 m. This is a variation of 4.7 m, being 52%, but is only a point encroachment. The youth hall at the southern portion of the building also exceeds the height limit with a height of up to 10.1 m. This is a variation of 1.1 m, being 12%.
 - b. The Applicant has submitted a request for variation to the building height development standard pursuant to Clause 4.6 of the Growth Centres SEPP, which is provided at **attachment 8**.
 - c. An assessment of the justification for the variation, including the 5-part test established by the NSW Land and Environment Court, is provided at **attachment 9**.
 - d. The variation will not have unreasonable impacts on neighbouring properties or the character of the area. The proposal is also consistent with the objectives of the development standard and the R2 Low Density Residential zone.
 - e. Based on this assessment, the requested variation under Clause 4.6 is considered reasonable, as it adds to the architectural merit of the building and so should be supported.

7.2 Variation to the height of fencing

- a. Section 4.2.10 Fencing of the Growth Centre DCP states that the maximum height of side and rear fences should be 1.8 m. The proposal is for fencing to the north-eastern and south-eastern boundaries in the form of a 'SlimWall AcousticMax' acoustic barrier fencing (which is 50 mm thick with an expanded polystyrene core and fibre cement outer walls) with a height of 1.8 m. For noise attenuation purposes, the acoustic barrier fencing then angles in towards the development for 1 m, to provide fencing with a total height of 2.8 m. This upper portion of the fence is to be constructed of product called 'Plexiglass' (being a durable clear, hardened Perspex with acoustic properties) to allow for sunlight access and visual permeability), as demonstrated on the Boundary Treatment Section Plan provided at **attachment 5** and the Figure below:

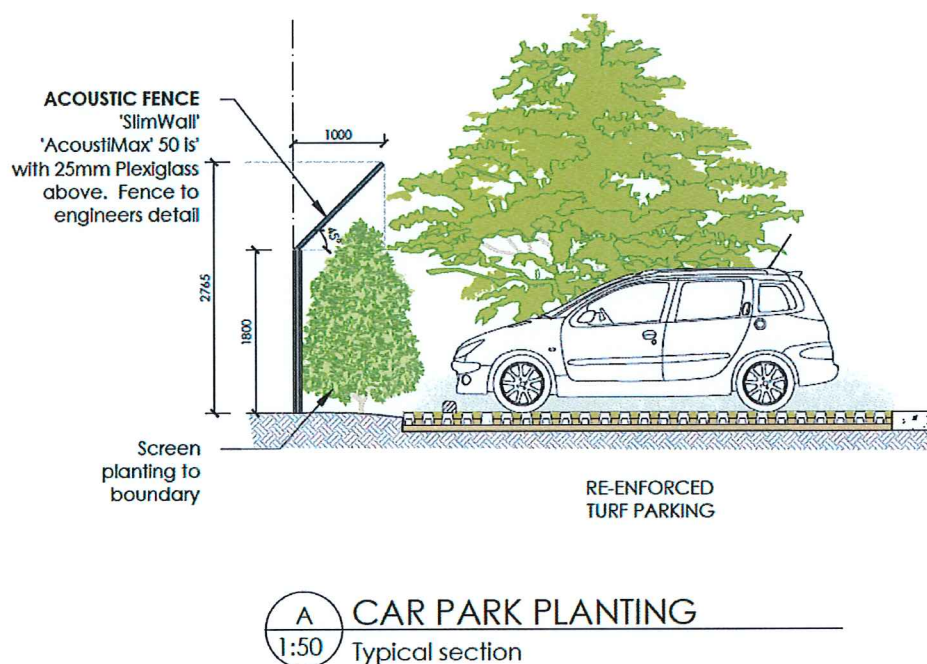


Figure Extract from the Landscape Plan demonstrating the proposed acoustic barrier fencing along the north-eastern and south-eastern boundaries
(Source: Ecodesign, November 2016)

- b. The proposal originally proposed acoustic barrier fencing having a height of 2.1 m. However, we were concerned that this proposed 2.1 m fence had adverse impacts on the adjoining residential properties due to its height and overshadowing impact. In response to our concerns, this acoustic barrier fencing is now angled inwards within the subject site, and will be transparent.
- c. The proposed boundary fencing is considered to be an appropriate response to potential impacts of the proposal on the visual and acoustic privacy and shadow impacts of the adjoining residential properties, and is supported in this instance.

7.3 The Applicant is seeking approval for hours of operation subject to a merit assessment

- a. Section 4.4.3 Educational establishments and places of public worship of the Growth Centre DCP contains the following controls regarding hours of operation:
 14. The general hours of operation for places of public worship and educational establishments are between 7 am and 9 pm.
 15. Variation to the approved hours of operation may be approved by Council subject to other requirements or a merit assessment.
- b. The proposed hours of operation are 8 am – 10 pm, 7 days a week including public holidays.
- c. The Applicant has provided the following justification for the proposed hours of operation:

“The proposed extension of operating hours to 10 pm is requested to ensure there is sufficient time for the congregation to leave the premises following a night service. Further, on occasion, a service may be followed by an informal gathering of the congregation, which is encouraged by the church to support the establishment of community.

Youth activities are also proposed up to 10 pm, providing opportunity for the building of friendship and community for this age segment of the congregation.”
- d. The Applicant’s schedule of the activities to be held at the Ministry Centre, including the days, times and number of attendees, is provided at **attachment 6**. All activities and amplified noise and music will be completed at 9.30 pm with a half hour allowance to ensure that all patrons leave the site by 10 pm. This will be reinforced in conditions of consent.
- e. It is noted that the proposed hours of operation to 10 pm have been assessed as part of the acoustic assessment submitted with the proposal. Council’s Environmental Health Unit has considered the proposal and the acoustic assessment, and advises that no objection is raised subject to the implementation of the recommendations identified in the report. Refer to Point 7.4 below for further consideration of the acoustic impact of the proposal.
- f. The Applicant has demonstrated that the proposal has suitably considered a design and layout which respects the amenity of the surrounding properties and is capable of managing the ongoing operation of the proposal and its visitors and attendees. Subject to the conditions of consent to ensure that the proposed hours of operation are strictly adhered to, the proposed hours of operation are considered to be satisfactory.

7.4 Acoustic impact

- a. The acoustic assessment identifies that the worst case scenario for noise generation is during Sunday services (8.30 am, 10.30 am, 1 pm and 6 pm), Thursday evenings from 6 pm to 9.30 pm with up to 100 attendees for a cultural group and music practice meeting, and Friday evenings from 5 pm to 9.30 pm with up to 200 attendees for a youth group. These activities will have the highest amount of attendees, with amplified speech and/or music and the highest traffic attending the site. Other noises include patron noise (in particular during changeover times between Sunday services), use of the outdoor play areas, carpark activity and mechanical services.
- b. The surrounding properties comprise existing dwellings and vacant residential lots, and the Ambulance Service site to the south.

- c. Noise exceedances are predicted for all residential receivers during times of peak traffic periods (Sundays from 8 am to 9 pm, Thursday evenings from 6 pm to 9.30 pm and Friday evenings from 5 pm to 10 pm).
- d. The Applicant's acoustic assessment identifies that, in accordance with the NSW Industrial Noise Policy, the intrusive criteria for the predicted noise levels from the peak traffic periods is 46 LAeq,15 min. The noise level is exceeded by 3 dB to 8 dB for the ground level of nearby dwellings, and 8 dB to 13 dB for the upper level of dwellings.
- e. The Applicant's acoustic assessment identifies that, in accordance with the NSW Industrial Noise Policy, the intrusive criteria for the predicted noise levels as a result of the use of the north and south outdoor youth play areas is 46 LAeq,15 min.
- f. With regard to the north outdoor play area, this noise level is not exceeded, with the exception of a 2 dB exceedance for the upper levels of the future dwellings to the north (assuming these vacant lots will accommodate 2 storey dwellings in the future).
- g. With regard to the south outdoor play area, this noise level is exceeded by 8 dB for the adjoining residential lots to the north-east and south-east. Should these lots be redeveloped for 2 storey dwellings, when the upper level windows are open the noise levels will be exceeded by 10 dB.
- h. The acoustic assessment emphasises that noise impacts from peak church services occur within a limited time period only, immediately prior to and following services.
- i. The recommendations of the acoustic assessment to manage noise impacts include:
 - The erection of acoustic barrier fencing along the south-eastern and north-eastern boundaries which adjoin residential allotments. In response to our concerns, this proposed 2.1 m fence has been modified to reduce the overshadowing of adjoining residential properties. This acoustic barrier fencing is now 1.8 m in height at the boundary, and for a further height of 1 m the fencing is angled inwards towards the subject site.
 - Construction measures to achieve the minimum construction building performance include the:
 - Roof which is to be a finished surface with 18 mm of fibre cement sheeting backing below external finish (or mass equivalent) with a minimum air gap of 150 mm - 200 mm with infill glasswool / polyester insulation and 10 kg/sqm mass loaded vinyl layer (loaded vinyl must be continuous, including overlap and taping of all joints, or 13 mm fire-rated plasterboard)
 - External east and south facing walls are to be 1 x 9 mm fibre-cement sheet (or mass equivalent) with a minimum 200 mm airspace with 2 separate studs and infill insulation and 2 x 16 mm fire rated plasterboard internal lining
 - Glazing is to be laminated single glazing with a minimum thickness of 10.76 mm
 - External doors to the main room are to be 2 airtight doors in a soundlock arrangement separated by 1 m with acoustic seals.

- j. It is also noted that the potential acoustic impact to surrounding properties has been mitigated through centrally locating the Ministry Centre within the site, to provide substantial separation to the future dwellings on the adjoining sites. The distance between the Ministry Centre to the residential allotments to the north-east is 35 m, and to the residential allotments to the south-east is 25 m.
- k. The mechanical services plant is also to be located on the rooftop of the proposed building, which is a minimum distance of 40 m to any residential property.
- l. The Applicant has demonstrated that the proposal has suitably considered a design and layout that respects the amenity of the surrounding properties and is capable of managing the ongoing operation of the proposal and its attendees.
- m. Appropriate conditions of consent are recommended to be imposed to ensure that the noise attenuation measures as recommended in the Applicant's acoustic assessment are implemented in the design and operation of the proposal. The use of the outdoor areas will be restricted until 8 pm only, with all activities to be held indoors after this time. Further conditions are recommended to be imposed to ensure that the noise levels generated by the amplified music or speech within the building are appropriate. The proposed hours of operation are also to be strictly adhered to. The Applicant has demonstrated that they are capable of implementing appropriate measures during the operation of the Centre to limit potential acoustic impacts prior to and following Sunday services and Thursday and Friday evening activities only, which is considered to be acceptable.

7.5 Overshadowing impact

- a. The proposal results in overshadowing impacts on the adjoining residential lots as demonstrated in the Shadow Studies Plan, Drawing No. DA-012, provided at **Attachment 5**. This shadow analysis demonstrates the overshadowing impact which is generated by a development with a compliant building height, as well as overshadowing generated by the non-compliant portion of the building height. This is addressed in detail in the assessment of the Clause 4.6 request for variation of the building height development standard provided at **attachment 8**.
- b. The proposal also includes acoustic barrier fencing along the north-eastern and south-eastern boundaries which overshadow the adjoining residential lots. However, given this fencing is 1.8 m in height at the boundary, the resulting shadows are the same as would be expected should the subject site be redeveloped for housing and associated boundary fencing.
- c. Although this proposal results in overshadowing impacts on the adjoining residential lots to the south-east, the redevelopment of the subject site for standard residential lots with 2 storey dwellings and boundary fencing would also be expected to result in overshadowing impacts. The adjoining residential lots to the south-east receive at least 3 hours of sunlight to at least 50% of their future private open space between the hours of 9 am and 3 pm in midwinter. Therefore, the overshadowing impact of this proposal is minimal and is considered to be acceptable.

8 Public exhibition

- 8.1 The DA was notified to adjoining and nearby property owners and occupants for a period of 14 days from 29 November to 12 December 2016. An advertisement was also placed in the local newspaper and a notification sign was erected on site.
- 8.2 No submissions to the proposal were received.

9 External referrals

9.1 The DA was referred to the following external authorities for comment:

Section	Comments
Roads & Maritime Services	Acceptable subject to conditions
NSW Local Police	Acceptable subject to conditions

10 Internal referrals


10.1 The DA was referred to the internal sections of Council and there were no objections subject to conditions.

11 Conclusion

11.1 The proposed development has been assessed against all matters for consideration and is considered to be satisfactory. It is considered that the likely impacts of the development have been satisfactorily addressed and that the proposal is in the public interest. The site is considered suitable for the proposed development subject to conditions.

12 Recommendation

1. Uphold the variation to the height of buildings development standard in clause 4.3 of *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* – Appendix 4 Alex Avenue and Riverstone Precinct Plan 2010 using clause 4.6 for the following reasons:
 - a. The request is well founded and warrants approval.
 - b. Adherence to the height standard is unnecessary in this instance as no adverse impacts will result from the breach.
2. Approve Development Application DA-16-03335 for the reasons listed below, and subject to the conditions listed at attachment 10:
 - a. The proposal is in the public interest.
 - b. The site is considered suitable for the proposed development.
 - c. The requested clause 4.6 variation is acceptable.


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