SWCPP Ref. No.:	2017SWT020
DA No.:	DA17/1247
PROPOSED DEVELOPMENT:	Place of Public Worship including Hindu Temple (Mandir), Assembly Hall, Community Kitchen & Dining Hall, Monks Residence, Landscaped Areas, Internal Roads, Car Parking & Associated Site Works - Lot 18 DP 253503,230 - 242 Aldington Road, KEMPS CREEK NSW 2178
APPLICANT:	Stimson & Baker Planning
REPORT BY:	Jane Hetherington, Senior Development Assessment Planner, Penrith City Council

Assessment Report

Executive Summary

This development application involves the construction of a place of public worship including a Hindu Temple (Mandir), assembly hall, community kitchen and dining hall, landscaped areas, internal roads, car parking and associated site works.

The land is zoned RU2 Rural Landscape Zone under the provisions of Penrith Local Environmental Plan 2010. The proposal is defined as a place of public worship which is a permissible land use in the RU2 zone, subject to development consent.

The application is to be determined by the Sydney Western City Planning Panel as the development has a Capital Investment Value (CIV) over $5 million and is for community facility development (place of public worship).

The proposal is defined as Integrated Development under Section 4.46 of the *Environmental Planning and Assessment Act 1979*, requiring an approval under the *Water Management Act 2000*, Sections 89, 90 & 91 and Sections 100B of *Rural Fire Act*. Accordingly, the application was referred to the Natural Resources Access Regulator (NRAR) and the Rural Fire Service (RFS) who have both provided their General Terms of Approval for the development.

In accordance with the provisions of State Environmental Planning Policy (Infrastructure) 2007, the application was referred to the Roads and Maritime Service (RMS). The RMS provided a response dated 7 November 2018, advising that no objections were raised, however requesting Council consider the provision of parking in their assessment. This is further discussed in 'State Environmental Planning Policy (Infrastructure) 2007' section of this report.

The development application has been advertised in local newspapers and notified to all adjoining and adjacent property owners. Two submissions were received in response to this notification period raising issues relating to permissibility; consistency with zone objectives; intensity; traffic and parking; visual and acoustic; and on-site sewer management. These are further discussed in the 'Any Submissions' section of this report.

Key issues identified as part of the assessment of the proposed development include:

Compatibility with Surrounding Rural Character
To better complement the surrounding rural-residential character, the proposal has undergone numerous design amendments throughout the course of the assessment. The side setbacks have been increased; the monks

residence deleted; the height of the central facilities buildings changed from 4 storeys to 2 storeys; and the number of driveways and access points onto Aldington Road reduced.

While the proposal is still of a scale greater than what is typically expected of a rural setting, the surrounding area is expected to undergo significant change in the future. The site is located within the Western Sydney Aerotropolis, and is earmarked for uses such as a warehousing and logistics in the Department of Planning document *'Western Sydney Aerotropolis Land Use and Infrastructure Implementation Plan Stage 1: Initial Precincts'* .

Given the NSW Governments strategic direction and the evolving context of the locality, the proposal (in its amended form) is an acceptable outcome for the site and the surrounding local character acknowledging the local character will change significantly in the coming years.

Wastewater Management
The site is not connected to Sydney Waters sewer system. In support of the proposed wastewater disposal method (being on-site subsurface irrigation), the application was accompanied by "Soil & Site Assessment for Onsite Disposal" prepared by Harris Environmental Consulting and dated 1 March 2019. This demonstrated that the site is capable of accommodating a commercial sewage management facility (SMF) and disposing of the wastewater volume generated by the development. The report has been reviewed by Council's Senior Environmental Health Officer who had no objections to the development, subject to conditions.

Waste Management
The proposal, as lodged, included waste infrastructure within the basement of the central facilities buildings, which complied with Council's DCP requirements. However, the latest set of architectural plans deleted the waste infrastructure and replaced it with storage rooms. As such, it is recommended that a deferred commencement condition be included, for amended plans incorporating the waste requirements to be provided.

An assessment under Section 4.15 of the *Environmental Planning and Assessment Act 1979* has been undertaken and the application is recommended for approval subject to a "Deferred Commencement" consent.

Site & Surrounds

Properties of the site
The subject site is located on the eastern side of Aldington Road between Bakers Lane and Abbotts Road, Kemps Creek. The site has an area of 10.16 hectares and is rectangular in shape, with a frontage of approximately 142 metre frontage to Aldington Street and a depth of approximately 720m. Vehicular access is currently provided via a driveway crossing onto Aldington Road.

The topography of the site is undulating in nature however, generally falls from east to west with levels dropping from RL88 AHD at the south eastern corner of the site to RL56 AHD at the south western corner of the site.

The site currently contains a single storey dwelling, one vacant single storey office, two sheds/workshops and two dams. The site is predominantly cleared for agriculture with few scattered trees. The surrounding area is characterised by rural-residential development.

Site constraints·
- The subject is mapped as bushfire prone land.
- A watercourse transects the site.
- The site is affected by local overland flows.
- The slope of the land.
- The site is mapped as having "Scenic and Landscape Values".
- The site is not connected to Sydney Water sewer.
- There are heritage items in the vicinity of the proposed development site.

Proposal

The development application seeks consent for the following:

Stage 1
- Demolition of existing dwelling and associated structures;
- Bulk earthworks;
- Construction of the central facilities which comprises of the assembly hall and community kitchen and dining hall;
- Assembly hall for use by congregation (maximum of 600 people) on Sundays from 4:30pm to 6:30pm and special event congregations (maximum of 800 people);
- Community kitchen and dining hall including café and souvenir shop for use in conjunction with congregations in the assembly hall and use for special programs (e.g. recreation programs for young people, yoga and children's programs);
- Landscaped areas including play spaces, grassed areas, seating and planting;
- Internal roads, 272 car parking spaces & 3 bus parking spaces; and
- Associated site works including stormwater drainage works and landscaping works.

Stage 2
- Construction of the Hindu Temple; and
- Hindu temple (Mandir) for individual meditation and prayer (maximum of 50 people at any one time) from 7am to 11:30am and 4pm to 7pm daily.

History
PL16/0147 - A pre-lodgement meeting was attended on 20 December 2016 with regards to a proposal. In the

advice issued 16 January 2017 matters related to the developments permissibility; urban design and character; on-site wastewater management; noise impacts; contamination; and traffic were identified.

UDRP17/0004 - The application was presented to Council's Urban Design Review Panel on 15 February 2017. Concerns were raised in regards to the number of access points to Aldington Road; car parking location; landscape treatment; and the developments presentation to adjoining properties.

The application was lodged with Council on 6 December 2017. Upon completion of a preliminary assessment, a letter was sent to the applicant dated 1 March 2018 raising major concerns in relation to the developments permissibility; compatibility with surrounding rural character; and wastewater disposal. Additional information was also requested on the following aspects: extent of cut and fill; operational details; signage; noise; fit-out of the kitchen/cafe; waste management; parking; accessibility and landscaping.

A further letter, dated 19 October 2018, was sent by Council when all the requested information (apart from the revised Traffic Report) remained outstanding. The applicant provided a formal response on 30 October 2018. The response included amended architectural plans, reducing the height of the Central Facilities Buildings from four storeys to two storeys. However, limited information was provided on the extent of earthworks across the site and as such, Council staff where unable to confirm that the amended proposal suitably addressed the concerns regarding the compatibility of the development within the surrounding rural context. In addition, Council's requirements regarding wastewater disposal were not adequately addressed.

A letter, dated 14 December 2018, was sent to the applicant outlining the matters that remained unresolved, including: wastewater disposal; compatibility with the surrounding rural character; water sensitive urban design; noise impacts; and operational details. In response to this letter, the applicant requested a meeting with Council staff which was held on 18 January 2019. This meeting focused on the wastewater aspects of the development. This issue was resolved with the submission of Soil & Site Assessment for Onsite Wastewater Disposal, prepared by Harris Environmental Consulting and dated 1 March 2019. However, concerns remained with the developments compatibility with the surrounding rural character. To address this, substantial changes were incorporated including the deletion of the pedestrian access way; the reduction of the central facilities floor area; increase in the side setbacks and reduction in the amount of fill. These have adequately addressed Council's concerns. Despite this, information regarding the landscaping and operational details remain outstanding and as such, it is recommended that the application be approved as a deferred commencement, so these aspects can be adequately addressed.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Western Sydney Employment Area) 2009
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

- ### Section 2.12 – Sydney Western City Planning Panel (SWCPP)

  Under Section 23G of the *Environmental Planning and Assessment Act 1979*, a regional panel is taken to be the Council whose functions are conferred on a regional panel.

  Under Clause 6 of Schedule 4A of the *Environmental Planning and Assessment Act 1979*, a regional panel has the function of determining applications for community facility development (place of public worship) that has a capital investment value of more than $5 million. The proposed development has a capital investment value (CIV) of $41,375,682 and as such the Sydney Western City Planning Panel is the consent authority.

- ### Section 4.46 - Integrated development

  The proposal is defined as Integrated Development under Section 4.46 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 Natural Resources Access Regulator (NRAR) and the NSW Rural Fire Service (RFS) on 20 December 2017.

  In response, the NSW RFS issued their General Terms of Approval dated 1 August 2019, raising no objection to the proposal subject to conditions. NRARs issued their GTAs dated 21 February 2018, raising no objection to the proposal subject to conditions.

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

State Environmental Planning Policy (Infrastructure) 2007

Clause 104 of State Environmental Planning Policy (Infrastructure) 2007 states that car parks (whether or not ancillary to other development) that have 200 or more car parking spaces with access to any road is traffic generating development requiring referral to the Roads and Maritime Service (RMS). Given that the proposal (as lodged) included 301 car parking spaces, in accordance with Clause 104 the application was referred to the RMS on 22 December 2017. A response from the RMS, dated 3 May 2018, was received which requested that the applicant undertake additional traffic modelling and assessment. In response the applicant provided *Addendum Statement - Additional Traffic Modelling*, prepared by TRAFFIX and dated 19 July 2018. This was referred to the RMS who provided a response dated 7 November 2018, advising that no objections were raised, however requesting Council consider the following in the determination of the application:

1. *Car parking provision should be to Council satisfaction. The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions) are to be in accordance with AS 2890.1- 2004 and AS 2890.2 - 2002 for heavy vehicle usage.*

Comment: Under Council's DCP the development requires the provision of 450 on-site parking spaces. However, the accompanying Traffic Report has justified the reduced number of parking spaces provided on-site (amended proposal has a total of 272 spaces) specifying that there will be a significant level of shared parking to be expected between the different uses. A car occupancy rate of 3/car has been adopted based on two other similar centres in Sydney. In consideration of the major events held 5 times a year where 800 people may attend, based on the 1 space per 4 seats DCP requirement, this equates to 200 spaces on its own, which is satisfied. A condition of consent has been included requiring that the parking be provided in accordance with the relevant Australian Standards.

As outlined above, Council has considered the RMS comments in its assessment of the proposal. Council's Senior Traffic Officer reviewed the proposed development and have raised no objections subject to the imposition of conditions

The development is considered to be satisfactory for the purposes of Clause 104 of the *State Environmental Planning Policy (Infrastructure) 2007.*

State Environmental Planning Policy (Western Sydney Employment Area) 2009

State Environmental Planning Policy (Western Sydney Employment Area) 2009 aims to protect and enhance the land to which the SEPP applies for employment purposes.

Certain precincts within the Western Sydney Employment Area (WSEA) have been the subject of detailed precinct planning and have been rezoned and released for urban development, whilst other precincts have not yet been released. The subject site is located within Precinct 11 - Broader Western Sydney Employment Area which is yet to be released or zoned under the SEPP.

Clause 12 Unzoned Land

The site is not zoned under the SEPP. Clause 12 specifies that development may be carried out on unzoned land with consent.

Clause 18 Requirement for development control plans

Clause 18 specifies except in such cases as the Director-General may determine by notice in writing, a consent authority must not grant consent to development which SEPP (Western Sydney Employment Area) 2009 applies unless a development control plan has been prepared for that land. In accordance with this clause, an exemption was granted from Department of Planning & Environment Secretary for this

proposal which is dated 20 December 2018.

Clause 20 Ecologically sustainable development
This clause specifies that the consent authority must not grant consent to development unless that development contains measures designed to minimise the consumption of portable water and greenhouse gas emissions. This provision has been addressed within the assessment against Clause 7.4 Sustainable Development of Penrith Local Environmental Plan 2010.

Clause 21 Height of buildings
Clause 21 specifies that a consent authority must not grant consent to development unless it is satisfied that the building height will not adversely impact on the amenity of adjacent residential areas and the site's topography has been taken into consideration. The development is not considered to adversely impact on the amenity of the adjacent residential area. The height of the buildings as now reduced are predominately 2 storeys, consistent with the surrounding locality. However, the spires to the temple are approximately 23m above natural ground level and the accompanying Visual Impact Assessment confirms that they will potentially punctuate the skyline. Despite this, the temple is setback approximately 58m from the side boundary and is not considered to have an adverse impact on the adjoining properties with respect to impeding significant views. In addition, the setbacks have been increased and now allow for an acceptable landscaped visual barrier.

Clause 25 Public utility infrastructure
Clause 25 specifies that a consent authority must not grant consent to development unless it is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required. Conditions of consent are to be included to ensure that water and electricity are made available to the site. While the site is not connected to a reticulated sewer system, it has been demonstrated that the site is able to dispose of wastewater on-site. This is addressed further in this report.

Clause 31 Design principles
Clause 31 specifies that the consent authority must take into consideration whether or not: the development is of a high quality design; a variety of materials and external finishes for the external facades are incorporated; high quality landscaping is provided; and the scale and character of the development is compatible with other employment-generating development in the precinct concerned. The development's design (symmetry, detail and structure) has religious and cultural significance and it considered to be of a high quality design. An external schedule of materials and finishes accompanying the application. This demonstrated that a variety of materials and external finishes are to be incorporated. However, as limited details were included, a condition of consent has been included requiring that a detailed schedule be approved prior to the issue of a construction certificate.

Clause 32 Preservation of trees or vegetation
The site is predominately clear of vegetation however, the development necessitates the removal of 28 trees, the majority of which are introduced species. The accompanying landscape plan indicates that the proposed plantings will compensate for the this loss vegetation.

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 a Detailed Site Investigation, prepared by eiAustralia and dated 28 September 2017. The objective of this report was to determine the nature and degree of on-site contamination associated with former uses of the property. A review of historical records was undertaken which indicated that the site has been predominantly used for agricultural production since the 1980's with some commercial activity or machine storage potentially occurring over the previous 20 years. Fill and natural soils were sampled from 109 boreholes across the site. In addition, two surface water samples and two sediment samples were also collected from the onsite dams. The sampling found that heavy metals, TRHs, BTEX, PAHs, OCPs/OPPs and PCBs were either detected at concentrations below the LOR or below the adopted criteria. The report concluded that the site soils and groundwater are of a suitable quality for the proposed development. Council's Environmental Management Officers have assessed this report and concur with the methodology used and support the conclusions drawn that the site is suitable for the proposed development.

As such, in accordance with Clause 7(a) of the *SEPP No. 55 - Remediation of Land*, the consent authority can be satisfied that the land is suitable for the proposed use.

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 a Stormwater Quality Management Plan, prepared by Inline Hydraulic Services and dated 17 January 2019. The plan details that during the construction phase of the project, control measures will be put in place to protect downstream properties including the incorporation of sediment control fences and a shaker grid. For the operation phase, the development incorporates a water quality treatment train including: 400m^2 Stormwater 360 Filterra biofiltration device; 2 Stormwater 360 Vortcapture 70’s pretreating stormwater prior to discharge into the filter media; and 12 enviropods to treat the areas bypassing the treatment measures.

The development also includes the installation of 7 x 120kL rainwater tanks for reuse which complies with the targets set out in Council's Water Sensitive Urban Design (WSUD) Policy.

Council’s Development Engineers and Environmental Waterways teams have reviewed the application and subject to recommended conditions, have no objection to the proposal.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 2.7 Demolition requires development consent	Complies
Clause 4.3 Height of buildings	N/A
Clause 7.1 Earthworks	Complies - See discussion
Clause 7.4 Sustainable development	Complies - See discussion
Clause 7.5 Protection of scenic character and landscape values	Complies - See discussion
Clause 7.7 Servicing	Complies - See discussion

Clause 2.3 Permissibility
The subject site is zoned RU2 Rural Landscape under the provisions of Penrith Local Environmental Plan 2010. Places of public worship are a permissible land use in the RU2 zone and defined as follows:

Place of public worship means a building or place used for the purpose of religious worship by a congregation or religious group, whether or not the building or place is also used for counselling, social events, instruction or religious training.

The application was submitted on behalf of Bochanwasi Shri Aksharpurushottam Swaminarayan Sanstha (BAPS) which is a Hindu religious and social organisation within the Swaminarayan branch of Hinduism. The development incorporates a number of elements including: Hindu Temple (Mandir); Assembly (Saba) Hall; Community Kitchen & Dining Hall; Classrooms and Cultural Rooms; Cafe; Souvenir Shop and Offices. Concerns were originally raised that the application had not demonstrated that certain components are permissible or ancillary to the place of public worship. In response the applicant provided legal advice from HWL Ebsworth Lawyers (dated 17 October 2018) on the permissibility of the various components. This is summarised below:

Hindu Temple (Mandir)
The Mandir is a spiritual place for Hindus and provides a place of worship.

Assembly (Saba) Hall
The assembly hall will be used for congregations on Sunday.

Community Kitchen & Dining Hall
The dining hall and kitchen are proposed to serve Prasada (holy food) to worshippers after worship in the Assembly Hall. Prasada plays an important role in religious practice of Hindus.

Classrooms and Cultural Rooms
The classrooms and cultural rooms are intended to be used to support smaller scale acts of worship through mediation and prayer and to support the cultural and religious education of congregation, particularly children and youth.

Offices
The offices are to support the practical and administrative function of the congregation.

Souvenir Shop and Cafe
The souvenir shop and cafe could be separately definitely as a *retail premises* and *food and drink premise,* respectively. Both land uses are prohibited in the zone unless it can be shown as being ancillary to the place of public worship.

The NSW Department of Planning & Infrastructure's Planning Circular PS 13-001 provides the follow explanation of ancillary uses:

'An ancillary use is a use that is subordinate or subservient to the dominate purpose. The concept is important when a development involves multiple components on the same land. To put it simply:
- If a component serves the dominant purpose, it is ancillary to that dominant purpose;
- If a component serves its own purpose, it is not a component of the dominant purpose but an independent use on the same land. It is a dominant use in its own right. In such circumstances, the development could be described as a mixed use development.'

In this regard, the cafe and souvenir shop are intended to service the members of the congregation. The souvenir shop will sell religious paraphernalia including religious literature that will support members of the congregation in their religious worship and the cafe will provide a place for religious worshippers to gather socially before and after congressional worship. The size and area of the land allocated to the cafe and souvenir shop is minor when having regard to the overall size of the development and both are located within the central facilities buildings and within close proximity to the assembly hall and the community kitchen/dining hall. As such, the cafe and souvenir shop being ancillary to that dominant use, being the place of public worship.

As demonstrated above, the proposal meets the definition of a place of public worship and is therefore a permissible land use in the RU2 zone, subject to Council consent.

Clause 2.3 Zone objectives
The subject site is located within the RU2 Rural Landscape zone under the LEP. Objectives of the zone include:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*
- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*
- *To preserve and improve natural resources through appropriate land management practices.*
- *To ensure development is compatible with the environmental capabilities of the land and does not unreasonably increase the demand for public services or public facilities.*

The development is consistent with the objectives of the zone. It has undergone numerous design amendments throughout the assessment process and is now considered to better respond to and integrate with the rural landscape character of the land. The setbacks allow for significant landscaping providing a visual barrier to the built form. The height of the central facilities buildings have been reduced and the monks residences have been deleted. It has been demonstrated through the supporting documentation that it is compatible to the environmental capabilities of the land and will not result in conflict for adjoining land uses (being residential and agricultural). These accompanying reports include an Acoustic Assessment; Traffic Impact Assessment; Soil & Site Assessment; and Overland Flow Assessment.
Clause 7.1 Earthworks

The objectives of this clause are as follows:

(a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,
(b) to allow earthworks of a minor nature without separate development consent.

Since lodgement the development has undergone numerous amendments. The extent of earthworks has been reduced and the cut and fill are now balanced across the site. The earthworks are not considered to have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land which is supported by the accompanying reports and documentation including the Overland Flow Report, Visual Impact Assessment and the Statement of Heritage Impact.

Clause 7.4 Sustainable development
Clause 7.4 specifies that in deciding whether to grant development consent for development, the consent authority must have regard to the principles of sustainable development as they relate to the development based on a "whole of building" approach by considering each of the following: conserving energy and reducing carbon dioxide emissions; embodied energy in materials and building processes; building design and orientation; passive solar design and day lighting; natural ventilation; energy efficiency and conservation; water conservation and water reuse; waste minimisation and recycling, reduction of vehicle dependence; and potential for adaptive reuse.

A Sustainability Management Plan will be required and details will be certified at the Construction Certificate stage. Measures such as rainwater tanks for grey water and energy efficient fittings are included.

Clause 7.5 Protection of scenic character and landscape values

The majority of the is identified as 'land with scenic and landscape values" under the Scenic and Landscape Values Map. Clause 7.5 of Penrith Local Environmental Plan (LEP) 2010 specifies that development consent must not be granted for any development on land to which this clause applies unless the consent authority is satisfied that measures will be taken, including in relation to the location and design of the development, to minimise the visual impact of the development from major roads and other public places.

The application was accompanied by a Visual Impact Assessment, prepared by Clouston Associates and dated 13 September 2018. This report concludes that seven of the ten viewpoints assessed, fall in the negligible to low impact rating. The other three viewpoints (which are all located along Aldington Road) were found to have a moderate/high impact. The report concludes that the development (as originally proposed) would be at odds with the current landscape character of the locality. To address this issue, the development has undergone numerous significant design amendments. The scale of the central facilities buildings has been reduced, particularly the length in relation to the side boundaries and overall size of the buildings. Two of the upper levels have also been deleted (originally four storey buildings) and the finished floor levels (FFL) have been reduced by approximately 2m. This in combination, has reduced the overall bulk and scale and the appearance of the built form when viewed from the side boundaries.

Other amendments include the deletion of the pedestrian access from Aldington Road along the western border. This allows for additional landscaping and will result in views from this location becoming highly filtered and lowering the visual impact when viewed from the road.

The amended plans were accompanied by *Landscape Character and Visual Impact Assessment (LCVIA): Supplemental letter addressing site plan changes and resulting visual impact,* prepared by Clouston Associates and dated 13 June 2019. This document confirms that the amended design will reduce the visual accessibility of the built form. As such, the provision of Clause 7.5 is considered to be satisfied.

Clause 7.7 Servicing

Clause 7.7 specifies that before granting development consent, the consent authority must be satisfied that:

(a) the development will be connected to a reticulated water supply, if required by the consent authority, and
(b) the development will have adequate facilities for the removal and disposal of sewage, and
(c) if the development is for seniors housing, the development can be connected to a reticulated sewerage system, and
(d) the need for public amenities or public services has been or will be met.

The application was referred to Sydney Water who supported the application, subject to conditions. One of these conditions requires that a Section 73 Compliance Certificate under the *Sydney Water Act 1994* be obtained.

The site is not connected to a reticulated sewerage system. However, the application has demonstrated that effluent generated from the development can be effectively managed on-site. This is further discussed under the 'likely impacts' section of the report.

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

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Does not comply - see Appendix - Development Control Plan Compliance
C6 Landscape Design	Does not comply - see Appendix - Development Control Plan Compliance
C7 Culture and Heritage	Complies
C8 Public Domain	N/A
C9 Advertising and Signage	Does not comply - see Appendix - Development Control Plan Compliance
C10 Transport, Access and Parking	Does not comply - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
D1.1. Rural Character	Complies
D1.2. Rural Dwellings and Outbuildings	N/A
D1.3. Farm buildings	N/A
D1.4 Agricultural Development	N/A
D1.5. Non-Agricultural Development	Complies
D5.1. Application of Certification System	N/A
D5.2. Child Care Centres	N/A
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	Complies - 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
D5.11 Boarding Houses	N/A

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

In accordance with Section 143 of the *Environmental Planning and Assessment Regulation 2000*, an assessment of the fire protection and structural capacity of the proposed building is necessary. The application was referred to Council's Building Surveyor for assessment with no objections raised, subject to the recommended conditions.

The proposed development complies with the requirements of the Regulations.

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

Context and Setting

The surrounding area is currently characterised by rural-residential development. However, this is likely to change in the future. The site is located within the Western Sydney Aerotropolis which is expected to become a thriving economic hub delivering new jobs, homes, infrastructure and services to Western Sydney. The Department of Planning released the *Western Sydney Aerotropolis Land Use and Infrastructure Implementation Plan Stage 1: Initial Precincts* on 21 August 2018 which shows the site within the Mamre Road Precinct. This precinct is earmarked for uses such as a warehousing and logistics precinct, forming an extension of the Western Sydney Employment Area.

Despite the fact the character of the surrounding locality is expected to dramatically change over the next few decades, the proposal has undergone numerous amendments so it better responds to the current character of the surrounding locality. This amendments have included: the central facilities building have been reduced from four storeys to two storeys; the monks residents (previously located on the eastern portion of the site) has been deleted; the setbacks to the central facilities have been increased from 10m to 25m; the landscape buffer around the boundary has increased from 4m to 6m; areas of formal landscaping have been deleted; and the hardstand area has been reduced.

Given the NSW Governments strategic direction and the evolving context of the locality, the proposal (in its amended form) is an acceptable outcome for the site. The proposal is is not considered to have an adverse impact on the rural character of the surrounding locality.

Access, Traffic and Parking

The application was supported by a Traffic Impact Assessment (TIA), prepared by TRAFFIX and dated 12 June 2019. The objectives of this report was to assess the following: existing traffic conditions; proposals parking requirements; traffic impacts; and the internal design aspects.

To determine the existing intersection performance, traffic count surveys were undertaken at the Mamre Road/Bakers Lane and Mamre Road/Abbotts Road intersections. The data obtained from these surveys was analysed using the SIDRA modelling software program, which determines the Degree of Saturation (DOS) and the Average Vehicle Delay (SVD) per vehicle. The AVD is in turn related to a level of service (LOS) criteria. The modelling found that the intersections are both currently operating with acceptable delays up to a LOS of C during the critical AM and PM peak period respectively. Upon completion of the development, the modelling indicated that the intersections will operate with a LOS of C or better, except for Mamre Road/Abbotts Road during the PM peak which becomes a LOS of D. However, this is due to the intersection being priority controlled and the worst movement delay being the right turn from Abbotts Road into Mamre Road. This particular movement is only being used by 4 vehicles per hour during the peak hour and it is unlikely that vehicles from the development will make this particular movement. Vehicles from the development will turn right onto Mamre Road at the Bakers Lane intersection.

The amended proposal provides 272 (including 6 accessible) on-site car parking spaces. Although this represents a substantial variation to the 450 parking spaces required by Council's DCP, the accompanying traffic report has supported this variation on the basis that there will be a significant level of shared parking expected between the different uses. A car occupancy rate of 3/car has been adopted based on two other similar centres in Sydney. Therefore, the parking provision is considered to accommodate the expected parking demand of 267 under the major event scenario. Three bus parking spaces are also provided, that will reduce parking demand on event days.

Access is provided via two driveways with a width of 4.5m each at the northern and southern end of the site onto Aldington Street, with the northern access for entry and the southern access for exiting. The development provides one-way circulation throughout the site, enabling efficient flow of traffic. Most cross site roadways are one way in a south bound direction with only the western cross site roadway allowing for two way flow, which allows vehicles to recirculate through the site in case no parking is found. The report notes that the internal configuration of the car park complies with the relevant Australian Standards.

This aspect of the proposal has been reviewed by the NSW Roads and Maritime Service (RMS) and Council's Traffic Engineer, who are supportive of the proposal subject to conditions.

Wastewater Disposal

The subject site is not connected to Sydney Water's sewer system and as such, wastewater generated from the development is proposed to be disposed of on-site. The application was supported by 'Soil & Site Assessment for Onsite Wastewater Disposal' prepared by Harris Environmental Consulting (HEC) and dated 1 March 2019. As part of this assessment, investigations were conducted on the sites soils, topography and hydrology, to ensure it was suitable for a commercial sewage management facility (SMF).

The wastewater loads generated by the proposal were calculated using the rates provided in Council's 'On-site Sewage Management and Greywater Reuse Policy'. These rates are consistent with those within the NSW Health Department (2001) 'Septic Tank & Collection Well Accreditation Guidelines' and AS/NZS 1547:2012. The calculations were made for a normal week (47 weeks/year) and a festival week (5 weeks/year). The main difference between a normal and festival week is in visitor numbers. In a festival week, the maximum number of visitors increases from 600 (weekly congregation) to 800 visitors. Using the rates contained within Council's OSMGR policy it was calculated that the maximum volume of wastewater generated from a normal week would be 52,850L/week and a from a festival week would be 59,850L/week.

The wastewater treatment and disposal system have been designed for the volume generated from a week with a festival. A collection tank will store the week's wastewater with a flow regulated pump delivering 9,000L/d to the treatment system per day. The proposed SMF will provide secondary and tertiary treatment. Kitchen wastewater will also be treated by a grease arrester due to the different properties. The treated wastewater will then be applied via subsurface irrigation to the subsoil.

It has been demonstrated that there is sufficient space on-site to accommodate the wastewater generated by the development. The development provides approximately 13,500m² of land for wastewater disposal, of which approximately 8,500m² will be installed with subsurface irrigation and the remaining being allocated for reserve wastewater disposal. The 8,500m² subsurface irrigation area has the capacity to receive 9,000L/day. These proposed wastewater disposal areas comply with the buffer and setback distances specified in Penrith Council's OSMGR Policy.

This report has been reviewed by Council's Senior Environmental Health Officer who had no objections to the development, subject to conditions.

Operational Details

Despite being requested, limited details on the various uses within the central facilities building (i.e. hours,

frequency, duration etc.) were provided. As such, it is recommended that a Plan of Management (PoM) be submitted and endorsed as a deferred commencement requirement. The PoM will also cover other operational aspects of the proposal, such as traffic, noise and security management. It is recommended that a condition of consent be included, requiring that the endorsed PoM must be complied with at all times.

Acoustic Impacts

The application was accompanied by an Acoustic Assessment, prepared by Acoustic Logic and dated 5 March 2019. The aim of this report was to identify nearby noise sensitive receivers and anticipated operational noise sources with the potential to adversely impact nearby development; identify relevant Council and EPA acoustic criteria applicable to the development; predict operational noise emissions and assess them against acoustic criteria; and determine building and/or management controls necessary to ensure ongoing compliance with noise emission goals (if necessary).

To quantify the existing acoustic environment unattended noise monitoring was conducted from 28 August to 4 September 2017. Two monitors were installed, one near the western boundary and one on the northern-eastern corner of the site. These monitoring locations were selected as they were both secure for the monitoring equipment and would provide background noise data representative of the nearest noise receivers. The data obtained from this monitoring was used to establish relevant noise criteria and assessed against the standards set out in the NSW EPA Noise Policy for Industry and NSW EPA Road Noise Policy.

The following noise sources where included in the assessment: noise from the use of external areas (vehicular noise on site, outdoor play areas); noise from internal areas (chanting in the Mandir and Sabha Hall, musical performances within the Sabha Hall on Sundays and special events); noise created on public roads as a result of traffic generated by the site; and a preliminary assessment of noise from mechanical plant.

The assessment concluded that noise generated by the use of the indoor and outdoor areas and by vehicles on site, is compliant with EPA Noise Policy for Industry. However, the acoustic report recommends that windows to the Mandir Sabha Hall/Multi-use building are kept closed during special events and music performances. The application was accompanied by a Plan of Management (PoM) detailing that all windows to the assembly hall will be closed for the duration of specific congregation that includes musical performances.

The assessment also concluded that the noise generated by traffic generated on public roads as a result of the development is compliant with EPA Road Noise Policy noise emission requirements.

The noise from mechanical plant could not be assessed, as the final plant selections and locations are not finalised. As such, it is recommended that a detailed acoustic review of all external plant items be undertaken prior to the issue of a Construction Certificate.

This report has been reviewed by Council's Senior Environmental Health Officer, who supports the application, subject to conditions.

Heritage

The subject site is located in the vicinity of two items of local heritage significance listed in Schedule 5 of Penrith Local Environmental Plan 2010 being Brick Farmhouse, 282 Aldington Road, Kemps Creek (Item Number 106) and Gateposts to Colebrook, 269-285 Mamre Road (Item 105). As such, the application was accompanied by a Statement of Heritage Impact prepared by GBA Heritage and dated 19 September 2018. This report concludes that the development is consistent with the heritage requirements and guidelines of the Penrith LEP 2010 and the Penrith DCP 2014 and will have no physical or visual impact on the heritage

items in the vicinity of the site.

Flooding
The site is affected by local overland flows. As such, the application was supported by an Overland Flow Assessment prepared by Wood & Grieve Engineers and dated 6 November 2017. The aim of this report was to summarise the investigation and design of the drainage infrastructure required to convey the stormwater flows from the upstream catchments through the proposed development site. A 3D model was used to assess the existing topography of the site and also the upstream stormwater catchments impacting on the site. It was found that the upstream catchment runoff will discharge onto the site at a single location (on the western portion of the site). The development includes driveways running along the northern and southern boundaries. To prevent impacting on the conveyance of stormwater flows through the development it is proposed to construct stormwater culverts under both of these roads. The conveyance of upstream flows across the site will be via a reconstructed creek. The creek will connect the existing upstream discharge point to the existing downstream discharge point. The report recommends design options for the culverts. This report has been reviewed by Council's Development Engineers, who supports the proposal, subject to conditions.

Social Impact
The application was accompanied by a Social Impact Assessment (SIA) prepared by Cred Consulting and dated 7 November 2017. The purpose of the report was to assess the potential social impacts (positive, negative or neutral) associated with the proposed development. The report concluded that there would be a number of positive social impacts resulting from the development including: improved access to religious and cultural facilities for the growing and underserved Hindu population in the surrounding area; a new meeting place and programs for people from culturally and linguistically diverse groups; and a new landscaped area. The development has been reviewed by Council's Social Planner who had no objections, subject to conditions.

Western Sydney Airport
The subject site is located within the vicinity of the Western Sydney Airport. The protected airspace around the Western Sydney Airport is known as the Obstacle Limitation Surface (OLS) and was declared on 19 October 2017 under the provisions of the Commonwealth *Airports Act 1996* and *Airports (Protection of Airspace) Regulations 2017*. The purpose of OSL is to ensure that development within the OSL area is examined for its future aircraft operations and that it is properly taken into account. The Department of Infrastructure, Regional Development and Cities has developed the *Western Sydney Airport Obstacle Limitation Surface Tool* which indicates that the OSL elevation applicable to the site is 214.4m (AHD). The maximum height of the development is well below this level being approximately 105m AHD. As such, the development does not penetrate the protected airspace and concurrence from the Department of Infrastructure, Regional Development and cities is not required.

Accessibility
The application was accompanied by a Access Report prepared by Morris Goding Accessibility Consulting and dated 27 November 2017. The development was also presented to Council's Access Committee on 14 February 2018, who were supportive of the application subject to the access reports recommendations being incorporated into the development. A condition of consent is recommended, requiring that the design requirements of the access report being incorporated into the construction certificate plans.

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

The site is suitable for the following reasons:

- The site is located within the Western Sydney Aerotropolis Stage 1 Land Use and Infrastructure Implementation Plan (LUIIP) Mamre Precinct;
- The site is relatively clear of vegetation;
- The site has good access to a regionally significant road, being Mamre Road;
- The grade of the site is suitable for the design proposed; and
- The site is able to drain to Council's satisfaction.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with Clause 4.4 of Appendix F4 of Penrith Development Control Plan 2014, the proposed development was notified to nearby and adjoining residents and advertised in a local newspaper. Council notified seventy-eight (78) residences in the area and the exhibition period we between 12 January and 12 March 2018. The application was also advertised in a local newspaper on 11 January 2018. Council has received two (2) submissions in response. The issues raised are summarised below:

Issue Raised	***Comments***
It has not been demonstrated that the development is permissible	Concerns were raised that the proposal did not meet the Penrith LEP definition of a *place of public worship*. This is further discussed under 'Clause 2.3 Permissibility' section of this report.
The development is inconsistent with zone objectives	Concerns were raised that the development is inconsistent with the objectives of the RU2 zone. This issue is further discussed under the 'Clause 2.3 Zone Objectives' section of this report.
The developments intensity is inappropriate for the rural character of the surrounding locality	Since lodgement the scale of the development has been reduced. The floor area and height of the central facilities buildings have been reduced, the monks residence has been deleted and the setbacks have been increased to allow for additional landscaping. Notwithstanding, the site is within the Western Sydney Aerotropolis Stage 1 Land Use and Infrastructure Implementation Plan (LUIIP), Mamre Precinct. The LUIIP Structure Plan identities that the Mamre Precinct will be utilised for flexible employment given its location to the Western Sydney Employment Area and the potential Western Sydney Freight Line. It is expected that the precinct will be for uses such as warehousing and logistics.

The assessment of the impact of the development on the local road network is unsatisfactory	Further to the accompanying Traffic Report, the applicant submitted an *Addendum Statement - Additional Traffic Modelling* in response to queries raised from the RMS and Council. Both of these documents were prepared by Traffix - Traffic and Transport Planners and provided a comprehensive assessment of the impact of the development on the nearby intersections. It has been demonstrated that the proposal will not have an adverse impact on the surrounding road network.
Visual and Acoustic Impact	Concerns were raised that the development would result in adverse visual and acoustic impacts for the surrounding residents. These issues are further discussed in the 'likely impacts' section of this report.
On-site Sewer Management	Concerns were raised that the scale of development was not appropriate for on-site wastewater disposal. Throughout the assessment process, the application has been amended to delete the monks residence (previously located on the eastern portion of the site) creating additional area for effluent disposal. The accompanying Soil & Site Assessment for Onsite Wastewater Disposal report has demonstrated that wastewater can be effectively managed onsite without any adverse environmental impacts.

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	No objections - subject to conditions
Landscape Architect	Not supported
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections - subject to conditions
Environmental - Public Health	Not supported
Waste Services	No objections - subject to conditions
Traffic Engineer	No objection subject to conditions
Community Safety Officer	No objections - subject to conditions
Social Planning	No objections - subject to conditions

Environmental - Public Health

Council's Environmental Health Officer requested further details on the fit-out of the cafe and kitchen to ensure they complied with relevant Australian Standards. A condition of consent has been included requiring that these details be incorporated into the Construction Certificate plans.

Landscape Architect

Council's Landscape Architect requested further information in relation to the fencing; landscaping around the perimeter; soil profiles; and retaining walls and embankments. These requirements have been incorporated into a deferred commencement condition.

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

The proposed development will not generate any significant issues of public interest.

Conclusion

In assessing this application against the relevant environmental planning policies, being Sydney Environmental Planning Policy (Western Sydney Employment Area) 2009, Penrith Local Environmental Plan 2010 and Penrith Development Control Plan 2014, the proposal satisfies the aims, objectives and provisions of these policies. The site is suitable for the proposed development, the proposal is in the public interest, and there is unlikely to be negative impacts arising from the proposed development. Therefore, the application is worthy of support, subject to recommended conditions.

Recommendation

That DA17/1247 for Place of Public Worship including Hindu Temple (Mandir), Assembly Hall, Community Kitchen & Dining Hall, Landscaped Areas, Internal Roads, Car Parking & Associated Site Works at 230-242 Aldington Road, Kemps Creek, be refused for the attached reasons.

CONDITIONS

General

1 The development must be implemented substantially in accordance with the following plans stamped approved by Council, the application form and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Drawing Title	Drawing No	Prepared By	Dated
Site Plan	16079-DA-03 (Issue I)	DDC Architects	13/08/2019
Staging Plan	16079-DA-04 (Issue I)	DDC Architects	13/08/2019
Site Plan - Landscaped Precinct	16079-DA-05 (Issue I)	DDC Architects	13/08/2019
Site Plan - Central Facilities and Carpark Precinct	16079-DA-06 (Issue I)	DDC Architects	13/08/2019
Site Plan - Mandir and Upper Sub Soil Irrigation	16079-DA-07 (Issue I)	DDC Architects	13/08/2019
Sections	16079-DA-12 (Issue H)	DDC Architects	27/06/2019
Site Boundary Elevations	16079-DA-13 (Issue H)	DDC Architects	27/06/2019
Basement Plan	16079-DA-20 (Issue H)	DDC Architects	27/06/2019
Ground Floor Plan - Central Buildings	16079-DA-21 (Issue F)	DDC Architects	28/02/2019
First Floor Plan - Central Buildings	16079-DA-22 (Issue F)	DDC Architects	28/02/2019
Rood Plan - Central Buildings	16079-DA-24 (Issue G)	DDC Architects	14/06/2019
Elevations and Section	16079-DA-25 (Issue G)	DDC Architects	14/06/2019
Entry Forecourt - Mandir	16079-DA-31 (Issue G)	DDC Architects	14/06/2019
Ground Floor Plan - Mandir	16079-DA-32 (Issue G)	DDC Architects	14/06/2019
First Floor Plan - Mandir	16079-DA-33 (Issue G)	DDC Architects	14/06/2019
Elevations and Sections - Mandir	16079-DA-34 (Issue G)	DDC Architects	14/06/2019
Simplified Site Plan for Section reference	16079-DA-100 (Issue I)	DDC Architects	13/08/2019
Cross Sections	16079-DA-101 (Issue I)	DDC Architects	13/08/2019
Cross Sections	16079-DA-102 (Issue I)	DDC Architects	13/08/2019

Cross Sections	16079-DA-103 (Issue I)	DDC Architects	13/08/2019
Cross Sections	16079-DA-104 (Issue H)	DDC Architects	27/06/2019
Perimeter Road Grades - Landscape Zone	16079-DA-105 (Issue I)	DDC Architects	13/08/2019
Perimeter Road Grades - Central Facilities and Carpark Zone	16079-DA-106 (Issue I)	DDC Architects	13/08/2019
Perimeter Road Grades - Mandir & Upper Sub Soil Irrigation Zone	16079-DA-107 (Issue I)	DDC Architects	13/08/2019
Stormwater Management Plan	2017-0260	Inline Hydraulic Service	31/11/2018

2 A copy of the General Terms of Approval (dated 21 February 2018) issued by the NSW Natural Resource Access Regulator under the *Water Management Act 2000* shall be submitted to the Principal Certifying Authority, before the Construction Certificate can be issued for the same development. A copy of the approval shall be submitted to Penrith City Council with the copy of the Construction Certificate, if Council is not the Principal Certifying Authority.

3 The proprietor of the food business shall ensure that the requirements of the NSW Food Act 2003, NSW Food Regulation 2010 and the Australian and New Zealand Food Standards Code are met at all times.

4 **The development shall not be used or occupied until an Occupation Certificate has been issued.**

A satisfactory inspection from an authorised officer of Council's Environmental Health Department is required prior to the issue of the Occupation Certificate. The occupier is to contact the Environmental Health Department to organise an appointment at least 72 hours prior to the requested inspection time.

5 The business is to be registered with Penrith City Council by completing the "Registration of Premises" form. This form is to be returned to Council **prior to the commencement of the business**.

6 A separate development application for the erection of a sign or advertising structure, other than an advertisement listed as exempt development, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan-Advertising Signs.

7 **Prior to the issue of an Occupation Certificate**, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways.Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding landuses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).

8 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.

9 All requirements of the Rural Fire Service's General Terms of Approval (dated 1 August 2019) shall be satisfied **prior to the issue of a Construction Certificate and/or a Occupation Certificate**, as relevant.

10 A **Construction Certificate** shall be obtained prior to commencement of any building works.

11 **Prior to the issue of a Construction Certificate,** the design recommendations of the Access Report, prepared by Morris Goding Accessibility Consulting and dated 27 November 2017 shall be incorporated into the Construction Certificate plans. The works shall be certified accordingly by a suitably qualified access consultant **prior to the issue of an Occupational Certificate.**

12 **Prior to the issue of a Construction Certificate**, a detailed external colour schedule is to be submitted to and approved by the Development Services Manager of Penrith City Council.

13 As per the plans marked in red, the security houses and amenities buildings within the landscape zone, do not form part of this approval.

14 The development is to be carried out in 2 stages as per approved Drawing No. 16079-DA-04 (Staging Plan) and anything in this consent making reference to a Construction Certificate or Occupation Certificate is to be read as applying to the relevant Construction Certificate or relevant Occupation Certificate for the relevant stage. For the avoidance of doubt, this consent permits the issue of early works Construction Certificates, or staged Construction Certificates within the relevant Stage of the development and any conditions referring to the relevant stage are to be read as applying to the relevant Construction Certificate for the relevant stage.

15 The endorsed Plan of Management must be complied with at all times. In this regard, the maximum number of people permitted on site in association with the operation of the Central Facilities Building is limited to 800 people at any time.

16 All garbage must be stored in accordance with the requirements of the Food Safety Standards of the Australian and New Zealand Food Standards Code and the *Protection of the Environment Operations Act 1997* to prevent the harbourage of vermin or generation of odours.

Demolition

17 The dwelling and associated structures are to be demolished as part of the approved work.

18 All demolition works are to be conducted in accordance with the provisions of AS 2601-1991 “The Demolition of Structures”. **Prior to demolition**, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

All demolition and excavated material shall be disposed of at a Council approved site or waste facility. Details of the proposed disposal location(s) of all excavated material from the development site shall be provided to the Principal Certifying Authority **prior to commencement of demolition**.

19 You should read Council's Fact Sheet titled "Handling and Disposal of Fibrous Cement Products" **before any demolition works commence on the site**.

Prior to commencement of demolition works on site, a portaloo with appropriate washing facilities shall be located on the site and the Principal Certifying Authority is to be satisfied that:

- Measures are in place so as to comply with the WorkCover Authority's "Short Guide to Working with Asbestos Cement" and
- The person employed to undertake the works is a licensed asbestos removal contractor and is holder of a current WorkCover Asbestos Licence.

Any demolition works involving the removal of all asbestos shall only be carried out by a licensed asbestos removal contractor who has a current WorkCover Asbestos Licence.

All asbestos laden waste, including asbestos cement flat and corrugated sheeting must be disposed of at a tipping facility licensed by the Environmental Protection Authority to receive asbestos wastes.

20 Demolition works will be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

- Mondays to Fridays, 7am to 6pm
- Saturdays, 7am to 1pm (if inaudible on neighbouring residential premises), otherwise 8am to 1pm
- No demolition work is permitted on Sundays and Public Holidays.

In the event that the demolition relates to works inside the building and do not involve external walls or the roof, and do not involve the use of equipment that emits noise then the demolition works are not restricted to the hours stated above.

The provisions of the Protection of the Environment Operations Act, 1997 in regulating offensive noise also apply to all construction works.

Environmental Matters

21 All land that has been disturbed by earthworks is to be spray grassed or similarly treated to establish a grass cover.

22 Dust suppression techniques are to be employed during demolition and construction works to reduce any potential nuisances to surrounding properties.

23 Mud and soil from vehicular movements to and from the site must not be deposited on the road.

24 No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury- Nepean River) (No.2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.

25 All waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.

26 All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

Waste materials not specified in the approved waste management plan are to be disposed of at a lawful waste management facility. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

27 Noise levels from the premises shall not exceed the relevant noise criteria detailed in the 'Acoustic Assessment' (20171171.1/1001A/R2/TT) for BAPS Hindu Temple at 230-242 Aldington Road, Kemps Creek prepared by Acoustic Logic dated 5/3/2019 and 'Further Response to Council Queries Letter for 230-242 Aldington Road, Kemps Creek' prepared by Acoustic Logic dated 12/6/2019. The recommendations provided in the above-mentioned acoustic report/letter and the 'Plan of Management for BAPS Hindu Mandir' at 230-242 Aldington Road, Kemps Creek prepared by Acoustic Logic shall be implemented and incorporated into the design, construction and operation of the development, and shall be shown on plans accompanying the Construction Certificate application. A certificate is to be obtained from a qualified acoustic consultant certifying that the building has been constructed to meet the noise criteria in accordance with the approved acoustic report. This certificate is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

28 The operating noise level of plant and equipment shall not exceed 5dB(A) above the background noise level when measured at the boundaries of the premises. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

29 No fill material shall be imported to the site until such time as a Validation Certificate (with a copy of any report forming the basis for the validation) for the fill material has been submitted to the PCA. The Validation Certificate shall:

- state the legal property description of the fill material source site,
- be prepared by an appropriately qualified person (as defined in Penrith Contaminated Land Development Control Plan) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
- provide details of the volume of fill material to be used in the filling operations,
- provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
- (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

An appropriately qualified person/s (as defined in the Penrith City Council Development Control Plan) shall:

- Supervise the filling works,
- (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and shall submit a review findings report to Council and any Principal Certifying Authority,
- Certify by way of a Compliance Certificate or other written documentation that fill materials have been placed on the site in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment. A copy of the Compliance Certificate or other documentation shall be submitted to Council and any Principal Certifying Authority.

The contact details of any appropriately qualified person/s engaged for the works shall be provided with the Notice of Commencement.

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested. In these circumstances the works shall be carried out prior to any further approved works.

{Note: Penrith Development Control Plan defines an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soilscience, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}

30 An acoustic assessment is to be undertaken by an appropriately qualified environmental consultant within 60 days of occupying the site in accordance with the Noise Policy for Industry and the Noise Guide for Local Government. The assessment must be submitted to Council for review and approval. Should the assessment find that noise from the premises exceeds 5dB(A) above the background, appropriate measures must be recommended and employed to rectify excessive noise.

31 **Prior to the issue of a Construction Certificate,** a Dam Dewatering Management Plan is to be prepared by an appropriately qualified environmental consultant and submitted to Council for review and approval. Subject to Council approval, the Dam Dewatering Management Plan is to be implemented for the decommissioning of the dams at the site.

32 **Prior to the issue of a Construction Certificate,** a Sustainability Management Plan outlining the specific sustainability measures to be installed in the central facilities building shall be submitted to and approved by Penrith City Council. The plan must:

(i) confirm the total greenhouse gas savings achieved in comparison to a base case development (i.e. a development constructed in accordance with the minimum requirements of Section J of the BCA);
(ii) include a calculation of water requirements and measures incorporated to reduce water use;
(iii) include a program to monitor and report annually on the efficiency of the measures implemented; and
(iv) provide for the inclusion of solar panels on the roof.

The sustainability measures outlined in the approved Sustainability Management Plan in the Construction Certificate drawings **prior to the issue of any Occupation Certificate**

33 The following waste management requirements must be complied with and details of compliance demonstrated to Council **prior to the issue of a Construction Certificate**:
• A structural engineers report is to be provided by a qualified consultant supporting the on-site waste collection infrastructure, ramp gradients and unobstructed internal height clearances are designed to accommodate the proposed waste collection vehicles in accordance with AS 2890.2.
• The waste collection room to be of sufficient size to accommodate the full bin allocation and provide wash facilities through the use of a centralised mixing valve and hose cock. Respective drainage and water proofing to be installed to support the use of hose facilities.

34 **Prior to the issue of an Occupation Certificate,** the developer is to enter into a formal agreement with Penrith City Council for the utilisation of Councils Waste Collection Service. This is to include Council being provided with indemnity against claims for loss and damage.

Note: By entering into an agreement with Council for Waste Collection, the development will be required to operate in full compliance with Penrith City Councils Waste Collection and Processing Contracts for Standard Waste Collection. The provision of Councils waste collection service will not commence until formalisation of the agreement.

35 Prior to the issue of a construction certificate, an Unexpected Finds Protocol (UFP) is to be developed by an appropriately qualified environmental consultant and submitted to Council for approval. The UFP is to address, at a minimum, the management of any contamination found on the site during the excavation and construction phases of the development for contaminated soils, groundwater, buried building materials, asbestos, odours and staining etc. The approved UFP is to be complied with at all times during the excavation and construction phases of the development.

BCA Issues

36 All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:
(a) complying with the deemed to satisfy provisions, or
(b) formulating an alternative solution which:

- complies with the performance requirements, or
- is shown to be at least equivalent to the deemed to satisfy provision, or

(c) a combination of (a) and (b).

It is the owner's responsibility to place on display, in a prominent position within the building at all times, a copy of the latest fire safety schedule and fire safety certificate/ statement for the building.

Health Matters and OSSM installations

37 The construction, fit out and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, and AS 4674-2004 *Design, Construction and Fitout of Food Premises*.

38 Light bulbs or tubes are to be shatterproof or fitted with approved light diffusers (covers or shields) to prevent contamination of food by glass from a broken light globe or tube. Light fittings must be free from any feature that would collect dirt or dust, harbour insects or make the fitting difficult to clean. Light fittings must be recessed into ceilings or equipment where possible. Heat lamps must be protected against breakage by a shield extending beyond the bulb.

39 All food preparation benches must be constructed in stainless steel or finished in a smooth and non-absorbent approved material that is free of joints.

40 All fixtures, fittings and equipment must be provided with smooth and impervious surfaces, free from cracks and crevices to enable easy cleaning.

All fittings and fixtures must be built into the wall and floor so as to be free from joint, gaps and cavities to enable easy cleaning or alternatively, supported on one of the following:
a. Plinths – plinths must be an integral part of the floor, constructed of solid materials similar to the floor at least 75mm in height and coved at the intersection with the floor. All plinths must have a smooth and impervious finish. All fittings and fixtures must be properly sealed to the plinth so to be free from gaps, cracks and cavities.
b. Wheels or castors – fittings and fixtures can be supported on wheels or castors. The wheels and castors must be capable of supporting and easily moving a full loaded fitting. All wheels and castors must be provided with a restraining device.
c. Legs – fittings and fixtures can be supported on legs but must be constructed of a non-corrosive, smooth metal or moulded plastic. All legs must be free from cracks and crevices. All legs must have a clearance space between the floor and the underside of the fitting of at least 200 mm.

NOTE: False bottoms under fittings are not permitted (AS4674-2004 – Section 4.2 and 4.3).

41 The cleaners sink must be serviced with hot and cold water through taps fitted with hose connectors. Cleaner's sinks must be located outside of areas where open food is handled.

42 Cooking appliances which exceed a total maximum power input of 8kw for electrical, or a total gas input of 29MJ/h for a gas appliance are required to have a kitchen exhaust system installed in accordance with Clause F4.12 of the Building Code of Australia and Australian Standard 1668, Parts 1 & 2.

Detailed plans together with calculations for the system must be provided as part of the Construction Certificate application.

The exhaust hood must completely cover the equipment to be ventilated and extend at least 200mm beyond the perimeter of the equipment. The exhaust hood must be provided with a condensation gutter around it's base. The gutter must be at least 50mm wide by 25mm deep. Where abutting walls are located the hood must be constructed so as to finish flat against the wall surface.

The low edge of a canopy type exhaust hood must be at least 2000mm above floor level.

Prior to the issue of an Occupation Certificate and operation of the business, the exhaust system shall be certified by an appropriately qualified person to comply with the Building Code of Australia and Australian Standard 1668, Parts 1 & 2. A copy of the certification and supporting documentation must be provided to Council's Environmental Health Department if Council is not the Principal Certifying Authority.

43 A Food Safety Supervisor, with a current Food Safety Supervisor Certificate recognised by the NSW Food Authority, must be appointed by the business prior to commencement of the business.

44 Hand basins in the kitchen and staff toilets must be serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Where sensor taps are installed the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.

45 The floor of the food premises must be finished in an approved non absorbent material, evenly laid, or graded and drained to a trapped floor waste. All floor wastes in the food preparation, service and scullery area must be fitted with a sump removable basket and grate, a minimum 200mm in diameter, and finished in all stainless steel.

46 The walls of the food preparation area must be of solid construction and finished with glazed ceramic tiles or other approved material to a height of 2 metres. The intersection of tiles and render must have a flush finish, or be splayed at a 45 degree angle to eliminate a ledge that would allow dust and grease to accumulate.

47 The walls at the rear of cooking appliances must be surfaced with an impervious material, such as stainless steel, which extends from the canopy to the floor. Where a cooking appliance is sealed to the wall, the material must be lapped over the top edge of the appliance to provide a grease and vermin proof seal. Cooking appliances must only be sealed to walls made of a non-combustible material.

48 The ceiling in the preparation, service and scullery areas must be constructed with a rigid, non-absorbent, smooth faced material free from open joints, cracks and crevices and be painted with a light coloured washable paint. The intersection of the walls and ceiling must be tight jointed, sealed and dust proofed. Drop-in panel style ceilings are not permitted.

49 Service pipes, electrical conduits, refrigeration condensate pipes shall be enclosed or chased into walls, floors or plinths. Where it can be demonstrated that this is not feasible pipes and conduits fixed on brackets, providing a minimum of 25 mm clearance from the adjacent wall and 100 mm from the floor or adjacent horizontal surface, can be used. All openings in walls, floors and ceilings, through which service pipes and conduits pass, must be vermin proof.

50 Appliances used to store potentially hazardous food must have a capacity to keep foods hotter than 60°C, refrigerated foods less than 5°C, and frozen foods less than 18° C and be provided with a digital thermometer, accurate to 1°C that can be easily observed from outside the appliance.

51 Details of the dishwashing/glass washing machines must be submitted to Council and approved prior to installation. All utensils and equipment must undergo a washing, sanitising and rinsing cycle. The sanitising rinse cycle must achieve a water temperature of 80°C for 2 minutes or 75°C for 10 minutes.

52 All wash sinks and food preparation sinks must be serviced with hot and cold water through a single outlet. Wash sinks must be supplied with water at a temperature of not less than 54 °C for washing.

Utility Services

53 A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s website at www.sydneywater.com.au then the “e-developer” icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

54 Prior to the issue of a Construction Certificate, a written clearance is to be obtained from Endeavour Energy stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.

In the event that a pad mounted substation is necessary to service the development, Penrith City Council shall be consulted over the proposed location of the substation before the Construction Certificate for the development is issued as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council.

55 **Prior to the issue of any Construction Certificate,** the approved plans must be submitted to the Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

The Sydney Water Tap in™ online self-service replaces our Quick Check Agents as of November 2015.

The Tap in™ service provides 24/7 access to a range of services, including:

- building plan approvals
- connection and disconnection approvals
- diagrams
- trade waste approvals
- pressure information
- water meter installations
- pressure boosting and pump approvals
- changes to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's Tap in™ online service is available at:

http://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm

Construction

56 Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction. The following details are to be displayed in a maximum of 2 signs to be erected onthe site:

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage, but no more than 2 signs, stating the above details is to be erected:

- at the commencement of, and for the full length of the, construction works onsite, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed on completion of earthworks orconstruction works and when a Compliance Certificate has been issued by the Principal Certifying Authority certifying that the development has complied fully with the development consent and, where required, been constructed in accordance with the Construction Certificate.

57 Construction works or subdivision works that are carried out in accordance with an approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

- Mondays to Fridays, 7am to 6pm
- Saturdays, 7am to 1pm (if inaudible on neighbouring residential premises), otherwise 8am to 1pm
- No work is permitted on Sundays and Public Holidays.

Other construction works carried out inside a building/tenancy and do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

The provisions of the Protection of the Environment Operations Act, 1997 in regulating offensive noise also apply to all construction works.

Engineering

58 All roadworks, stormwater drainage works, associated civil works and dedications, required to effect the consented development shall be undertaken at no cost to Penrith City Council.

59 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to commencement of any works on site or prior to the issue of any Construction Certificate, whichever occurs first. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

An application form together with an information sheet and conditions are available on Council's website.

Contact Penrith City Council's City Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

60 Prior to the issue of any Construction Certificate, a Section138 Roads Act applications, including payment of application and inspection fees, shall be lodged and approved by Penrith City Council (being the Roads Authority for <u>any works required</u> in a public road). These works may include but are not limited to the following:

a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
b) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
c) Road occupancy or road closures
d) The placement of hoardings, structures, containers, waster skips, signs etc. in the road reserve
e) Temporary construction access

All works shall be carried out in accordance with the Roads Act approval, the development consent, including the stamped approved plans, and Penrith City Council's specifications, guidelines and best engineering practice.

Contact Penrith City Council's City Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

Note:

a) Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.

b) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.

61 The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by INLINE Hydraulic Services, Project number (2017-0260), Drawing Numbers HDA01-14 / P4, dated 13.6.2019. Engineering plans and supporting calculations for the stormwater management systems are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design Policy.

62 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the proposed development is compatible with the recommendations of the Flood Report prepared by (Wood & Grieve Engineers), Project number (33696), dated (6/11/2017).

Certifying Authority shall ensure that the size of proposed culvert is able to convey the 100 year flows. Evacuation route via internal access road shall be flood free up to 100 year storm event. An emergency evacuation plan shall be prepared by a suitable qualified person for Probable Maximum Flood.

63 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the proposed development is compatible with the recommendations of the Overland Flow Flood Report prepared by (Wood & Grieve Engineers), Project number (33696), dated (6/11/2017).

Certifying Authority shall ensure that the size of proposed culvert is able to convey the 100 year flows. An emergency evacuation plan shall be prepared by a suitable qualified person.

64 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS 2890.2, AS 2890.6 and Penrith City Council's Development Control Plan.

65 Prior to commencement of any works associated with the development, sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997 and Managing Urban Stormwater series from the Office of Environment and Heritage.

The erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

66 Prior to commencement of any works associated with the development, a Traffic Control Plan, including details for pedestrian management, shall be prepared in accordance with AS1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Maritime Services' publication "Traffic Control at Worksites" and certified by an appropriately accredited Roads and Maritime Services Traffic Controller.

Traffic control measures shall be implemented during the construction phase of the development in accordance with the certified plan. A copy of the plan shall be available on site at all times.

Note:

a) A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City Council.

b) Traffic control measures may require road occupancy / road closure approvals issued under Section 138 of the Roads Act by Penrith City Council prior to the issue of a Construction Certificate.

67 All existing (aerial) and proposed services for the development, including those across the frontage of the development are to be located or relocated underground in accordance with the relevant authorities regulations and standards.

68 Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that all works associated with a S138 Roads Act approval or S68 Local Government Act approval have been inspected and signed off by Penrith City Council.

69 Prior to the issue of an Occupation Certificate, works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, WSUD Technical Guidelines and Stormwater Drainage for Building Developments.

An original set of works-as-executed drawings and copies of the final operation and maintenance management plans and compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the Occupation Certificate where Council is not the Principal Certifying Authority.

70 Prior to the issue of an Occupation Certificate the Principal Certifying Authority shall ensure that the:

a) Stormwater management systems (including on-site detention and water sensitive urban design)

- Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
- Have met the design intent with regard to any construction variations to the approved design.
- Any remedial works required to been undertaken have been satisfactorily completed.

Details of the approved and constructed system/s shall be provided as part of the works-as-executed drawings.

71 Prior to the issue of any Occupation Certificate, a restriction as to user and positive covenant relating to the:

a) Stormwater management systems (including on-site detention and water sensitive urban design)
b) Overland flowpath works

Shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater and Drainage for Building Developments policy.

72 The stormwater management systems shall continue to be operated and maintained in perpetuity for the life of the development in accordance with the final operation and maintenance management plan.

Regular inspection records are required to be maintained and made available to Penrith City Council on request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the stormwater management systems.

73 The required sight lines around the driveway entrances are not to be compromised by landscaping, fencing or signage.

74 The direction of vehicular circulation is to be clearly indicated by signs and/or pavement arrows at the driveways and in internal aisles.

75 **Monitoring of the proprietary treatment device**

a) The owner of the development must engage a suitably qualified independent consultant to develop and implement a stormwater monitoring program to determine the performance of the proprietary stormwater treatment devices adopted in the approved stormwater management plan for a minimum of two years, at no cost to Council.

The monitoring program shall demonstrate the performance of the stormwater treatment systems ability to meet the pollutant retention criteria outlined in Council's WSUD Policy.

An annual report of the monitoring and results must be prepared by a suitably qualified professional specialised in stormwater and must be submitted to Council for consideration.

b) Alternatively, the proponent must submit to Council for approval, further certification confirming performance of the treatment system from an independent stormwater treatment expert and supporting results based on the testing from a local field test site in Australian conditions.

Landscaping

76 All landscape works are to be constructed in accordance with the stamped approved plan and Penrith Development Control Plan 2014.

Landscaping shall be maintained:

- in accordance with the approved plan, and
- in a healthy state, and in perpetuity by the existing or future owners and occupiers of the property.

If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity as the vegetation which died or was removed.

77 The approved landscaping for the site must be constructed by a suitably qualified and experienced landscape professional.

78 The following series of reports relating to landscaping are to be submitted to the nominated consent authority at the appropriate time periods as listed below. These reports shall be prepared by a suitably qualified and experienced landscape professional.

i. Implementation Report
Upon completion of the landscape works associated with the developmentand prior to the issue of an Occupation Certificate for the development, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development.

An Occupation Certificate should not be issued until such time as a satisfactory Implementation Report has been received. If Penrith City Council is not the Principal Certifying Authority, a copy of the satisfactory Implementation Report is to be submitted to Council together with the Occupation Certificate for the development.

ii. Maintenance Report
On the first anniversary of the date of the Occupation Certificate issued for the development, a Landscape Maintenance Report is to be submitted to Penrith City Council certifying that the landscape works are still in accordance with the development consent and the plant material is alive and thriving.

79 All landscape works are to meet industry best practice and the following relevant Australian Standards:

- AS 4419 Soils for Landscaping and Garden Use,
- AS 4454 Composts, Soil Conditioners and Mulches, and
- AS 4373 Pruning of Amenity Trees.

80 No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those within the proposed building footprint or as shown on the approved plans) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

81 **Prior to the issue of a Construction Certificate,** the principal certifier shall ensure the play grounds will be to the relevant Australian Standards and best practice (i.e. shade, soft fall).

82 A two year plant establishment period is to be undertaken by the landscape contractor.

Certification

83 An Occupation Certificate shall be sought from the Principal Certifying Authority prior to occupation of or commencement of use of each stage of the development. Before the Occupation Certificate can be issued for each stage of the development, a Compliance Certificate or other documentation suitable to the Principal Certifying Authority shall be sought indicating that all conditions of this development notice, but not those conditions relating to the operations of the development, commensurate with that stage of the development have been satisfied or met prior to the occupation or use of that stage of the development.

A copy of the Compliance Certificate or other documentation shall be submitted to Penrith City Council if obtained from an accredited certifier. A copy of the Occupation Certificate is also to be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

Operation of OSSM

84 The on-site sewage management (OSSM) system and effluent management area shall be installed and operated in accordance with the:

- “Environmental and Health Protection Guidelines On Site Sewage Management for Single Households”
- Australian Standards AS1547:2012,
- the intent of Australian Standards AS 1546
- Council’s On-Site Sewage Management and Greywater Reuse Policy,
- current (at the time of installation) NSW Health Accreditation documentation,
- the 'Soil and Site Assessment for Onsite Wastewater Disposal' at 230-242 Aldington Road, Kemps Creek (2383WW V3.0) prepared by Harris Environmental Consulting dated 1/3/2019,
- the 'Wastewater Management Plan - Site Detail' (2812WW)(DWG#1 Issue E) prepared by Harris Environmental Consulting dated 12/6/2019,
- 'Aquacell Recycling System Proposal - Aquacell Water Recycling' (19-3003-1) for BAPS Hindu Temple at Kemps Creek prepared by Aquacell Pty Ltd dated 22/2/2019,
- And, the conditions of this consent.

Prior to the issue of the ‘Approval to Operate’, a Commissioning Certificate for the OSSM system shall be provided to Penrith City Council for approval. This Certificate shall certify that the wastewater treatment system has been installed and is operating in accordance with the requirements of the manufacturer and the above guidelines, standards and reports.

Prior to the issue of the Occupation Certificate and before the OSSM system can be used, an ‘Approval to Operate’ for the OSSM system is to be sought from and issued by Penrith City Council.

85 All wastewater generated on the site is to be diverted to an Aquacell Wastewater Treatment System and be disposed of by way of subsurface irrigation in the approved effluent management area. The effluent management area is to be located in accordance with the stamped approved 'Wastewater Management Plan - Site Detail' (2812WW)(DWG#1 Issue E) prepared by Harris Environmental Consulting dated 12/6/2019 and have a minimum primary area of 8423m² with a reserve area of 5035m².

The system and effluent management area are to be installed and managed in accordance with the:

- “Environmental and Health Protection Guidelines On Site Sewage Management for Single Households”
- Australian Standards AS1547:2012,
- the intent of Australian Standards AS 1546
- Council’s On-Site Sewage Management and Greywater Reuse Policy,
- current (at the time of installation) NSW Health Accreditation documentation,
- the 'Soil and Site Assessment for Onsite Wastewater Disposal' at 230-242 Aldington Road, Kemps Creek (2383WW V3.0) prepared by Harris Environmental Consulting dated 1/3/2019,
- the 'Wastewater Management Plan - Site Detail' (2812WW)(DWG#1 Issue E) prepared by Harris Environmental Consulting dated 12/6/2019,
- 'Aquacell Recycling System Proposal - Aquacell Water Recycling' (19-3003-1) for BAPS Hindu Temple at Kemps Creek prepared by Aquacell Pty Ltd dated 22/2/2019,
- And, the conditions of this consent.

86 Penrith City Council is both the consent authority and certifying authority for the installation of the On-Site Sewage Management System (OSSM). **It is your responsibility to contact Council's Development Services Department to organise all inspections required for the installation of the system.**

In this regard, the Aquacell Wastewater Treatment System including all tanks and subsurface effluent management areas will need to be inspected on completion of the system's installation (before backfilling occurs) and prior to its commissioning, to ensure compliance with those conditions specific to the installation of the system.

A copy of the satisfactory inspection reports carried out by Council shall be submitted to the Principal Certifying Authority if Council is not the Principal Certifying Authority.

87 The onsite sewage management system and effluent management area shall not be altered without the prior approval of Council. In addition, the wastewater tanks shall not be covered. Structures are not to be constructed over the wastewater tanks which will prevent access. In the event structures are to be constructed over the wastewater tanks, a structural engineer must design all aspects of the proposed structure to ensure the safety of persons and so as the integrity of the wastewater tanks is not compromised.

88 All drainage and sanitary plumbing shall be carried out in accordance with the requirements of the Plumbing and Drainage Act 2011 and the Plumbing Code of Australia.

89 The design of the irrigation system for the effluent management area is to be such that:

- The distribution line is to be buried from the treatment system to the designated effluent management area.
- The subsurface irrigation within the effluent management area cannot exceed the designated boundaries.
- The treated wastewater can be evenly irrigated across the entire designated effluent management area**,** avoiding the drip line of native trees.
- Sited so as not to contaminate the natural watercourse that traverses the subject property.

90 All irrigation pipework and fittings shall comply with AS2698 “Plastic Pipes and Fittings for Irrigation and Rural Applications”. In this regard:

- the irrigation system is not to be connected to/not capable of connection to the mains water supply,
- standard household fittings, soaker hoses, garden sprinklers and standard water hose fittings are not to be used,

Sub surface -

- subsurface drip irrigation lines are also to be installed in accordance with AS 1547:2012 and are to evenly distribute treated effluent over the designated disposal area, and
- all subsurface drip irrigation is to be buried within a minimum of 250mm of topsoil in accordance with AS 1547:2012. Mulch is not to be used as part of the minimum top soil requirement.

91 There shall be no effluent runoff from the subject property to adjoining premises, public places or reserves.

92 A minimum of two signs shall be erected within the effluent management area. These signs are to state “RECLAIMED EFFLUENT - NOT FOR DRINKING - AVOID CONTACT”. The signage shall be maintained for the term of the development.

93 The owner/occupier shall enter into an annual service contract with the manufacturer, distributor or other person authorised (in writing) by Penrith City Council to service the Aquacell Wastewater Treatment System every three (3) months (or more frequently if required by manufacturer) from the date of commissioning in the following manner:

i. A three monthly service shall include a check on all mechanical, electrical and functioning parts of the system including:

- the chlorinator,
- replenishment of the disinfectant,
- the UV disinfection unit,
- all pumps and switches,
- the air blower, fan or air venturi,
- the alarm system,
- the effluent disposal area and sub-surface irrigation lines and filters,
- the slime growth on the filter media, and
- the operation of the sludge returns system
- all other componentry as required by Aquacell Water Recycling.

ii. The following field tests are to be carried out at every service:

- free residual chlorine using DPD colorimetric or photometric method,
- pH from a sample taken from the irrigation chamber,
- dissolved oxygen from a sample taken from the final aeration or stilling chamber (although recommended) is optional.
- all other tests as required by Aquacell Water Recycling.

iii. On the yearly anniversary date of the commissioning of the system, an annual service of the system shall also be carried out which includes a check on the sludge accumulation in the septic tank (primary treatment tank) and the clarifier, where appropriate.

iv. For systems which utilise the sewage treatment principle of activated sludge or contact aeration, a sludge bulking test, known as a SV30 Test, shall also be conducted on an annual basis. This test is to determine whether the accumulated sludge is bulking, indicating that the aeration compartment(s) will require desludging.

v. On completion of each service, a service report sheet is to specify all service items and test results, the amount of chlorine compound provided, parts replaced (if applicable), the date the service was conducted and the technician's name. A copy of the service report is to be:

- given to the property owner and another to the applicant (if not the same), and
- forwarded to Penrith City Council.

Each service agent shall provide a registered business office which, if unattended during business hours, is provided with a telephone answering device or service. A means of reporting a malfunction or breakdown outside normal business hours shall be available. In the event of a breakdown or malfunction, the service agent shall, within 24 hours of the breakdown or malfunction, ensure that temporary repairs are carried out to the aerated system to ensure continued operation of the system. This may necessitate provision of adequate spare parts and temporary replacement blowers and irrigation pumps where repairs cannot be completed on site.

All servicing, maintenance and repairs to the Aquacell Wastewater Treatment System are to be undertaken by an appropriately qualified service technician with demonstrated experience with this system type.

94 The contents of the existing septic tank are to be removed by a licensed waste contractor and deposited to an approved waste facility. The disconnected tank shall be removed, demolished or filled with clean soil and garden lime. Documentation of the collection and disposal of waste are to be retained and provided to Council on request.

95 The effluent management area is to be turfed to the satisfaction of Council. Where a specific variety of turf is identified in the approved Wastewater Report that variety is to be installed and maintained.

96 No concreting, driveways, vehicles or any other structure or access way is to be located over any portion of the effluent management area. The effluent management areas are to be fenced so as to restrict access to the public and visitors and are only to be accessed by authorised persons. Access is to be restricted to the Aquacell Wastewater Treatment System including all tanks.

97 All stormwater and seepage shall be diverted away from the wastewater treatment system and the effluent management area by using an agricultural drain or earthen bund and dish drain.

98 Orchards, vegetable gardens or any other plant species that can be used for the purposes of human consumption are not to be planted within the effluent management area. Effluent from the onsite sewage management system is not to be used on fruit or vegetables grown for human consumption.

99 No wastewater associated with the onsite sewage management system is to be applied or irrigated within the drip line of any native trees within the effluent management area.
It is the responsibility of the applicant to ensure the ongoing health of the trees in relation to the effluent management area.

100 **Prior to the issue of the Occupation Certificate**, an Operational Wastewater Management Plan (OWMP) for the system is to be provided to Penrith City Council for consideration and approval. The OWMP shall be prepared by an appropriately qualified consultant in consultation with Council, and may need to be amended to include the comments provided by Council. The OWMP is to address:

- All environmental aspects of the operation of the on-site sewage management system
- All systems and controls to be implemented to minimise the potential for any adverse environmental impacts
- A program for ongoing monitoring and review to ensure that the OWMP remains contemporary with relevant environmental standards. Council is to be consulted prior to any amendments of the OWMP. Council may request a review of the OWMP or any proposed amendments.

The OWMP should include but is not limited to the following:

- System information (including specifications and site plans)
- Monitoring and testing
- Maintenance and servicing program (treatment system and irrigation system)
- System performance
- System failure contingency
- Odour management
- Landscape and disposal area management
- Health and safety
- Copy of the site and system specific Operation and Maintenance Manual

The on-site sewage management system is to be operated in accordance with the requirements of this Plan.

101 Council is to be provided with an Annual Environmental Performance Report detailing the performance of the system including but not limited to the following information:

- Details and records of maintenance checks of disposal areas.
- Copies of maintenance report sheets.
- Results of effluent output testing.

The first Annual Environmental Performance Report is to be provided to Council 12 months after the system is commissioned.

102 Annual testing of effluent output is to occur for the following parameters:

- Total Nitrogen
- Total Phosphorus
- Faecal Coliforms
- Biochemical Oxygen Demand
- Total Suspended Solids

Effluent is to be sampled by an appropriately qualified person and tested at a NATA accredited laboratory. The test results are to be provided to Council within 21 days of their receipt by the owner/operator. Testing is to occur at the stage of commissioning the system and every 12 months thereafter from the date of commissioning.

103 The reserve effluent management areas, as marked on the 'Wastewater Management Plan - Site Detail' (2812WW)(DWG#1 Issue E) prepared by Harris Environmental Consulting dated 12/6/2019 are to be established with turf and are not to be used for any ancillary purpose. No materials are to be stored in the reserve areas, and the reserve areas are not to be developed. In the event that the primary effluent disposal area is to fail the reserve areas are to be used. Written approval is to be obtained from Penrith City Council prior to any works being undertaken.

104 The Aquacell Wastewater Treatment System and subsurface effluent management irrigation area are to be installed by appropriately qualified persons with demonstrated training, experience and knowledge in the installation of these systems. Written confirmation of the installers is to be provided to Council prior to the issuing of an Occupation Certificate.

Schedule 1 (Deferred Commencement)

105 A. **Landscaping**

Prior to the issue of an operational consent:-
An amended landscape plan, prepared by a suitably qualified and experienced landscape architect, is to be submitted to and approved by Council that includes the following:

i) Fencing details (including materials and colour). The fencing is to be contained within the landscaping setback from the front boundary and of an open style design.

ii) Landscaping along side and rear boundaries is to contain natives, with 40% large canopy trees (over 20m in effective mature height).

iii) Demonstration that soil profiles in areas of cut and fill are adequate to sustain plant growth/health to maturity.

iv) Demonstration that the location of large pot sizes is appropriately located to mitigate the visual impact of built form.

v) Details of how retaining walls and embankments (changes in level) are treated in terms of materials and landscaping to reduce visual impact of the development and suitably respond to the rural landscape character.

vi) Demonstration that the operation and impacts of the OSSM system (the effluent disposal area) will not adversely impact surrounding landscaping and ensure that healthy growing conditions are maintained to enable landscaping to reach sustained maturity.

B. **Plan of Management**

Prior to the issue of an operational consent:-
A Plan of Management (PoM) is to be submitted outlining all operation details, including but not limited to:

i) The hours of operation, frequency and duration for all activities to occur on site;

ii) Noise management procedures;

iii) Complaints handling;

iv) Traffic management procedures;

v) Emergency procedures; and

vi) Safety and security management.

C. **Waste**

Prior to the issue of an operational consent:-
A waste management plan, prepared by a suitably qualified waste consultant, is to be submitted to and approved by Council. The plan is to be prepared in accordance with Penrith Development Control Plan 2014 and the supporting guideline documents and outline the following:

I) Waste streams generated and the anticipated volumes;
ii) Size of bins proposed to service the development;
iii) Location of the integrated on-site waste collection loading bay to accommodate waste collection and service vehicles.
iv) Size of waste vehicle and supported by swept paths.
v) A 'plan of operations' report.

The architectural plans are to be amended to incorporate the requirements detailed in the approved waste management plan.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

The proposal has been assessed against the applicable provisions of this section and is found to be generally acceptable. Particular sections which have provided for non compliances or relevant discussion points are identified below:

C5 Waste Management

The Statement of Environmental Effects (SOEE) specifies that a private contractor will be engaged to manage waste generated from the development. While the plans originally indicated a large waste room within the basement of the central facilities building, the plans have been since modified and this component deleted. As such, it is recommended that a deferred commencement condition be included to ensure that a waste management plan be prepared for the development and the required waste infrastructure be incorporated into the architectural plans.

C6 Landscape Design

The application was accompanied by a Landscape Plan prepared by Nicholas Bray Landscapes and dated 28 February 2019. While this has been prepared in accordance with Council's DCP, and found to be acceptable in terms of proposed species and their densities, the plan does not reflect the current architectural plans. Since lodgement, the development has changed in terms of the earthworks (i.e. extent of cut, fill & retaining walls); the buildings footprint and location; and setbacks. As such, it is recommended that the application be approved as a deferred commencement to allow for an amended landscape plan be submitted to and approved by Council.

C9 Advertising and Signage

While the Statement of Environmental Effects (SOEE) indicates that the proposal includes entry and way finding signage however, no details have been provided. As such, it is recommended that a condition of consent be included recommending that a separate development application be lodged for any signage not considered exempt development.

C10 Traffic, Access and Parking

The accompanying traffic report used the following DCP rates to determine the car parking required by the development:

Land Use Element	***DCP Type***	***Maximum***	***DCP Parking Rate***	***Required***
Temple	Place of public worship	50 seats; 660m^2	1 space per 4 seats or 1 space per 6m^2 of gross floor area, whichever is the greater	110
Dining and Multi Use Facility	Entertainment Facilities/Function centres	245 seats; 3,821m^2	1 space per 3.5 seats or 1 space per 3.5m^2 GFA, whichever is greater	244

Assembly Hall and Youth Centre	Fitness centre including gym	1,236m^2	7 spaces per 100m^2 GFA	67
Administrative Office	Office	340m^2	1 space per 40m^2 GFA	9
Total Required				***450***

While the DCP rates utilised are not technically applicable, they are considered the most appropriate for the various elements of the development. As demonstrated above, the proposal requires 450 on-site parking spaces to be provided. The development does not comply with control providing only 272 parking spaces, a shortfall of 178 spaces. Despite this, the accompanying Traffic Report has justified the variation, specifying that there will be a significant level of shared parking to be expected between the different uses. A car occupancy rate of 3/car has been adopted based on two other similar centres in Sydney. This approach has been accepted by Council's Senior Traffic Officer, who has no objections to the proposal subject to conditions.

D5 Other Land Uses

D5.6 Places of Public Worship

The proposal has been assessed against the applicable provisions of this section and is found to be generally acceptable. Particular clauses which have provided for non compliances or relevant discussion points are identified below:

Location and Design

Where a place of public worship is to be located immediately adjacent to a property used primarily for residential purposes (including rural living or senior living), a buffer zone of a minimum 10m in rural or environmental zones or 5m in all other zones must be provided to the side and rear boundaries. This buffer zone shall be landscaped and shall not be used for parking areas or the like.

Comment: The adjoining properties are used primarily for residential purposes and as the site is within a rural zone (being RU2), a 10m setback is required to be provided to the side and rear boundaries. The proposal seeks a variation to this control, with the perimeter driveway being setback 6m from the side boundaries. A variation is supported, as the 6m is adequate to provide a landscaped buffer and the buildings all have a minimum setback of 25m.

Servicing

A place of public worship with a capacity of more than 100 persons must be connected to all services, including power, reticulated sewer and reticulated water.

Comment: The site is not connected to a reticulated sewerage system. Despite this, the application was accompanied by a wastewater report that demonstrates that effluent generated from the development can be effectively managed on-site. This is further discussed under the 'likely impacts' section of the report.

Transport, Access and Parking

A place of public worship with a capacity of more than 100 persons must demonstrate how sustainable modes of transport will be encouraged. This may include location close to public transport, provision of transport for worshipers (minim bus or similar) or other means to reduce the reliance on transport by private vehicle.

Comment: On major event days, it is expected that there will be up to 800 visitors to the facility. The applicant has advised on the major event days, buses will be provided, significantly reducing the parking demand. The plans show that 3 bus parking spaces are provided within close proximity to the Central Facilities building.

Noise

A noise impact assessment may be required for the development of a place of public worship and, if required, should address the provisions of the Noise and Vibration section of this Plan.

Comment: In accordance with the requirements of the DCP, the application was accompanied by a Acoustic Assessment, prepared by Acoustic Logic and dated 5 March 2019. This is further discussed under the 'likely impacts' section of this report.