

SWCPP Ref. No.:	2017SWT019
DA No.:	DA17/1204
PROPOSED DEVELOPMENT:	Place of Public Worship Containing an 89 Place Child Care Centre & Associated Remediation, Earthworks, Road Construction, Drainage and Landscaping Works - Lot 1 DP 1176624, 1 Water Street, WERRINGTON NSW 2747
APPLICANT:	Hills Christian Life Centre Ltd
REPORT BY:	Jane Hetherington, Environmental Planner, Penrith City Council

Assessment Report

Executive Summary

Council is in receipt of a development application for a place of public worship containing an 89 place child care centre & associated remediation, earthworks, road construction, drainage and landscaping works at 1 Water Street, Werrington.

The subject site is zoned IN2 Light Industrial under the provisions of Penrith Local Environmental Plan 2010. The development includes a *places of public worship* and *centre-based child care facility*, both of which are permissible land uses in the IN2 zone. It is noted that further information was sought from the applicant to determine permissibility of certain components of the proposal, however a suitable response has not been received.

In accordance with 4.5(b) of the *Environmental Planning and Assessment Act 1979*, the Sydney Western City Planning Panel (SWCPP) is the determining authority as the proposal is a community facility (place of public worship) with a capital investment value in excess of \$5 million.

The application is defined as integrated development under Section 4.46 of the *Environmental Planning and Assessment Act 1979*. Accordingly, the application was referred to the NSW Rural Fire Service (RFS) and Department of Industry - Water (DoI Water). The NSW RFS provided General Terms of Approval (GTAs) however, DoI Water detailed non-support for the proposal and requested further and revised information, that was not provided by the applicant within a reasonable timeframe. As such GTA's have not been issued by the DoI Water and concurrence has not been granted.

In accordance with the *State Environmental Planning Policy (Infrastructure) 2007*, the application was referred to the NSW Roads and Maritime Services (RMS) for consideration on 1 December 2017. The RMS have advised that they do not support the proposal as safe and efficient access arrangements have not been provided.

The development application has been advertised in local a newspaper and notified to all adjoining and adjacent property owners and placed on public exhibition between 8 December 2017 and 31 January 2018. One submission was received in response raising concerns regarding the road network, traffic, flooding and lack of employment opportunities stemming from the proposal.

Key issues identified for the proposed development include:

Access and Traffic

Access to the site is proposed via the existing T-intersection of the Great Western Highway (GWH) and Water

Street. Traffic surveys have indicated that this intersection currently operates at a poor level of service (LoS) "F" during peak times of the day. To ensure that this intersection operates satisfactorily, the applicants traffic consultant has recommended that right hand turn movement from Water Street be prohibited and at the completion of Stage 2, right hand turn movements from the GWH be prohibited (on Sundays only). They have specified that delays and traffic queues at this intersection will only be a problem until the Stage 2 Werrington Arterial and the connection to Lander Street is complete. However, the report acknowledges that the timeframes for these projects is unknown. The report recommends that alternatively traffic lights be installed at the intersection of the GWH and Water Street. This arrangement is not supported by the RMS or Council's Traffic Engineer. In addition, the works recommended by the traffic consultant are inconsistent with the civil plans, that indicate that the road upgrade to Water Street will be undertaken by 'others'. As such, a safe and efficient access arrangement has not been provided to the development.

Insufficient Information

In a letter dated 8 March 2018, Council raised concerns with the development that required consideration and action by the applicant. Further information was sought to determine the permissibility of certain components (i.e. cafe & area noted as 'citycare' on plans), how waste would to be managed on-site, water quality treatment measures and the potential flooding and acoustic impacts. While a meeting was undertaken on 14 May 2018 between Council officers and the applicant to discuss the proposed access arrangement, these other issues remain outstanding. Further correspondence was sent to the applicant on 30 July 2018 requesting withdrawal of the application due to the submission of inadequate information, however this is yet to occur. As such, the application is not supportable on the basis of inadequate information having regard to Clause 54 of *Environmental Planning and Assessment Regulation 2000*.

An assessment under Section 4.15 of the *Environmental Planning and Assessment Act 1979* has been undertaken and the application is recommended for refusal.

Site & Surrounds

The subject site is located within the South Werrington Urban Village (SWUV), a new release area that has been identified for urban development comprising of residential and employment generating uses. The SWUV comprises an area of approximately 48 hectares and is generally bounded by the Werrington residential area to the north, Great Western Highway to the south, Western Sydney University (WSU) and Cobham Correctional Centre to the west and Werrington Road to the east.

The subject site is located within the southern portion of the SWUV. It has an area of 3.093 hectares, is irregular in shape and is currently vacant with remnant vegetation located within the eastern section. Access is provided via an unformed section of Water Street which is a local road adjoining the Great Western Highway. The land surrounding the site is predominantly vacant, except for a residential dwelling directly south and Cobham Correctional Centre directly to the west. The site has a gentle slope to the south east towards which adjoins the south east corner of the site. Claremont Creek is south east of the subject site

Background

The applicant attended a pre-lodgement meeting with Council officers on 4 August 2016 (PL16/0085). The pre-lodgement meeting and issued notes outlined key issues requiring address. To date, these issues have not been adequately addressed as outlined within the body of this report.

Proposal

The proposal seeks consent for a three-staged development to undertake the following works:

Stage One:

- Tree Removal;
- Earthworks;
- Construction of a 400 seat auditorium;
- Temporary child ministry;
- Administration and office space for 12 employees;
- Parking for 125 vehicles and temporary driveway access from Water Street; and
- Part road construction from the existing formed section of Water Street.

Stage Two:

- Construction of a 1,350 seat auditorium (main auditorium);
- Child ministry;
- Youth ministry;
- Alterations to stage 1 for office space and green room;
- Construction of an additional 260 parking spaces;
- Street tree landscaping and street lighting;
- Removal of stage 1 temporary driveway and full road construction with a turning head facility; and
- Bus drop off facility.

Stage Three

- Construction of an 89 place Child Care Centre including outdoor play area.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

- **Section 23G – Sydney Western City Planning Panel (SWCPP)**

Under Clause 4.5(b) of the *Environmental Planning and Assessment Act 1979*, the consent authority is a regional planning panel for development that is declared by an environmental planning instrument as regionally significant development. Schedule 7 of *State Environmental Planning Policy (State and Regional Development) 2011*, specifies that a community facility (place of public worship) with a capital investment value (CIV) of more than \$5 million is regionally significant development.

In accordance with 4.5(b) of the *Environmental Planning and Assessment Act 1979*, the Sydney Western City Planning Panel (SWCPP) is the determining authority as the proposal has a CIV of \$26,717,709.

- **Section 79C - Evaluation**

The development has been assessed in accordance with the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, and having regard to those matters, the following issues have been identified for further consideration.

- **Section 91- Integrated development**

The proposal is defined as Integrated Development under Section 4.46 (formerly Section 91) of the *Environmental Planning and Assessment Act 1979*, requiring an approval under the *Water Management Act 2000*, Section 89, 90 & 91 and the *Rural Fire Act 1997*, Section 100B.

Accordingly, the application was referred to the NSW Department of Industry - Water (DoI - Water) and the NSW Rural Fire Service (RFS) on 28 November 2017.

In response, the NSW RFS issued their General Terms of Approval dated 4 January 2018, raising no objection to the proposal subject to conditions.

The response from the DoI - Water advised that the current plan does not comply with the *Water Management Act 2000*, with neither of the two watercourse in the vicinity being considered in the proposal. It was requested that amended plans be provided addressing the Department of Primary Industries document "*Guidelines for riparian corridors on waterfront land*". To date no response on this aspect of the proposal has been received and as concurrence has not been granted, the proposal is not supportable.

Section 79C(1)(a)(i) The provisions of any environmental planning instrument

State Environmental Planning Policy (Infrastructure) 2007

Clause 104 - Traffic Generating Development

Clause 104 of State Environmental Planning Policy (Infrastructure) 2007 states that development for '*places of assembly or places of public worship*' which include 200 or more motor vehicles with access to any road is traffic generating development requiring referral to the Roads and Maritime Service (RMS). Given the proposal includes the construction of a place of public worship with 385 car parking spaces, in accordance with Clause 104 the application was referred to the RMS on 1 December 2017. A response from the RMS, dated 22 February 2018, was received advising that they were not supportive of the proposed development due to road safety and network efficiency issues. Their response raised the following key concerns with the proposal:

- The accompanying traffic report (titled *Transport Study*, prepared by TDG Consulting and dated 21 November 2017) specifies that access to the development will be provided via the existing T-intersection of the Great Western Highway (GWH) and Water Street. The report indicates that the intersection currently operates at a Level of Service (LoS) F for vehicles turning right from Water Street into GWH and LoS C for vehicles turning right from GWH into Water Street. No analysis was undertaken for vehicles turning left. Concerns were raised regarding the impact the development would have on the operation of this intersection and that any increase in the number of vehicles would cause serious traffic and safety issues.
- The traffic report makes the assumption that traffic signals will be provided at the GWH/Water Street intersection by Stage 2 of the development. However, the RMS have advised that traffic signals would not be supported at this location due to its close proximity to the signalised intersection of GWH and Gipps Street. As such, the assumption for modelling of this intersection as signalised is incorrect.
- The traffic report assumes that vehicles turning right on Water Street with a westbound destination will 'most likely' turn left onto GWH, then use Gipps Street to access Werrington Road and the signals at GWH. The RMS have advised that any treatment measures to overcome the predicted safety issues at the GWH/Water Street intersection (i.e. left in/left out) will not cater for the high volumes of traffic generated by the development.

In response to the RMS concerns the applicant provided an addendum report titled *Werrington Development - Response to RMS and Council's comments* prepared by TDG Consulting and dated 5 June 2018. This report details that at completion of Stage 1, if a right turn movement from Water Street is prohibited, the intersection with GWH would operate satisfactory. However, at the completion of Stage 2, the right turn movements from the GWH would operate at a poor LoS F on Sundays with extensive delays and queues extending beyond the length of the exclusive right turn bay of 140m. The report states that this problem would be resolved once the Stage 2 Werrington Arterial is completed and the connection from Lander Street to Werrington Road along a New Link Road is in place. However, the report acknowledges that the completion dates of these projects are not known. It outlines that the installation of traffic signals at Water Street could resolve the problem, however in the interim a solution would be to prohibit the right turning movement into Water Street from GWH on Sundays only.

This document was forwarded to the RMS who provided a further response dated 24 July 2018, confirming that they do not support the application. Copies of the RMS correspondence forms an attachment to this report.

State Environmental Planning Policy No 55—Remediation of Land

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) aims to provide a framework for the assessment, management and remediation of contaminated land throughout the state. Clause 7(1) of SEPP 55 prevents consent authorities from consenting to a development unless it has considered whether the land is contaminated and is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

The application was accompanied by *Stage 1 Preliminary and Stage 2 Detailed Site Investigation* prepared by SLR Consulting Pty Ltd (SLR) and dated 28 June 2017. This investigation identified contaminants of potential concern in the soil and recommended a remedial action plan (RAP) be prepared. In line with this recommendation, a RAP prepared by SLR Consulting and dated 21 August 2017 accompanied the application. It concludes '*that the remedial goal for the site can be achieved and the site made suitable for the proposed development, subject to the implementation of the measures outlined in the RAP*'. The document has been reviewed by Council's Environmental Management Team, who has advised that they are satisfied with the contents and conclusions of the RAP.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River (No. 2 -1997) (SREP 20) integrates planning with catchment management to protect the Hawkesbury-Nepean river system, requiring the impact of future land use to be considered in a regional context. The plan covers water quality and quantity, environmentally sensitive areas, riverine scenic quality, agriculture and urban and rural-residential development. It controls development that has the potential to impact on the river environment. The plan applies to all parts of the catchment in the Sydney region (15 local government areas, including Penrith), except for land covered by *Sydney Regional Environmental Plan No. 11 - Penrith Lakes Scheme*. SREP 20 is supported by an Action Plan which includes actions necessary to improve existing conditions.

The application was accompanied by *Stormwater Management Strategy Report*, prepared by J. Wyndham Prince and dated June 2017. The objective of this report is to assess the water quality impacts of the development and recommend strategies to ensure that it meets water quality and quantity standards outlined in Penrith Council's "*Water Sensitive Urban Design (WSUD) Technical Guidelines*". This report details that the water quality management comprises of pit inlet filters and cartridge filter system. This report and the corresponding civil plans were reviewed by Council's Waterway Officer who found that there was insufficient detail to confirm the system would meet Council's standards. Council requested this information, however a response was not provided within a reasonable timeframe. As such, Council is unable to determine what the impact the development will have to the river system. In addition, earthworks are proposed within 40m of Claremont Creek. This was not supported by the Department of Industry - Water (DoI Water) who requested that the application was amended to address the Department of Primary Industries document "*Guideline for riparian corridors on waterfront land*". This was also has not been provided by the applicant.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 2.3 Permissibility	Does not comply - See discussion
Clause 2.3 Zone objectives	Does not comply - See discussion
Clause 4.3 Height of buildings	Complies - See discussion
Clause 4.4 Floor Space Ratio	N/A
Clause 5.6 Architectural roof features	Complies - See discussion
Clause 5.9 Preservation of trees or vegetation	Complies - See discussion
Clause 7.1 Earthworks	Complies
Clause 7.4 Sustainable development	Complies
Clause 7.6 Salinity	Complies
Clause 7.7 Servicing	Complies

Clause 2.3 Permissibility

The land is zoned IN2 Light Industrial under the provisions of Penrith Local Environmental Plan 2010. While a *place of public worship* and a *centre-based child care facility* are permissible within the IN2 zone, the application has not demonstrated certain components (i.e. cafe and 'Citycare') are permissible or ancillary to the place of public worship. Further information was requested clarifying the proposed use of these components however, to date a response addressing permissibility has not been provided.

Clause 2.3 Zone objectives

The proposal is inconsistent with the objectives of the IN2 zone, specifically:

- To limit the impact of industrial development on adjacent residential areas, in terms of its built form, scale, acoustic and visual privacy and air quality.

Insufficient detail was provided for Council to ascertain if there would be an adverse impact to the adjacent residential property and correctional centre.

Clause 4.3 Height of buildings

The Height of Buildings Map identifies a maximum height of 12.5m as applying to the site. The proposal has a maximum building height 12.25m relative to natural ground level complying with this control. However, it is noted that the cross located on the eastern elevation exceeds this control by 2.45m. This feature has not been included in the building height as the definition specifically excludes '*communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like*'. The cross is considered to be *like a mast or flagpole* given that the likely impacts are similar.

Clause 5.6 Architectural roof features

Clause 5.6 of Penrith LEP 2010 permits architectural features to exceed the height limit where the consent authority is satisfied that:

(a) the architectural roof feature:

(i) comprises a decorative element on the uppermost portion of a building;

(ii) is not an advertising structure;

(iii) does not include floor space area and is not reasonably capable of modification to include floor space area; and

(iv) will cause minimal overshadowing.

(b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.

The applicants submission justified the additional height of the cross (located on the eastern elevation of the Auditorium) claiming that it complies with the above criteria. While this is not disputed, as outlined in the discussion against Clause 4.3 Height of Buildings, the cross is excluded from being included in the height of building control and as such, an assessment against Clause 5.6 is not warranted.

Clause 5.9 Preservation of trees or vegetation

The development necessitates the removal of 0.27 hectares of remnant Cumberland Plain Woodland (CPW) listed Critically Endangered Ecological Community (CEEC) under the Federal *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and State *Biodiversity Conservation Act 2016* (BC Act). As such, the application was supported by a Flora and Fauna Assessment prepared by Eco-logical and dated May 2017. The report identifies that the site is in poor ecological condition, isolated to other ecological communities with no threatened species being identified. This report was reviewed by Council's Senior Biodiversity Officer who concluded that the proposed tree removal will unlikely impact upon on any significant species and threaten biodiversity with the Penrith Local Government Area.

Section 79C(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
DCP Principles	Does not comply - see Appendix - Development Control Plan Compliance
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Does not comply - see Appendix - Development Control Plan Compliance
C4 Land Management	Complies
C5 Waste Management	Does not comply - see Appendix - Development Control Plan Compliance
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Does not comply - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Does not comply - see Appendix - Development Control Plan Compliance
C13 Infrastructure and Services	Complies
D5.1. Application of Certification System	N/A
D5.2. Child Care Centres	Does not comply - see Appendix - Development Control Plan Compliance
D5.3. Health Consulting Rooms	N/A
D5.4. Educational Establishments	N/A
D5.5 Parent Friendly Amenities	N/A
D5.6. Places of Public Worship	Does not comply - see Appendix - Development Control Plan Compliance
D5.7. Vehicle Repair Stations	N/A
D5.8. Cemeteries, Crematoria and Funeral Homes	N/A
D5.9. Extractive Industries	N/A
D5.10 Telecommunication Facilities	N/A
E12 Penrith Health and Education Precinct	Does not comply - see Appendix - Development Control Plan Compliance

Section 79C(1)(a)(iv) The provisions of the regulations

The application was referred to Council's Building Surveyors for assessment who have provided standard conditions of consent with regard to fire safety. These conditions are not recommended to be included in the Notice of Determination as the development application is recommended for refusal.

In accordance with Clause 54 of the *Environmental Planning and Assessment Regulations 2000*, further information was requested on traffic and parking, water management, noise management and waste management. The applicant failed to provide this information within a reasonable timeframe and as such the development application is being recommended for refusal.

Section 79C(1)(b) The likely impacts of the development

Access, Traffic and Parking

As discussed under *State Environmental Planning Policy (Infrastructure) 2007* of this report, a safe and efficient access arrangement for the development has not been provided. The proposed access via Water Street is not supported by the NSW Roads and Maritime Service (RMS) or Council's Traffic Engineer and the timing for delivery of other internal roads within the SWUV precinct is unknown. In addition, the accompanying traffic reports recommendation that a signalised intersection be provided at the Water Street/GWH intersection, is not supported by the RMS.

Under Penrith Development Control Plan (DCP) 2014, the development requires 501 on-site car parking spaces. The proposal does not comply with this requirement, providing only 385 spaces, a shortfall of 116 spaces. To justify this variation the applicants traffic consultant has outlined that the various components of the proposal (i.e. childcare centre, youth ministry and main auditorium) will all operate at different times of the week. While this justification is reasonable in principle, as previously mentioned, the development includes other components (i.e. cafe and 'city care') which have not been included in the parking calculation and as such the resulting parking variation is unsupportable.

Noise Impacts

The application was accompanied by a Noise Emission Assessment Report prepared by Acoustic Logic and dated 21 February 2017. This report included an assessment of the major noise sources associated with the development including music from church services, vehicle movements, the child care centre and mechanical equipment.

To quantify the existing acoustic environment both long term unattended noise logging and attended noise measurements were conducted. Unattended noise monitoring was conducted over a 7 day period between 13th December to 20th December 2016. Attended noise monitoring was also conducted on both 13 December 2016 and 20 December 2016 to verify the background noise level. Council's Environmental Health Officer reviewed the acoustic report and requested that issues with the following components of the report be addressed:

Church Service Music

The report outlines that the noise emission predictions were modelled from noise levels measured at a "church with similar size during a typical Sunday Service Session". However, no details pertaining to this comparative site, including address, seating capacity, activity types and acoustic design of building was provided for consideration. This information was requested in Council's letter dated 8 March 2018, however to date no response has been received. As such, Council is unable to determine the representativeness of the measured site and the subsequent validity of the derived predicted noise levels (PNLs).

An assessment of sleep disturbance during night-time periods was undertaken however, the assessment was limited to noise associated with car door slamming only. Given that events utilising the large auditorium (1350 capacity), Youth Ministry (400 capacity) and Child Ministry (400 capacity) are nominated

to finish at 10:30pm, additional noise sources including group conversation and vehicular use on Water Street was requested so that the potential sleep disturbance impacts could be assessed. This is of particular importance given the sites proximity to the residence at 2 Water Street and the Cobham Correctional Facility.

Vehicle Noise

Vehicle access to the site is via Water Street, a local road. However the noise generated by increased vehicular traffic on Water Street, has not been addressed in the assessment. This is of particular importance given that vehicles will directly pass the residence at 2 Water Street.

Predictive noise modelling for sources associated with the use of the loading dock and car parking areas has been calculated for three key activities: trucks moving into/out of loading dock, materials handling within the loading dock and cars manoeuvring and entering/exiting car parking areas. However, the report does not state the number of cars on which the predictive modeling is based or the frequency of truck movements to and from the site.

Child care centre

The acoustic report did not provide enough detail to establish the noise impact of the proposed child care facility. Additional information was requested relating to the use of the outdoor play area, the age groups of the children and the level of attenuation. This information was not provided within a reasonable timeframe.

In addition, the acoustic report did not address noise emissions produced during the construction phase of the proposed development. Given the scale of the development and proximity to sensitive land uses, this is considered necessary to delineate the extent of construction noise impacts to all nearby receivers.

Given the above, issues remain unaddressed, the acoustic impact of the development on the surrounding land uses cannot be adequately assessed and the proposal is unsupportable due to the deficiencies in information.

Stormwater Management

The application was accompanied by *Stormwater Management Strategy Report*, prepared by J. Wyndham Prince and dated June 2017 and Civil Plans, prepared by J. Wyndham Prince and dated 15 June 2017. The detail provided within these documents is insufficient to demonstrate compliance with Council's policies. Amended plans were requested to provide an integrated approach to stormwater treatment and management however, this has not been submitted.

Flooding

The site is affected by mainstream flooding from Claremont Creek. The civil plans indicate that the Lander Street extension and associated earthworks are located within the floodway. As such, further information was requested to demonstrate that these activities will not impact on the 1% AEP flood extent or riparian corridor. A response was not provided within a reasonable timeframe and as such, it has not been demonstrated that there will not be an adverse impact on flooding for downstream properties.

Section 79C(1)(c) The suitability of the site for the development

The site is unsuitable for the following reasons:

- It has not been demonstrated that certain aspects are permissible within the IN2 zone;
- Safe and efficient access to the site has not been provided; and
- It has not been demonstrated that there will not be an adverse impact to the amenity of adjoining properties.

Section 79C(1)(d) Any Submissions

Community Consultation

The development application has been advertised in local a newspaper and notified to all adjoining and adjacent property owners and placed on public exhibition between 8 December 2017 and 31 January 2018. One submission has been received in response raising concerns regarding the road network, traffic, flooding and lack of employment opportunities stemming from the proposal. These aspects of the proposal are further discussed in the likely impacts section of the report.

Referrals

The application was referred to the following stakeholders and their comments have formed part of the assessment:

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions
Development Engineer	Not supported
Environmental - Environmental management	Not supported
Environmental - Waterways	Not supported
Environmental - Public Health	No objections - subject to conditions
Environmental - Biodiversity	No objections - subject to conditions
Waste Services	Not supported
Traffic Engineer	Not supported
Community Safety Officer	No objections - subject to conditions
Social Planning	No objections - subject to conditions

Section 79C(1)(e)The public interest

The proposed development has been assessed contrary to the primary aims, objectives and controls of the applicable planning instruments and will result in negative and unacceptable impacts for the development and locality. As such, the proposal is not in the public interest.

Section 94 - Developer Contributions Plans

The Werrington Enterprise Living and Learning (WELL) Development Contributions Plan applies to the WELL precinct, which is generally bounded by the Great Western Railway Line to the north, Caddens Road to the south, Gipps Street to the east, and the suburb of Kingswood to the west. The WELL precinct comprises a number of sub precincts including the South Werrington Urban Village (SWUV).

The proposal if supportable would generate contributions in accordance with this plan which would be imposed as a condition of consent.

Conclusion

In assessing this application against the relevant environmental planning policies, being State Environmental Planning Policy (Infrastructure) 2007, Sydney Regional Environmental Plan No. 20 - Hawkesbury/Nepean River, Penrith Local Environmental Plan 2010 and Penrith Development Control Plan 2014 and is found to be unacceptable. The key issue relating to the proposed development is that it has not been demonstrated that safe and efficient access to the site can be provided. Therefore, the application is not worthy of support for the attached reasons.

Recommendation

1. That DA17/1204 for a place of public worship containing an 89 place child care centre & associated remediation, earthworks, road construction, drainage and landscaping works at 1 Water Street, Werrington, be refused for the following reasons.

CONDITIONS

Refusal

- 1 The application is not satisfactory for the purpose of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the proposal is inconsistent with the following provisions of:

a) Penrith Local Environmental Plan 2010:
 - Clause 2.3 - Permissibility: insufficient information was provided to demonstrate that all components of the development are permissible
 - Clause 2.3 - the objectives of the zone, specifically: *To limit the impact of industrial development on adjacent residential areas, in terms of its built form, scale, acoustic and visual privacy and air quality.*
b) Sydney Regional Environmental Plan No. 20 - Hawkesbury/Nepean River
 - Clause 3 - Aims of Plan.
- 2 The development application is not satisfactory for the purpose of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as the proposal is inconsistent with the following provisions of the Penrith Development Control Plan 2014:
 - C3 Water Management;
 - C5 Waste Management;
 - C10 Transport, Access and Parking;
 - C12 Noise and Vibration;
 - D5.2 Child Care Centres;
 - D5.6 Place of Public Worship; and
 - E12 Penrith Health and Education Precinct, Part C South Werrington Urban Village.
- 3 The development application is not satisfactory for the purpose of Section 4.15(1)(a)(iv) of the *Environmental Planning and Assessment Act 1979* and Clause 54 of the *Environmental Planning and Assessment Regulation 2000* in that the consent authority requested additional information that was not submitted being an amended acoustic report, waste management plan and stormwater management plans and information demonstrating compliance with Council's WSUD Policy and Stormwater & Drainage for Building Developments Policy.
- 4 The application is not satisfactory for the purpose of Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979* as it has not been demonstrated the likely impacts of the development can be satisfactorily mitigated. These impacts relate to traffic, parking and access, waste management, noise, stormwater management, flooding and water quality management.

- 5 The application is not satisfactory for the purpose of Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979* as the site is not suitable for the proposed development as safe and efficient access has not been provided.
- 6 The application is not satisfactory for the purpose of Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979* as the proposal is not in the public interest.
- 7 The application is not satisfactory for the purpose of Clause 60(6) of the *Environmental Planning and Assessment Regulation 2000* as the proposal is not supported by the Department of Industry - Water as outlined in their correspondence dated 16 April 2018.
- 8 The application is not satisfactory for the purpose of Clause 104 of the *State Environmental Planning Policy (Infrastructure) 2007* as the proposal is not supported by the NSW Roads and Maritime Services as outlined within their correspondence dated 24 July 2018.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part B - DCP Principles

The development does not satisfy the principles and objectives of the plan, given the proposal fails to comply with a number of key development controls and standards.

Part C - City-wide Controls

The development is inconsistent with the following city-wide DCP planning controls:

C3 Water Management

The application was referred to Council's Development Engineer who raised issues with the development's compliance with Council's Stormwater & Drainage for Building Developments Policy. Additional details were requested in relation to the stormwater concept plans, on-site detention (OSD) system, staging of the drainage plan and flooding impacts. These are yet to be provided and as such it has not been demonstrated that the development complies with this section of the DCP.

The application was also referred to Council's Waterways Officer to assess the proposed Water Sensitive Urban Design Measures. Additional details were requested in relation to the proposed WSUD measures as outlined previously in this report in relation to compliance with SREP 20.

C5 Waste Management

It has not been demonstrated how the development will manage waste on-site. The plans indicate that a waste area will be provided to the west of the basketball court however, no details have been provided regarding bin infrastructure sizes, collection frequency/hours, waste vehicle dimensions and on-site waste collection infrastructure. A 'Waste Management Plan' and 'Plan of Operation' were requested however, these are yet to be provided. As such, it has not been demonstrated that development will allow for the safe and efficient collection of various waste streams.

C10 Transport, Access and Parking

The proposal requires the following on-site parking provision:

<i>Land Use Element</i>	<i>Parking Rate</i>	<i>Required</i>
Place of Public Worship	1 space per 4 seats or 1 space per 6m ² of gross floor area whichever is greater	1850 seats = 462.5 spaces
Child Care Centre	1 space per 10 children plus 1 per employee	89 children & 19 staff = 27.9 spaces
Ancillary office	1 space per 40m ² GFA	393 m ² = 9.83 spaces
<i>Total Required</i>		<i>500.2 (501)</i>

Stage 1 includes the provision of 125 on-site car parking spaces and Stage 2 includes an additional 260 car parking spaces. No further car parking spaces are provided during Stage 3. The development provides 385 on-site parking spaces a short fall of 116 car spaces. This variation is justified in the report titled *'Werrington Development - Response to RMS and*

Council's comments' which accompanied the application. This report specifies that the various aspects of the development will operate at different times resulting in the maximum parking required for the development will not exceed 338 parking spaces. While this argument is reasonable in principle, details on various components (such as the cafe and citycare) have not been provided. As such, the total parking space required is unknown.

C12 Noise and Vibration

The application was referred to Council's Environmental Health Officer to review the acoustic report. Additional details were requested in relation the child care centre, vehicle noise, church service music and noise emissions from the construction phase of the development. This information was not provided within a reasonable timeframe and as such, it cannot be determined that the proposal complies with this section of the DCP.

D5 Other Land Uses

D5.2 Child Care Centres

Additional information was requested regarding the operation of the child care centre. This information was not provided within a reasonable timeframe and as such, Council cannot confirm that this aspect of the proposal complies with the requirements of Section 5.2 of Penrith DCP 2014.

D5.6 Places of Public Worship

Additional information was requested regarding the operation of the place of public worship. This information was not provided within a reasonable timeframe and as such, Council cannot confirm that the development complies with the requirements of Section 5.6 of Penrith DCP 2014.

E12 Penrith Health and Education Precinct

Part C - South Werrington Urban Village

The site is identified as being within the South Werrington Urban Village (SWUV) precinct. The proposal does not comply with the structure plan (Figure E12.10) in relation to the where the local road connects with the Great Western Highway. As outlined under the discussion against *SEPP (Infrastructure) 2007* this access point is not supported. In addition, the application has not demonstrated compliance with the following sections: 12.8.3.1.2 Water Management; 12.8.3.1.3 Flood Management; 12.8.3.2 Transport and Accessibility and 12.8.4.5 Visual and Acoustic Privacy.