

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSTH - 154
DA Number	DA21/0806
LGA	Wagga Wagga
Proposed Development	Concept application for Place of Public Worship including defined building envelope for a Church building and associated site works with Stage 1 detailed approval for Two-storey Sunday School Building to include study areas, book store and residential accommodation, Multi-purpose Hall with ancillary kitchen and amenities, car-parking (71 spaces), outdoor play area and basketball court with associated earthworks across the site.
Street Address	Lot 606 DP1222168, 12 Waterhouse Avenue, Lloyd, NSW 2650
Applicant/Owner	Owner: Coptic Orthodox Church (NSW) Property Trust Applicant: Michael Tadros
Date of DA lodgement	9 December 2021
Total number of Submissions Number of Unique Objections	<ul style="list-style-type: none"> • 33 • 33
Recommendation	Refusal
Regional Development Criteria (Schedule 6 of the SEPP (Planning Systems) 2021	<p>5) Private infrastructure and community facilities Development that has a capital investment value of more than \$5 million for any of the following purposes-</p> <p>(b) affordable housing, child care centres, community facilities, correctional centres, educational establishments, group homes, health services facilities or places of public worship.</p> <p>The capital investment value of the full concept application for which approval is sought is \$8.12 million.</p>
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Section 4.15 of the Environmental Planning and Assessment Act, 1979 • State Environmental Planning Policy (Planning Systems) 2021 • State Environmental Planning Policy (Resilience and Hazards) 2021 • Wagga Wagga Local Environmental Plan 2010 • Wagga Wagga Development Control Plan 2010: Section 1 – General Section 2 – Controls that apply to all Developments
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Architectural Plan Set • Statement of Environmental Effects • Traffic Impact Assessment • Acoustic Assessment • CPTED Report • Additional information Responses (5/10/2022 & 25/1/2023)
Clause 4.6 requests	Not applicable
Summary of key submissions	<ul style="list-style-type: none"> • Traffic Impacts from increased vehicle numbers which will have significant impacts upon local roads. • Insufficient parking, • Noise disturbance particularly at weekends and at night.

	<ul style="list-style-type: none"> • Building is completely out of character with existing building sizes in the area • Road safety concerns, narrow residential streets where children play will become dangerous with the significant increased movements • Visual impact not just in the immediate vicinity but from afar • Many alternative locations away from residences for a development of this scale • Devalue property prices • Concern will be used for other events creating further disturbance • Security concerns, when not in use; acoustic barriers will provide hiding places and the layout allows ease of access to existing rear residential boundaries. • Sunday school with 13 classrooms appears to be a different use •
Report prepared by	Amanda Gray, Senior Town Planner.
Report date	24 May 2023

Summary of s4.15 matters

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

Yes**Legislative clauses requiring consent authority satisfaction**

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?
e.g. *Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

Yes**Clause 4.6 Exceptions to development standards**

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

No**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

No**Conditions**

Have draft conditions been provided to the applicant for comment?

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

No

EXECUTIVE SUMMARY

Reason for consideration by Southern Regional Planning Panel

The proposal has been referred to the Southern Regional Planning Panel as it is for a community facility with a capital investment value of more than \$5 million.

Proposal

The proposal is a concept application for a place of public worship including defined building envelope for a Church building and associated site works with 100 car parking spaces. Stage 1 detailed approval is sought for a Two-storey Sunday School Building to include study areas, book-store and residential accommodation, Multi-purpose Hall with ancillary kitchen and amenities, car-parking (71 spaces), outdoor play area and basketball court with associated earthworks and landscaping across the site.

Permissibility

The site is zoned R1 General Residential pursuant to the Wagga Wagga Local Environmental Plan 2010. The purpose and use of the buildings on site are as a place of public worship and also include two innominate units of residential accommodation. The land uses are permissible in the zone with development consent. Detailed discussion regarding the permissibility of the development is discussed in section (pages 10-14.)

Consultation

The development application was notified in accordance with Council's DCP and resulted in 33 individual letters of written objection. The submissions are discussed in detail within section 4.15(d) of the report (pages 32-35)

Key assessment issues

- The scale of development is inconsistent with the established residential character of the surrounding locality.
- The form, massing and bulk of the development will have a significant detrimental impact to the streetscape.
- The proposed earthworks result in significant cut and fill works across the site resulting retaining walls to the streetscape, elevated building pads and carparks and ramped driveways none of which are in keeping with the context and setting of the site.
- The proposed 100 parking spaces are not considered sufficient for the intensity of use of the site. Reliance on on-street parking for overflow parking will impact negatively on the amenity of the surrounding residential area.
- A variation to the Wagga Wagga Development Control Plan 2010 (the DCP) is sought in relation to car parking. Inconsistencies with the guiding principles of the DCP are also apparent as well as safety and security concerns.
- The application will result in adverse impacts to neighbouring residential properties in relation to noise disturbance and visual amenity as well as cumulative impacts upon existing levels of residential amenity.
- The mitigation measures recommended to address noise and security concerns result in additional unsuitable impacts and cannot be guaranteed.
- The proposal is not considered to be in the public interest as the proposal has not demonstrated a satisfactory design and planning outcome that is suitable for the site.

Recommendation

The application is recommended for refusal on the grounds that the scale and intensity of the development has a high potential to result in land use conflict and would have unreasonable and negative impacts on the amenity of nearby residents and the character of the locality. The proposal is not suitable for the subject site and is not in the public interest.

Report of Development Application

Pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979

APPLICATION DETAILS

Application No.:	DA21/0806
Modification No.:	N/A
Council File No.:	D/2021/0806
Date of Lodgement:	09/12/2021
Applicant:	MK Tadros 2 Barrington St TATTON NSW 2650
Proposal:	Concept application for Place of Public Worship including defined building envelope for a Church building and associated site works with Stage 1 detailed approval for Two-storey Sunday School Building to include study areas, book store and residential accommodation, Multi-purpose Hall with ancillary kitchen and amenities, car-parking (71 spaces), outdoor play area and basketball court with associated earthworks across the site.
Assessment Officer:	Amanda Gray
Determination Body:	Southern Region Planning Panel – Community infrastructure greater than \$5 million.
Other Approvals	Nil
Type of Application:	Development Application
Concurrence Required:	No
Referrals:	Internal
Adjoining Owners Notification:	12-26 May 2022
Advertising:	12-26 May 2022
Owner's Consent Provided:	yes
Location:	Vacant block on the north-western corner of Waterhouse Avenue and Ansett Drive.

SITE DETAILS

Subject Land:	12 Waterhouse Ave LLOYD NSW 2650 Lot 606 DP 1222168
Owner:	Coptic Orthodox Church (NSW) Property Trust

REPORT

Description of Development

This application is for a place of public worship and associated buildings with car-parking, three new driveways, recreation facilities, earthworks, and landscaping. The application has been prepared on behalf of the Coptic Orthodox church and is a 'concept development application' made under Division 4.4 of the Environmental Planning and Assessment Act. In accordance with clause 4.22 of the Act the concept application is made in two stages and the specific elements of each stage of the proposed development are described below.

Stage 1

- (i) Services Building - Worship Hall
- (ii) Sunday school building across two storeys, including two residential units
- (iii) Basketball court and children's playground
- (iv) New driveway to Waterhouse Avenue accessing carpark with a total of 50 spaces
- (v) New driveway to Ansett Street accessing a carpark with 20 spaces
- (vi) Earthworks across the site in the form of cut and fill and associated retaining walls
- (vii) Acoustic fencing up to 2.4m in height
- (viii) Landscaping

Stage 2

- (i) Detached church building within defined building envelope
- (ii) Additional new driveway from Waterhouse Avenue accessing a carpark of 30 spaces
- (iii) Additional earthworks and landscaping

The application seeks concept approval for the whole development and detailed approval of stage 1 works as outlined above. The concept approval is for a new Coptic Orthodox church with a footprint of 690sq.m and a seating capacity of up to 400 people. The concept application proposes to limit any future church to a defined envelope with dimensions of 42.3m by 25m and a uniform height of 7.5m giving a volume of 7931m³. In addition to this main envelope, it is proposed to allow an additional 5m in height to accommodate towers, spires and crosses above the main church structure. The plans identify three additional envelopes to both the front and rear of the church structure to accommodate these features equating to no more than 6% of the total volume. The envelopes indicatively shown on the concept drawings total 432m³.

The two buildings proposed within Stage 1 are sited towards the west of the site which is elevated as the site rises towards the west. Carparks are proposed to the north and west of the buildings and the recreational areas (basketball court and playground) are proposed along the western boundary.

A services building is proposed that has an area of approximately 686m² that will be utilised for church services during stage 1. The building has dimensions of approximately 35m by 19m and has a height of 4.7m with parapet feature walls extending to 6.8m in height. The building has a capacity of 400 people (seated) and includes a commercial kitchen and amenities. The building includes a font at the eastern end and storage space but otherwise is proposed as an open hall that can be used as a multipurpose area accommodating areas for both worship and meals (after worship.) The use of this space for worship will end when the church is built as part of the stage 2 works. When the Church is built the font will be relocated and the main Sunday service, the special occasion services and prayers, baptisms, wedding ceremonies and funeral services will take place within the new church.

The Church's primary service is on a Sunday morning with smaller activities occurring on Friday and Saturday evenings. Generally, the congregation members will attend a regular service in the services building, and then use the kitchen and parts of the Sunday school building for fellowship, meals, or study afterwards. The regular services held, and proposed hours of use have been listed as follows:

Friday - 8:00pm - 9:00pm

- Prayer and bible study
- Youth club

Saturday - 6:30pm- 9:00pm

- Hymns and Coptic Class
- Vesper
- Midnight Praise (7pm)

Sunday - 8:00am - 3:00pm

- Main Service on Sunday morning
- Congregation Breakfast
- Sunday School for Children (12:00pm - 2:00pm)
- Servants Preparation Class for junior youth
- Servants' Meeting for Sunday School Servants
- Confession

Additional, annual services for special occasions will be held as detailed below:

Month	Special Occasion	Activity
January 6th night	Christmas (Feasts)	Liturgical church service 6pm - 12am
		Sunday School Celebration (Performance)
January 7th day	Christmas	Meal - BBQ 3pm 7pm
April -Not fixed but mostly in April starts on Monday before Easter Day	Passion Week Good Friday	Liturgical Prayers Mon -Wed: 7am - 8am, 10am - 1pm, 6pm -9pm Thursday: 7.30am - 2pm, 3.30pm - 8pm Friday: 8am - 6pm, 10pm - 6am
April -Not fixed but mostly in April Saturday and Sunday of Easter.	Easter (feasts)	Liturgical Prayers Saturday 6pm - 12am
		Sunday School Celebration (Performance)
		Gathering for BBQ Sunday 3pm - 7pm
December 31st	New Year	Liturgy service 9pm - 12am

Other special occasions will include baptisms, weddings and funerals. These events will be limited to persons within the Coptic congregation with current numbers being noted as 1-2 baptisms and 1 wedding service a year and 1 funeral every three years. If the congregation increases to 400 these numbers are anticipated to increase to 3-4 baptisms and 2 weddings a year and 2 funerals every 3 years.

When the church is built the services building will be modified to include a stage and changerooms at the eastern end for Sunday school performances and will continue in use as a multipurpose facility for the wider Coptic community. The application has noted the following likely uses of this space:-

- A large, seating dining / meals area (150+ people)
- Wake (vigil)
- A large, seated dining / function area (150+ people) to cater for feasts, passion week
- Wedding services (not for wedding receptions),
- Baptisms and Funerals.
- A place for the congregation to adjourn to after the main Sunday service for dining.
- A place to perform Sunday school children's performances from the future staged area and a large, seated area for the congregation to watch.
- A storage room for tables and chairs.
- A place for congregation breakfast.
- A large indoor space for Sunday School children's activities.

The proposed space will not be used or hired for commercial purposes or be for use by the general public.

The Sunday School Building adjoins the southern wall of the services building described above and is linked via a ground floor lobby area. The building is two storeys with a ground floor area of 421sq.m and a first-floor area of 460sq.m and extends to 9.1m in height. Over the two levels the building includes two offices, 13 classrooms, an audio-visual room, computer room, two self-contained residential units, an ancillary shop, bookstore, storerooms and amenities. There are stairs and a lift connecting the two levels and an upper floor balcony overlooks an open courtyard in front of the building facing towards the east. Additional accessible/pedestrian access directly into the upper level of this building is proposed via two bridges from carpark 1 and the play areas.

The residential units consist of a one-bedroom unit and a two-bedroom unit. The one-bedroom unit is to be used by the visiting Bishop during his occasional stays in Wagga Wagga (once or twice a year). This unit will also be used by the congregation priest from time to time during the day but not be used as a permanent residence. The proposed two-bedroom unit will be used as emergency accommodation, providing temporary accommodation for families who are new to the congregation and relocating to Wagga Wagga. Those families will occupy the unit for approximately 1 - 2 weeks before settling into permanent accommodation. The application states that "Considering the growth rate of the congregation, new families who will be using this unit will be only 1 family for every 3-4 years." The remainder of the space within the Sunday school building is used for bible study groups, Sunday school for children and servant's meetings. The use is limited to the hours noted above.

The children's playground is located on the western boundary of the subject site, there are no details provided as to the types of equipment proposed within the playground although the application indicates that the intended users are the younger children within the congregation. The basketball court is located to the north-western corner of the site also alongside the western boundary and has dimensions of 28m by 15m, being the standard size of a full basketball court. A 2.4m high acoustic fence is proposed to the north, east and western boundaries of the basketball court. The court is designed to be used by the youth of the congregation when their parents are participating in church activities. It is anticipated that the playground and basketball court will be used for no more than two hours on a Sunday afternoon while the adult congregations are having their meal after the main service and Sunday School activities and for approximately one hour on Fridays at youth club.

A new driveway is proposed from Ansett Street at the western end of the site. There will be a ramped entry that slopes down to carpark 1 that has 20 car-parking spaces including one accessible space. Two new driveways are proposed to Waterhouse Avenue. One driveway will be constructed to the northern boundary within stage 1 and provide access to car parks 2 and 3 that will be laid out across the north of the site. The driveway will ramp up from the road to car park 3 that will further raise towards the rear of the site to car park 2. These two car parks have 50 car parking spaces including 3 accessible spaces. The second new driveway from Waterhouse Avenue is sited to the south of the proposed church building and will be constructed as part of stage 2 works. This carpark will also be raised from Waterhouse Avenue and accessed via a ramped entry leading to 30 car-parking spaces.

The development proposes earthworks in the form of cut and fill across the site. The two storey Sunday school building is to be set into the hill to reduce the dominance of the building. The cut is approximately 4.5m and results in a series of tiered retaining walls to the southern side of the building. Car-park 1 to Ansett Street has a 0.7m cut to the front and is filled to the rear resulting in a retaining wall of 1.15m, car parks 2 and 3 at the north of the site are the subject of fill resulting in a retaining wall that varies in height from 0.7m to 1.6m alongside the existing easement and car-park 4 requires a cut of 1.35m. The playground requires a further 1.35m of cut and the basketball 0.45m of cut with associated retaining walls to both. The concept plans of the church indicate a raised footprint upon which the building will be constructed. The site will be filled to a level 2.6m higher than Waterhouse Avenue.

The stage 2 area that covers the south-eastern part of the subject site will be retained and maintained as a vacant grassed area. Battering is proposed at the edge of the stage 1 carparks and courtyards to suit natural ground level. Landscaping works in the form of both tree planting and compacted gravel road reserve will be continued to both site frontages not just the stage 1 area.

The Site and Locality

The subject site is legally identified as Lot 606 DP1222168 and is known as 12 Waterhouse Avenue. The lot is currently a vacant, undeveloped parcel of land extending to 1.18ha and is located on the north-western corner of Waterhouse Avenue and Ansett Drive. The land has a frontage of 85m in length to Waterhouse Avenue and of 140m to Ansett Street and slopes up from east to west with a rise of approximately 10 metres towards the western boundary.

The site is surrounded by residential blocks consisting of single detached dwellings. Existing dwellings back onto and side onto the northern and western site boundaries. Dwellings face towards the subject site from the south on Ansett Street and from the east on Waterhouse Avenue. Existing dwellings on Waterhouse Avenue are set at a lower level than the subject site, the front view from these properties looks up towards the site.

The wider context of the site in all directions consists of a developing residential suburb consisting of single detached dwellings on similar sized lots. Approximately 300m to the east on the opposite side of Holbrook Road is a large recreational space known as Jubilee Park that is used for both formal and informal sporting activities throughout the year.

Easements and Covenants

There is an existing drainage easement of 2.5m in width wide adjacent to the northern boundary of the site; the plans identify the natural ground level of the easement being retained as existing with proposed acoustic screening fencing abutting the easement to the south alongside the basketball court and car-parking areas.

The site is subject to 88B Instrument restrictions relating to the need to develop sites across Lloyd with specified pervious to impervious ratios. The lot must be developed and maintained at all times so that a pervious to impervious ratio of the surface area treatments of 20:80 is achieved. The land area to be included in the calculation of 20:80 ratio includes the entire lot and the area of the road reserve immediately adjacent to the lot.

The overall development (stages 1 and 2) results in an impervious area of approximately 1889sq.m equal to 13.7% of the applicable area. The development would therefore comply with the restriction.

Previous Development Consents

The subject site has been modified a number of times since the original residential subdivision of this part of Lloyd was approved in 2012. The relevant applications are detailed below.

DA11/0510 - Residential Subdivision - the approved subdivision plan under the original application showed the subject site as one large (6140sq.m) medium density lot to the northern half and nine single residential lots fronting Ansett Street to the southern half of the site.

ADA13/0107 - Modification application - the medium density lot increased in size to 7526sq.m by the inclusion of additional land to the north fronting Waterhouse Avenue and was identified on the plan as church purposes. Residential lots remain to Ansett Street.

DA11/0510.03 - Modification application - Residential lots to Ansett Street consolidated into one lot (4420sq.m) forming part of stage 6; church lot is amended to wrap around the corner of Ansett Drive and reduced in size to 7384sq.m forming part of stage 5; both lots identified as church site. A condition of consent was applied to the modification that required the two lots to be consolidated as part of the Subdivision Certificate for stage 6.

SC17/0014 - Subdivision certificate application identified the consolidated lot in accordance with the above referenced condition of consent. The approved lot of 1.18ha is the land subject of this development application.

MATTERS FOR CONSIDERATION PURSUANT TO SECTION 4.15(1)

Section 4.15(a)(i) - The provisions of any environmental planning instrument (EPI)

Wagga Wagga Local Environmental Plan 2010

Under the provisions of the WWLEP 2010 the land is zoned R1 General Residential.

The objectives of the zone are as follows:-

- *To provide for the housing needs of the community.*

The proposed development does not provide residential housing, it provides a place of public worship and associated development.

The context and setting within which the place of public worship is proposed is characterised by single detached dwellings on standard sized residential land parcels of approximately 800sq.m.

- *To provide for a variety of housing types and densities.*

The proposed development does not provide any form of residential housing

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

A place of public worship is a form of development that is predominantly located within a residential zone and thereby accessible to residents for regular forms of worship. There are churches for different religions throughout the residential areas of the city and it is an appropriate land use.

- *To ensure co-ordinated and cost-effective provision of physical, social and cultural infrastructure in new residential areas.*

The physical infrastructure has been developed as the residential subdivision of the land in this area has progressed over the last ten years. The proposed development provides a form of social and cultural infrastructure for the Coptic community within an accessible expanding residential area.

In accordance with clause 2.3 of the WWLEP2010 the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone. Based on the above assessment against the R1 zone objectives the development does not provide housing and therefore does not comply with the first two objectives. However, the place of public worship is another land use providing a facility for residents that contributes to both the social and cultural infrastructure of the community for whom it is proposed.

Part 2 Permitted or prohibited development Land Use

The development application seeks approval as **a place of public worship** which 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 proposed concept application includes a church, a services building, a Sunday school building and external play areas. Within the Sunday school building are two units of residential accommodation and ancillary shops. The way in which each of the proposed buildings within the development will be used to determine and define land uses. In turn this critically determines whether each element of the development is permitted or prohibited.

In order to define each part of the development the uses must be characterised. There are a number of legal principles that have been established with regard to the characterisation of the development.

Development is always carried on for one or more purposes. The correct categorisation of the purpose or purposes of a particular use or development proposal is an essential part of properly determining a development application and *should be done in a common sense and practical way*. *Chamwell Pty Limited v Strathfield Council* [2007] NSW LEC 114 at [27] and [45].

Land may be used for more than one purpose and the purposes are to be individually characterised. The nature of a use should be distinguished from the purpose of a use. Uses of different natures can still be seen to serve the same purpose: *Chamwell* at [34] and *Shire of Perth v O'Keefe* (1964) 110 CLR 529 at [535].

If a use is properly considered to be ancillary and subservient to another use, then it can be disregarded for planning purposes even if it is a prohibited use. The dominant purpose will be looked at for characterisation: *Foodbarn Pty Limited v Solicitor General* (1975) 32 LGRA 157.

It is a question of fact and degree as to whether a particular use of particular premises is ancillary or a separate and independent use: *Baulkham Hills Shire Council v O'Donnell* (1990) 69 LGRA 404.

When determining the permissibility of development, it is essential to identify whether uses are ancillary to the predominant use of the site or independent land uses that can exist without the predominant land use. The concept of 'ancillary development' is a use that is subservient to some other development purpose against which it is being measured, and which it must be seen. *Hornsby Shire Council v Trives* (2014) NSWLEC 171 at [23]

An assessment of the permissibility of the development has been undertaken having regard to the above established legal principles.

The terms 'Public worship' and 'religious worship' are not defined elsewhere in the LEP nor are they defined within the EPA Act. In the absence of any definition, ordinarily, a phrase is to be given its natural and ordinary meaning having regard to the context and using dictionary definitions. The following definitions are taken from the Macquarie Dictionary:-

Religious: 1. *relating to or concerned with religion.*

Religion: '1. *a belief in a supreme supernatural power or powers thought to control the universe and all living things.*
2. *a particular formalised system in which this belief has been embodied: the Christian religion.*

Worship: *'noun 1. reverent honour and homage paid to God, a god, or a sacred personage, or to any object regarded as sacred.*
2. formal or ceremonious rendering of such honour and homage.
....
verb (t) 6. to render religious reverence and homage to.
7. to feel an adoring reverence or regard for (any person or thing).
verb (i) 8. to render religious reverence and homage, as to a deity.
9. to attend services of divine worship.
10. to feel an adoring reverence or regard.'

The proposed development as outlined in the description of development clearly consists of religious worship as defined in the Macquarie dictionary definitions above.

The LEP land use of place of public worship however also includes the words “*whether or not the building or place is also used for counselling, social events, instruction or religious training.*” The LEP definition acknowledges that these other uses may occur and that they do not change the use from a being a place of public worship. When the overall definition is considering this way, both the services building, and the Sunday school building are appropriately defined as places of public worship.

The use of both the services building and the Sunday school building is explored in more detail below to determine both the use, purpose and potential ancillary nature of each part.

Services Building

The definition of 'place of public worship', acknowledges that a building or place may be used for social events, and remain a 'place of public worship'. The proposed use of the services building for the main Sunday service as well as a congregation area for various activities is outlined within the application details. When the Church is built in stage 2, the main Sunday service will take place at the church. The font will be relocated to this new church building and the service building will become a multipurpose facility accommodating various activities for the wider Coptic community as outlined earlier in the report. The activities described are considered to be for the purpose of 'religious worship'.

Services Building as a function centre

The services building is not ancillary to the proposed Coptic Orthodox Church building, this is clear from the nature and extent of activities proposed in the building, and the site and scale of the proposed building. If the use of the services building was not captured by the definition of 'place of public worship', it would clearly be a separate and independent use of the site.

It is therefore important to consider whether the use of the services building could be characterised as a use for the purpose of a 'function centre'. This question is critical in this case, as if a use may be properly characterised in two different ways, one which is permissible and one which is prohibited, the development will be prohibited. The application states that the facility will not be used or hired for commercial purposes and will not be used for convention centres, exhibition centres and reception centres by the general public.

The caselaw is to the effect that the proposal should not be divided into component parts, and the use of each part considered in isolation. Rather it should be considered what end is served by the various activities to be carried out: *Chamwell Pty Limited v Strathfield Council* (2007) NSWLEC 114.

The additional annual events as listed earlier in the report, such as Passion week feasts, would in broad terms be considered as an event with the celebration meals considered as a function. The services building is also to be used for 'special occasion' events of baptisms, weddings,

and funerals. The SEE states that only wedding services will be catered in the services building, not wedding receptions and the applicants have provided further clarity regarding the anticipated numbers of such events; There are currently 1-2 baptisms a year that would increase to 3-4 a year with a congregation of 400. The baptisms occur on a Saturday or Sunday consisting of prayers and a meal. There is currently 1 wedding a year that would increase to 2 a year with a congregation of 400, the wedding consists of the church service with all reception activities held at an alternate location. There is currently 1 funeral every 3 years that would increase to 2 funerals every 3 years with a congregation of 400. The funeral service occurs during the week and consists of a vigil (quiet prayer) the night before and the church service.

The *purpose* of the use of the services building in hosting these events is for religious worship. The number of special occasion events is infrequent and irregular and considered this way and having regard to the purpose of the activities described it can be concluded that the use of the services building is for religious worship and not a function centre.

It is appropriate to conclude that the use of the services building meets the definition of being a 'place of public worship' and is permitted with consent.

Sunday School Building

For similar reasons to that outlined earlier in the report in relation to the services building, the Sunday school building is not considered to be an ancillary use of the site. The two-storey building will comprise of two offices, 13 classrooms, an audio-visual room, computer room, two self-contained units, an ancillary shop, bookstore, storerooms, and amenities. Given the size and number of rooms to the school building, it is clearly not an ancillary use of the site.

However, as with the services building, the Sunday school building would also meet the definition of 'place of public worship', (not including the residential units) as the definition of 'place of public worship' acknowledges that a building or place used for that purpose may also be used for counselling, social events, instruction, or religious training. The use of the Sunday school building is for instruction or religious training.

The purpose of activities occurring at the Sunday school building are for religious worship, the activities that are proposed which are not for the purpose of religious worship, namely the shops, are considered as ancillary and subservient to the use of the building for public worship.

The building would not be characterised as an 'educational establishment' as the LEP defines 'school' to mean 'a government school or non-government school within the meaning of the Education Act 1990. The Sunday school building does not fall within the definition of 'educational establishment' as its use by the Coptic Church would not meet the definitions in the Education Act 1990, nor is the Sunday school providing formal education at an institution constituted by or under an Act.

If the Sunday school building was to be characterised as any separate use, it may be a 'community facility' provided that the Coptic Church constituted a non-profit community organisation. However, the definition of 'community facility' expressly excludes a 'place of public worship', so this is not considered applicable to the proposal.

Residential Units

Two residential units are proposed within the Sunday school building as described earlier in the report. As noted above, if a use is ancillary and subservient to another use then it can be disregarded for planning purposes as it is the dominant purpose that is considered for characterisation. However, in *Baulkham Hills Shire Council v O'Donnell* (1990) 69 LGERA 404, the Court of Appeal stated that:

'... Notwithstanding the principles laid down in Foodbarn, it does not follow that a use which

can be said to be ancillary to another use is thereby automatically precluded from being an independent use of the land. It is question of fact and degree in all the circumstances of the case whether such a result ensures or not. When a resident uses his land to park his motor car at his house, he is no doubt not conducting an independent use of car parking; when an employer installs at his factory a canteen for his workers, no doubt he is not conducting an independent use of running a restaurant; But when one use of the land is by reason of its nature and extent capable of being an independent use it is not deprived of that quality because it is "ancillary to", or related to, or interdependent with another use. If a book publisher opens a sales room at his publishing house to sell his products, the selling of books is an independent use although ancillary to the use of publishing.'

The facts and circumstances of the application need to be considered to determine whether the residential units are capable of being characterised as a separate and independent use, or truly ancillary. As outlined in the case of *Botany Bay City Council v Pet Carriers International Pty Ltd* (2013) 201 LGERA 116, the question to be asked is:

'Having regard to the character, extent and other features of the uses, whether the... purpose can be regarded as subsumed in the permissible purpose ...or whether they are independent of each other so that the land is being used for both...purposes.'

The caselaw acknowledges that the question of whether one use is ancillary to another use of land is a question of fact and degree on which reasonable minds may differ. The case of *Steedman v Baulkham Hills Shire Council* (No 2) (1993)31 NSWLR 562 made it clear that 'Simply because a use is minimal or minor does not mean that it is to be ignored for the purposes of characterisation.'

The residential units are a severable and separate use that are proposed to be used on an infrequent basis. The temporary and emergency accommodation is not considered to be incidental to the use of the site as a place of public worship and the uses are not inextricably linked, such that they would ordinarily occur together. The residential units are therefore not seen as ancillary development and must be characterised and defined as their own use.

The proper characterisation of the units is not clear. They are not 'tourist and visitor accommodation' or any of the subclasses provided by that definition, as they will not provide accommodation on a commercial basis which is critical to the definition of 'tourist and visitor accommodation'. It is also unlikely that the units are a type of 'residential accommodation' which is defined to mean, 'a building or place used predominantly as a place of residence. ...'. as they are not intended to be used as a place of residence, but rather short-term, temporary accommodation.

The land use tables of the LEP do not require development to fit into a clear definition in the Land Use Table. Provided that the residential units are not used for any purposes specified in item 2 (permitted with consent) or item 4 (prohibited) of the Land Use Table, then their use will be an innominate permissible use. This is because the Land Use Table for the R1 zone states that 'any other development not specified in item 2 or 4 'is permitted with consent. Innominate purposes are not confined to purposes specified or defined in the LEP but apply to 'any development': *Marscon Pty Ltd v Holroyd City Council* (2003) NSWLEC 2.2.

It is therefore concluded that the residential units should be characterised as an innominate permissible purpose and could be referred to as 'temporary accommodation'.

Recreation

The playground and the basketball court are listed in the application for use by the Coptic congregation members only and not by the wider general public or the surrounding residential neighbourhood. Whilst they occupy a large part of the site their use is also limited in time of use to that outlined in the description of development.

Whilst the two play spaces are considered to be for a recreational purpose, they do not fit within the LEP land use definition of a recreation area as this includes the words “*a place used for outdoor recreation that is normally open to the public*”. They are also not considered to fit the definition of a recreation facility (outdoor) as the examples provided in the definition of 'recreation facilities (outdoor)' are of a larger scale such as outdoor swimming pool and go-kart track. The children's playground and the basketball court proposed within the development are considered to be incidental to the use of the site as a place of public worship, the ancillary nature of the development therefore does not need to be separately characterised.

The proposed uses across the site have been assessed in detail with the conclusion that the proposed purpose and use of the site is consistent with the land use definition of a place of public worship and permitted with consent in the R1 zone.

Part 3 Exempt & Complying Development

The proposed development is not Exempt or Complying Development. The application is seeking consent.

Part 4 Principal development standards

There are no principal development standards that apply to the application.

Part 5 Miscellaneous provisions

There are no miscellaneous provisions that apply to the application.

Part 6 Urban Release Areas

The subject site is within the Lloyd Urban Release Area.

Clause 6.2 states that:

(1) Development consent must not be granted for development on land in an urban release area unless the Council 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.

Compliance with this requirement can be ensured through the imposition of appropriate conditions of consent.

Clause 6.3 requires a Development Control Plan including a number of certain matters be prepared for the land prior to the approval of a Development Application. Such a Development Control Plan has been prepared and adopted by Council.

Part 7 Additional Local Provisions

7.1A Earthworks

The objectives of this clause are 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. Development consent is required for earthworks unless the work is ancillary to other development for which development consent has been given.

The proposed development is on a sloped site and includes significant degrees of both cut and fill to incorporate the buildings, carparks and recreation spaces. The cut and fill results in

the use of retaining walls in numerous locations and tiered retaining walls to the two storey Sunday school building to accommodate a 4.5m cut into the site.

The control requires consideration of the effect of the earthworks on the existing and likely amenity of adjoining properties and the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality.

Conditions can be included to manage erosion and sediment control during earthworks and the management of this would be critical due to the sloping nature of the land. Equally any necessary drainage infrastructure can be designed to capture and direct water into the stormwater infrastructure. Again, this is a critical part of the civil works given the location of the site in Lloyd which is a groundwater recharge area.

The earthworks are anticipated to result in impacts upon the amenity of adjoining properties. The earthworks will introduce ramped areas to access changing levels across the site such as the carparks to the northern side of the site. Each of the raised carparks will incorporate retaining walls that will be to the rear of existing dwellings and above which further acoustic fencing is proposed to minimise other development impacts. Furthermore, proposed cuts into the site to accommodate the two-storey building result in visual impacts to the streetscape that are not amenable to existing dwellings. The building pad for the church is identified at a height 2.6m than the existing adjacent road. The impacts of the fill together with the large building will be very imposing to dwellings on the opposite, lower side of this road.

The topography of the site will no doubt require some earthworks regardless of the development proposed but the degree of earthworks proposed for the subject application is considerable and inconsistent with existing developments in the locality. The earthworks are not consistent with the listed objectives within this section of the WWLEP.

7.4 Vulnerable Land

The western half of the subject site is covered by the vulnerable land layer and therefore this clause applies. The objectives of this clause are to protect, maintain or improve the diversity and stability of landscapes.

The application proposes development on land that is sloped but the slope is less than 10%, there is no evidence of rocky outcrops on site and whilst there are salinity issues within Lloyd, management and mitigation measures are implemented throughout the suburb. Subject to the imposition of conditions regarding the management of stormwater on site the development is consistent with the objectives of this clause.

7.6 Groundwater Vulnerability

The subject site is identified as sensitive on the Water Resources Map and as such this clause applies. The objective of this clause is to protect and preserve groundwater sources. It is not anticipated that there will be any adverse impacts on groundwater as the application is not for one of the land uses listed within this clause. The development is consistent with the objectives of this clause.

7.9 Primacy of Zone B3 Commercial Core

Clause 7.9 states that development consent must not be granted to development on any land unless the consent authority is satisfied that the development maintains the primacy of Zone B3 Commercial Core as the principal business, office and retail hub of Wagga Wagga. The development is for a place of public worship that could be accommodated within the CBD. However, as it is not a core commercial land use it is not anticipated that it will detract from the primacy of the B3 zone and therefore the control is satisfied.

7.11 Airspace Operations

The subject site is below the Obstacle Limitation Surface (OLS) for Wagga Wagga airport and the proposed works will not penetrate the OLS. The clause does not apply.

State Environmental Planning Policies (SEPPs)

SEPP (Resilience and Hazards) 2021

Clause 4.6 of the SEPP requires that:

(1) A consent authority must not consent to the carrying out of any development on land unless:

(a) it has considered whether the land is contaminated, and

(b) if the land is contaminated, it 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, and

(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

The subject site is not listed on Council's potentially contaminated land register and there is no evidence of any use of the site for a purpose listed in Table 1 of the guidelines. The subject site is within an urban release area, zoned as R1 General Residential and has been the subject of approved subdivision applications. Accordingly the site is considered suitable for the intended use in accordance with the SEPP.

State Environmental Planning Policy (Planning Systems) 2021

Under Section 4.5(b) of the Act a regional planning panel is identified as the consent authority for development of a kind that is declared by an environmental planning instrument as regionally significant development.

Development specified in Schedule 6 of the SEPP is declared to be regionally significant development for the purposes of the Act and includes (of relevance to this application):-

5) Private infrastructure and community facilities

Development that has a capital investment value of more than \$5 million for any of the following purposes-

(b) affordable housing, child care centres, community facilities, correctional centres, educational establishments, group homes, health services facilities or places of public worship.

The capital investment value of the full concept application for which approval is sought is \$8.12 million.

Section 4.15(1)(a)(ii) - Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority

Nil

Section 4.15(1)(a)(iii) - The provisions of any development control plan Wagga Wagga Development Control Plan 2010

The proposed development has been assessed against the applicable objectives and controls of the Wagga Wagga Development Control Plan 2010 as follows:

Section 1 - General

1.5 Guiding Principles

The guiding principles are used to inform assessments and decisions made on development applications and decisions are to be consistent with the Guiding Principles. The following two principles are of relevance to the subject application.

GP2 Site responsive development

- i. To design for compatibility with topography, physical characteristics, and setting
- ii. To achieve a positive contribution to the streetscape and/or natural environment

GP3 Design quality

- i. To achieve quality sustainable development
- ii. To respond to site conditions

As noted throughout the report the site is sloped and presents to two different road frontages. Stage one includes two large buildings and seeks concept approval for a third larger building as part of stage two. The proposed three buildings require supporting infrastructure in the form of 100 car-parking spaces, ancillary recreational spaces and retaining walls. The development is of considerable bulk, form, and scale with buildings of 9m and 12m in height.

The existing setting of the subject site is that of a residential suburb with single storey detached dwellings set on lots ranging in size from approximately 600sq.m to 1100sq.m. Whilst the surrounding dwellings present a mix of materials and styles to the streetscape the introduction of large buildings with elevations that are dominated by precast concrete panels and stack bond blockwork are not compatible with the setting and do not offer a positive contribution to the streetscape.

The design of the development has incorporated the building into the site through the use of cut and fill earthworks across the site however this results in a series of tiered retaining walls, fences, stairs and ramps that further detract from the setting and do not contribute to the streetscape.

The development is inconsistent with the two listed guiding principles of the Wagga Wagga DCP.

1.10 Notification of a Development Application

The application was advertised and notified to adjoining neighbours from 12-26 May 2022 in accordance with the provisions of the DCP. Thirty-three submissions were received in objection to the application during the notification period and are discussed under section (d) of this report.

1.11 Complying with the Wagga Wagga Development Control Plan 2010

Where an application involves the variation of one or more controls within the DCP Council staff have delegation to approve variations but only limited to certain developments. The limitations are that adequate justification must be provided by the applicant for the number of controls being varied, the variation must not relate to multi dwelling housing and no objections shall have been received in relation to any numerical control that is being varied by greater than 10%.

The application is required to be reported to the Southern Region Planning Panel and will therefore not be determined via staff delegation.

The variations proposed are as follows: car-parking requirement (clause 2.2). This has been discussed within the relevant part of the report.

Section 2 - Controls that Apply to All Development

2.1 Vehicle access and movements

C1 Access should be from an alternative secondary frontage or other non-arterial road where possible.

Access to the site is proposed from three separate entry/exit points as outlined in the description of development. The roads onto which the site presents are non-arterial roads.

Ansett Street is a residential street of approximately 7m in width that connects to local roads at both the eastern and western end, the road is approximately 200m in length and rises from east to west by 12m. Waterhouse Avenue connects to the eastern end of Ansett Street, it is approximately 9m in width and links directly to Deakin Avenue which is the main access road into the suburb of Lloyd.

C2 A Traffic Impact Study may be required where adverse local traffic impacts may result from the development. The traffic impact study is to include the suitability of the proposal in terms of the design and location of the proposed access, and the likely nature, volume or frequency of traffic to be generated by the development.

A traffic impact report was prepared in support of the application. The report notes the following findings:-

- The proposed development is anticipated to generate 37 vehicle trips per hour/171 vehicle trips per day during a weekday peak hour/daily, and 109 vehicle trips per hour/490 vehicle trips per day on a Sunday peak hour/daily, which will not have a significant impact on the surrounding road network (including nearby intersections).
- The provision of 70 off-street parking spaces at Stage 1 of the development and 100 parking spaces at full development does not meet the minimum requirements of the Wagga Wagga Development Control Plan, however it will meet the requirements for the anticipated level of demand.
- Traffic surveys and modelling on weekdays and Sundays of nearby key intersections show that the intersections currently operate at an excellent Level of Service (LOS A, the highest level) or better. The midblock level of service on all local and sub arterial roads in the vicinity of the site is satisfactory (LOS C) or better.

The results of the intersection analysis on a Sunday are not surprising as regular trips to and from residential homes to workplaces, education, after school activities sport etc do not predominantly occur on Sundays. The significant number of additional vehicle movements to and from the site must however be considered not just upon road intersections but also upon the existing roads and surrounding properties.

Many of the submissions note that the quiet nature of the streets and the lack of on street parking makes the roads safe places for exercise, dog walking, bicycle riding and general recreation. The roads are seen as an asset to the residents, and they are subsequently well used for a variety of uses as noted above. It can further be assumed that such uses occur more prevalently at the weekends by a wider range of groups when families are home enjoying quiet and relaxing time together. Whilst the road network has capacity for and is designed for vehicle movements, the concentrated additional trips that will be generated by the development are considered to result in adverse amenity impacts to existing residents.

As detailed below the car parking to be provided does not comply with Council's standards and there is the potential for on street parking to occur during peak user times. The parking of vehicles on street is not limited or restricted in any way but Ansett Street is a narrow thoroughfare and the parking of vehicles on this road would create a hazard in terms of visibility up and down the hill for other users.

Council's traffic engineer has reviewed the report and states that "the 100 spaces proposed is significantly lower than that as stipulated by the DCP and that it is desirable that the development meet the DCP parking rates." Furthermore, the traffic engineer has raised concerns with the use of comparable trip generation data from interstate and overseas citing that more local examples would have been beneficial.

C3 Vehicles are to enter and leave in a forward direction unless it can be demonstrated that site conditions prevent it.

The proposed car parks across the site allow for all vehicles to enter and exit in a forward direction. Turning and manoeuvring zones for service vehicles have been identified on the plans for car park 1 and car park 2

C4 Provide adequate areas for loading and unloading of goods on site. The loading space and facilities are to be appropriate to the scale of development.

The car parks will provide adequate space for the loading and unloading of goods on site. There is no dedicated loading area, but the proposed use would not be anticipated to receive a significant number of deliveries. It is critical that the car-park spaces are available for use by the congregation and not blocked or utilised by delivery vehicles, therefore the place of public worship would be expected to have a management plan that controls delivery times to not conflict with peak user times.

The plans identify waste bin locations within two secure screened storage areas at the northern end of car park 1. Service vehicle turning zones have been identified to accommodate vehicles using these areas. It is anticipated that service vehicles such as waste collection would not occur during peak user times of the week.

C5 Access driveways are to be located in accordance with the relevant Australian Standard at the time of lodgement of an application.

Access driveways have been located in accordance with the Australian Standard AS2890. The three proposed driveways into the development are all designed with an 'in and out arrangement' allowing vehicles the ability to safely pass at all times.

C6 Ensure adequate sight lines for proposed driveways.

The driveways to Waterhouse Avenue have good visibility in both directions, both proposed driveways will ramp down to the road allowing users elevated views of the street as they exit the site. The sightlines from Ansett Street are also clear in both directions, the ramp from this driveway rises toward the street from the car park but as all vehicles will exit in a forward direction there is adequate space to stop within the site and view both up and down the street in a safe manner.

2.2 Off-street parking

Objectives

O1 Ensure adequate provision is made for safe and efficient movement of vehicles and pedestrians.

O2 Ensure the provision of safe and efficient parking for all modes of transport to meet

anticipated demands.

O3 Minimise disruptions to existing levels of service and safety as a result of insufficient parking being provided on site.

O4 Soften the impacts of larger car parking areas through the use of landscaping.

O5 Provide both shade and solar access to car park users by means of purpose designed tree planting

C1 Parking is to be provided in accordance with the table below. For uses not listed, similar land uses should be used as a guide in assessing car parking requirements.

A place of public worship requires 1 space for every 4 seats or 1 space/10sq.m of gross floor area whichever is greater.

The services building when in use as the place of worship and the church are both designed with a maximum seated capacity of 400 people. Using this figure, the required number of car-parking spaces would equate to 100 spaces. $[400/4 = 100]$

The gross floor area of buildings to be used as a place of public worship across the site is as follows:-

Church 690sq.m - 69 spaces

Services Building - 650sq.m - 65 spaces

Sunday school building ground floor 420sq.m - 42 spaces

Sunday school building first floor 356sq.m - 35 spaces

A total of 211 spaces are required which is greater than the 1 space/4 seats calculation and therefore is the applicable number. In addition, the above listed first floor GFA does not take account of the proposed two residential units the users of which are likely to require a car parking space. Based on the WWDCP requirement of a 2-bedroom dwelling requiring 1 car-parking space an additional two spaces are needed for the two units of accommodation. The total number of spaces required is therefore 213.

The development application proposes a total of 100 car parking spaces and therefore does not comply with this control. The applicants have provided the following justification seeking a variation to the car parking requirements:-

- *during a regular Liturgy the site does not operate with both the church and the services building occupied at the same time.*
- *The maximum number of persons on-site at any one time would only occur with the Church at full capacity - that is, 400 persons.*
- *Anyone staying at the units on Sundays is assumed to be attending the service and would not generate additional demand for parking.*
- *The accompanying TIA calculated that the number of car parks to best cater the operations of a regular Sunday Liturgy would be 100 spaces based on the number of seats for the biggest congregation. When completed, the proposed development therefore provides sufficient off-street parking to meet the anticipated peak parking demands for a typical Sunday service.*
- *For the first stage of development the proposed development will also provide 71 off-street parking spaces, which will be sufficient to meet the anticipated requirement of 63 spaces for a congregation of 250 persons*

The above comments are noted.

The nature of the development and the proposed hours of use as highlighted within the development application result in a place of public worship that will predominantly be vacant and un-used throughout the week. Conversely at times when the place of public worship is being used for a special occasion event the congregation numbers and the number of vehicles on site will be high and demand may exceed supply.

The applicants make the point that when the church is in use other buildings on site will not be as all members of the congregation will be involved with the service of worship. In addition, the assumption of 400 people seated within the church is based on a prediction of growth in the Coptic congregation only. The congregation could, theoretically, grow by more and the buildings that are proposed on site would theoretically be able to accommodate significantly more than 400 people by allowing for different events and activities within different buildings.

The assessment of uses and purpose of uses was analysed in detail earlier in the report and it would be entirely feasible for all buildings to be used for a place of public worship purpose at the same time generating significant demand for parking.

The surrounding streets do not have any parking restrictions and therefore vehicles associated with the place of public worship could park for an unrestricted time on any of the surrounding roads. Such practices cannot be relied upon when assessing parking supply for any form of development application. The required number of spaces must always be provided on site with any unexpected overflow parking being accommodated on street if possible.

Whilst there is the potential for some flexibility with car-parking requirements the current DCP requirement for the development is more than twice the number of spaces that have been provided. The scale of gross floor area that is associated with the development is significant and requires appropriate servicing in the form of car parking that cannot be provided on site.

The development does not comply with this control and the variation is not supported.

C2 The design and layout of parking is to be in accordance with the relevant Australian Standard at the time of lodgement of an application.

The car park and the individual car parking spaces will be set out in accordance with the relevant standards, this can be secured by condition.

C9 Provide trees within the parking area at a rate of 1 tree per 5 spaces in a row. Each tree to have a minimum mature spread of 5m and to be located in a planting bed with minimum width of 1.5m (between back of kerbs) and minimum area of 3.5m².

Trees are proposed throughout each of the car parks and are provided at a rate of 1 tree per 5 spaces in a row. The beds in which the trees are marked on the site plan whilst greater than 3.5sqm in area are less than 1m in width and therefore inconsistent with the requirements of this control. If the planting bed is not of a sufficient size the trees will not mature to their full capacity and the anticipated benefits from shading will not be achieved.

2.3 Landscaping

The application includes a landscape plan, the following controls are applicable.

C2 Natural features at the site, such as trees, rock outcrops, cliffs, ledges and indigenous species and vegetation communities are to be retained and incorporated into the design of the development.

The site is generally clear of natural features, the slope of the land is the key feature that is required to be addressed within the site landscaping. The proposed earthworks to the site result in a number of retaining walls against which the planting of trees and hedges is proposed.

C3 Use native and indigenous plants, especially low water consumption plants in preference to exotic species.

There is no objection to the schedule of plant types

C4 Trees should be planted at the front and rear of properties to provide tree canopy.

Tree planting is proposed to both street frontages of the site with species selected growing between 8-10m in height at maturity. In addition, trees are proposed within the car parking areas, as noted above, and set within landscaped areas around the Sunday school building and services building.

C5 Provide landscaping in the front and side setback areas, and on other parts of the site to improve the streetscape, soften the appearance of buildings and paved areas, and to provide visual screening.

Landscaping is provided within turfed areas and planting beds within the Ansett Street setback and throughout the site. Due to the required impervious-pervious ratios of development in Lloyd much of the setback to both streets will consist of gravel with rows of trees being provided to soften the proposed buildings and retaining wall features.

C6 Landscaping should provide shade in summer without reducing solar access in winter. Limited use of deciduous species is acceptable where used to achieve passive solar design.

The landscaping is not anticipated to have any detrimental impact to solar access.

2.4 Signage

No signage is proposed as part of this application. The Sunday school building and the services building will have a Coptic display cross on each elevation. The cross identifies the use of the building and will be a dominant feature to each elevation. The cross has dimensions of 3.4m by 3.7m and will be set against a cladding background to stand out from the rest of the building.

2.5 Safety and security

The objectives of this section are:

O1 Incorporate crime prevention strategies in new developments.

O2 Encourage active, pedestrian oriented environments where developments are designed to integrate into the public domain.

O3 Maximise opportunities for natural surveillance of public spaces and building or site entrances.

The application is supported by a Crime Prevention Through Environmental Design (CPTED) report that considers how the principles of CPTED can be incorporated into the design of the development to ensure that the development provides safety and security to users and the community. The four principles to consider are surveillance, access control, territorial reinforcement and space management. The report considers each of these principles and includes recommendations that have the intention of reducing the opportunities for crime, increasing surveillance, providing both physical and symbolic barriers and good site maintenance.

The full list of recommendations to achieve the desired safety and security principles are:

Surveillance

1. Landscaping should be selected and maintained to be below 1.0m for shrubs and hedges or have a canopy height greater than 2.4m to allow clear sight lines.
2. Lighting to carpark and external areas, either sensor or time activated and controlled

- and bright enough for face recognition from 10m distance.
3. CCTV through external areas and buildings, including car parks, driveways, play areas, and building entrances.
 4. Review of natural surveillance sight lines from within the Sunday school building.
 5. Install an Intrusion Detection System (IDS) to be monitored by an external security company who can provide a security response should the IDS be activated.
 6. Potential concealment area on southern and western sides of Sunday school building where ground floor is below natural ground line - sensor lighting, and CCTV surveillance should be considered for this area.
 7. Easement along the northern boundary to be fully enclosed with full height Colorbond gates at both the northern entry from Fisher Place and the eastern entry. Maintenance procedures for the site should include the regular cleaning and inspection of the easement to ensure that it remains free of waste and in a good state of repair. Additionally access to the pathway at the end of Fisher Place should be closed off as this pathway will no longer provide any thoroughfare.

Access Control

8. Vehicle barrier security such as gates, boom gates, or operable bollards should be considered to ensure that unauthorised vehicles cannot gain access to the site, particularly when unoccupied.
9. Security operational procedures including access control policies should be developed prior to the commencement of operations.
10. Gates should be installed to prevent unauthorised access to the children's playground and basketball court from car park 1 and car park 2 to prevent unauthorised access as well as prevent children that are using the playground from wandering off.
11. Electronic Access Control System (EACS) should be implemented for main building entries and sensitive areas, as a minimum. The EACS should be supported by a restricted keying system to provide improved management and audits of steel keys.
12. The use of ushers or similar should be considered during major service times to ensure that unauthorised persons cannot readily gain access to the site.

Territorial reinforcement

13. Signage should be installed to indicate that the site is private property and communicate any relevant site access restrictions.
14. Ensure that the parts of the site denoted for future development are maintained and treated as per the Landscaping Plan.

Space management

15. We recommend that a site maintenance program be implemented to ensure that the site is clean, well maintained, and that vegetation is managed to support CPTED principles.
16. Adequate provisions for the disposal of waste and recycling should be provided to prevent littering.
17. Basketballs and other play equipment should be securely stored when not in use.
18. Any vandalism or graffiti should be removed in a timely manner, and consideration should be given to the use of anti-graffiti coatings to assist this.
19. Furniture and fixtures should be selected to minimise the opportunity for skateboarding on.
20. Strong and positive relationships with local council and law enforcement should be developed and maintained to support community engagement and awareness of local crime trends.
21. Engagement activities should be held to form positive bonds with the local community and youths.
22. Other usage during non-service times should be considered to increase the use of the site.

Some of the recommendations listed in the CPTED report will result in additional impacts that require further consideration and assessment to determine their suitability.

For example, the introduction of security bollards and gates to each driveway introduces an uncharacteristic feature to the streetscape that is not supported from an aesthetics or visual amenity point of view. Equally the provision of sensor and/or timed lighting across the site has the potential to result in detrimental impacts to surrounding properties. Whilst lighting can be appropriately designed to limit glare the impacts of lights switching on and off can be very disturbing. Landscaping is required to soften some of the built form elements such as retaining walls and maintenance of shrubs at a height of less than 1m will subsequently have minimal desired screening impacts.

Some of the recommendations are also in conflict with the application as made, such as recommending other uses during non-worship times. The assessment is based on the proposed hours of use that have been provided by the Coptic Church. Any further increase of the site for other uses has the potential to alter the extensive assessment of the permissibility of the development and is therefore not supported.

The implementation of both an operational plan and a site management plan would be supported as well as the closure of the existing walkway to Fisher Place.

If such a wide suite of crime prevention recommendations is deemed necessary to ensure that the development is safe and secure this may indicate that the proposed site layout, buildings, and use are inappropriate in this location. The site layout is not considered to be pedestrian orientated, nor does it respond to the public realm, the layout does not activate the streetscape or maximise opportunities for natural surveillance. Overall, the development does not comply with the objectives of this section.

2.6 Erosion and Sediment Control Principles

Standard conditions of consent will be included to ensure that appropriate measures are in place during all site works.

2.7 Development adjoining open space

The development does not adjoin open space.

Section 3 - Heritage Conservation

The site is not within the conservation area and is not identified as a heritage item. There are no cultural heritage items identified on or within proximity of the site.

Section 4 - Environmental Hazards and Management

The subject site is not identified as flood prone.

The subject site is not mapped as bush fire prone land and the surrounding area is all developed and considered to be managed land.

Section 5 - Natural Resource and Landscape Management

This issue has been addressed under Clauses 7.4 and 7.6 of the LEP earlier in the report.

There are no applicable controls within Sections 6, 7, 8 of the WWDCP2010.

Section 9 - Residential Development

The subject site is within a residential area. The controls within section 9 are for residential development.

As discussed earlier in the report the residential accommodation that is proposed within the development application is unique and not a permanent residence against which the majority of controls within chapter 9 would apply. It is not appropriate or necessary to assess the temporary units of residential accommodation against the controls within chapter 9 of the DCP.

There are no applicable controls within Sections 10, 11, 12, 13 and 14 of the WWDCP2010.

Section 15 - Lloyd Urban Release Area

The controls within this chapter predominantly relate to the subdivision of land. The subject site is within the area identified as 'Stage 1 urban development' on the Lloyd Master plan. The land has been subdivided in accordance with the key controls relating to servicing, drainage, salinity measures and other environmental protection matters. The lot is existing and capable of being serviced and any required specific design solutions can be secured via conditions.

There are existing 88b restrictions upon the land regarding satisfying an 80:20 (impervious: pervious) ratio of development and the proposed site layout would easily achieve this.

There are no applicable controls within Section 16 of the WWDCP2010.

Section 4.15(1)(a)(iia) - Planning Agreements

There is no draft or current planning agreement applicable to this application under Section 7.4 of the *Environmental Planning and Assessment Act 1979*.

Section 4.15(1)(a)(iv) - any matters prescribed by the regulations

There are no applicable matters that require further assessment.

Section 4.15(1)(b) - likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality, development

Context and setting

The subject site is set within a residential suburb that is dominated by single storey detached dwellings. The site is a corner block and slopes up in height from Waterhouse Avenue. Existing dwellings back onto and side onto the northern and western boundaries and existing dwellings also face towards the site on the opposite, lower side of Waterhouse Avenue to the east and Ansett Street to the south.

The introduction of a place of public worship that includes a church, a services building and a two storey Sunday school building is not consistent with the existing context and setting by reason of the bulk, form and scale of the development. The proposed bulk and mass of development requires significant earthworks across the site which results in the need for tiered retaining walls that are also not considered compatible with the existing setting.

The design outcomes of the development being both two storey buildings and buildings of two storeys in height, surrounded by significant areas of car-parking, result in a form and scale of development that has the potential for considerable adverse impacts upon both neighbouring and surrounding residential dwellings. The concept approval for the future church within stage

2 proposes an envelope with a maximum height and volume of building that are also considered inconsistent in scale with the surrounding neighbouring properties and wider locality.

The use of the place of public worship by reason of the large influx of worshippers within a concentrated timeframe introducing intensive vehicle movements and activity will be out of character with quiet residential streets that set the context of the area.

The overall bulk and scale of the church, the services building, the Sunday school building, and the retaining walls presents a significant inconsistency with the prevailing context and setting and detracts from the character of the area.

Streetscape

The streetscape to both Ansett Street and Waterhouse Drive is characterised by the front setback and landscaped front yards of detached dwellings. The residential streetscape is well maintained and provides an amenable setting to the surrounding properties. The suburb of Lloyd is an urban release area and dwellings present a generally consistent front setback of between 4.5m and 6m. Furthermore, properties in Lloyd are required to develop at an impervious to pervious ratio of 80:20 which results in similar impervious presentations to the streetscape. Examples include compressed gravel treatments and artificial turf. The streetscape is further characterised by private single driveways.

The proposed development will completely change the streetscape by introducing large imposing buildings of a bulk and scale that will be visible from several viewpoints regardless of from which way the site is approached. The streetscape character will also be changed by the presence of three double width ramped driveways accessing three separate carparks and 100 car parking spaces. As noted earlier in the report the option of gates or bollards across the driveways has been suggested and this would be a further distraction from the established streetscape character. The new elements, as described above, that are introduced to the streetscape are not compatible and are considered unacceptable

The setbacks to the development are proposed at a greater distance than existing dwellings with the church having a 10m setback and the Sunday school having a setback of 15m. The increased setbacks whilst trying to minimise the impacts of the development result in a further inconsistency to the established streetscape character. In addition, the required retaining walls are closer to the street with the closest (car-park 4 to Ansett Street) being less than 2m.

The presentation of the development to both streetscapes will not contribute to the neighbourhood character. Along Ansett Street the upper-level residential units of the two storey Sunday school building will be the only active frontage within Stage 1 of the development. As noted in the report the use of the residential units will be irregular and very little activity within this area will be apparent from the road frontage. The remainder of the 140m frontage will be carparks and retaining walls. The façade to Waterhouse Avenue will be dominated by the church the façade of which is unknown at this time. However, given the layout of the site and the orientation it is anticipated that the church entry will not face the street and that this will also be an inactive façade with negligible contribution to the neighbourhood character.

The proposed streetscape presentation is considered to have a negative impact upon existing levels of visual amenity in the area.

Access, transport and traffic

Vehicle access and parking arrangements have been described earlier in the report. The variation to car parking numbers on site is not supported.

The place of public worship will result in increased volumes of traffic using the residential streets. The use of the site is concentrated, and this will result in noise impacts, as discussed in greater detail below. Whilst the road network and nearby intersections have the capacity to accommodate the predicted vehicle movements the impacts of the increased numbers of cars within the locality must be considered.

The vehicle movements have the potential to impact the quiet enjoyment of residential dwellings and gardens particularly at weekends. The occasional late night service times are also times when families are anticipated to be at home and when lights from cars and people going to and from their cars have adverse impact upon residential amenity. During the main worship times there is a risk of overflow on-street parking due to insufficient parking being available on site. Surrounding streets have many private driveways and whilst there is no restriction to on-street parking a regular disturbance from weekly overflow parking is not considered an acceptable impact.

Noise and vibration

There will be noise and disturbance during site works and construction works, this would be a short-term impact. The place of public worship has the potential to generate noise from within the church, from within the services building, from the outdoor play spaces and from the car parks as well as noise from persons moving through the site socialising and talking. Noise will be apparent from the significant number of vehicle movements to and from the site together with interactions within the car-park area, doors opening and closing and general comings and goings.

As this is a quiet residential neighbourhood the collective impact of all noise sources has the potential to be detrimental to existing levels of amenity enjoyed by surrounding properties. An acoustic assessment was requested to determine what the impact of development would be and whether any suitable mitigation measures could be achieved.

The acoustic report notes that noise sources associated with the operation of the development will include adult voice noise, amplified speech and music during services and ceremonies, children's voice noise when at play in the playground and on the basketball court, motor vehicle movements on the site and any mechanical plant servicing the development as well as attendant motor vehicle movements on the local road network. The selection of mechanical plant to service the buildings has not been finalised at this stage although it is likely to include air conditioning condenser plant, refrigeration plant and ventilation fans.

Noise modelling was carried out for the various aspects of the development and noise levels were predicted at receptor locations for each of the noise producing areas of the site. Predictions also include the cumulative effect of the noise emission from different areas of the site when in use simultaneously, where applicable.

Section 2.2.1 of the Noise Guide for Local Government (2013) specifies that a noise source is generally considered to be intrusive if the noise from the source, when measured over a 15-minute period (Leq, 15 minute), exceeds the background noise (L90, 15 minute) by more than 5 dB. The assessment methodology and criterion are consistent with the EPA's Noise Policy for Industry (2017) intrusiveness project trigger levels and are deemed to be an appropriate guide to determining the potential for noise impact from this proposal.

The acoustic report found that the predicted noise levels across all sources cumulatively comply with both daytime and evening and night-time noise goals. Compliance with the noise goals is achieved by assuming limitations recommended within the acoustic assessment can be achieved. Recommendations are made to reduce the level of noise from various parts of the development to within the noise design goals at each receptor as far as is reasonably practicable.

There are several recommendations associated with sound barrier screening to the basketball court, the children's playground and the car parks. Sound barrier screens of 2.4m in height (from finished ground level) are recommended to three sides of the basketball court and along the western side of the playground. A 2.1m high screen is proposed to the west of car park 1 and a 1.8m high screen is proposed to the north of car parks 2 and 3. Such screens whilst minimising noise disturbance have subsequent visual impacts that collectively result in a very enclosed site with resulting concealed spaces and poor site presentation.

The report includes traffic management measures to ensure compliance with noise design goals as follows:-

- A maximum of 40 vehicle movements on the site in any given 15-minute period during the day and evening time periods (assuming an average of 10 vehicles per car park), and
- 20 vehicle movements (maximum) on the Site in any given 15-minute period during the night-time periods (assume an average of 5 vehicles per car park), and

The site offers 100 car-parking spaces, notwithstanding that this number has been assessed as insufficient, it must be assumed for the purpose of this assessment that all spaces will be used for the main Sunday morning worship and special occasion night-time services. For all car parking spaces to be occupied and comply with the noise design goals cars must arrive across a minimum of three separate 15 minute intervals equating to over 45 minutes prior to the service starting. No evidence has been provided that this pattern is likely and it is unknown how such a control could be enforced or managed. Equally and to a greater extent the special occasion night-time services (Easter, Christmas, New Year) would require vehicle movements to be a spread across a considerable time to comply with the restriction of 20 vehicle movements in a 15 minute period.

In addition to the above noted on-site traffic limitations the acoustic report also stipulates compliant on-road vehicle movements, including un-associated trips, as follows:-

- 150 vehicle movements (maximum) during the day between 7 am and 10 pm, and
- 50 vehicle movements (maximum) during the night between 10 pm and 7 am.

Text surrounding these recommendations would seem to imply that these figures are per hour although this is not stated. The traffic impact report has modelled a maximum number of vehicle movements along Waterhouse Avenue during Sunday peak time as 144 vehicles per hour. This figure is very close to the maximum and relies on several assumptions regarding dwellings and future dwellings. Overall, the development is predicted to have 109 trips per hour which allows only 41 trips for all of the dwellings within the nearby locality that use Waterhouse to travel in and out of the suburb.

There is significant concern that there is no ability to manage, control or enforce the vehicle movements to and from the subject development site during day or night and that subsequently compliance with the noise control goals cannot be guaranteed. Equally there is less ability to manage, control or enforce road movements within the wider residential suburb and therefore compliance with this noise control goal can also not be guaranteed.

The restriction of music during services and particularly during the three annual 'special occasion' services that run until midnight during night-time services will be subject to strict operational controls. The application does not include a draft operational plan and whilst such a plan can easily be made subject to a condition the enforcing of such restrictions particularly during unsociable hours is very difficult to manage and/or control.

There are a number of construction recommendations relating to walls, windows, glazing, ceilings and roof systems that can be secured as part of construction certificate limitations. The on-going compliance of some of these recommendations such as all doors and windows

being closed during the use of the Hall will be subject to strict operational controls facing the same concerns as already noted above.

The selection of mechanical plant to service the buildings has not been finalised at this stage although it is likely to include air conditioning condenser plant, refrigeration plant and ventilation fans. The acoustic report notes that the predicted level of mechanical plant noise will depend upon the type of plant, location, sound power level and times of operation. As this detail is not provided any additional noise from these sources has not been fully assessed and relies upon plant being *“located as far from the neighbouring residences as practicable and / or acoustically treated to ensure the design noise goals are complied with at all times upon the appropriate siting of such equipment.”*

The development is reliant on a significant number of restrictions to ensure compliance with the required noise goals. It is not considered appropriate to rely upon an operational management plan to manage noise impacts that have the potential to result in disturbance to the quiet enjoyment and sleep patterns of neighbouring residential dwellings. In addition, some of the proposed mitigation measures have further detrimental impacts that are also not considered acceptable.

Hours of Operation

The primary service time is listed as 8am-3pm on Sundays with additional use of the site proposed on Fridays from 8pm-9pm, Saturdays 6.30pm-9pm as well as occasional additional hours for weddings, baptisms and funerals. A detailed breakdown of the proposed hours of use has been provided earlier in the report.

The peak activity times and subsequently the times during which most noise and disturbance will occur will be on Sundays. On a Sunday most families enjoy time together at home, relaxing and potentially spending time outdoors socialising with family and friends. The proposed hours of use throughout Sunday morning and afternoon have the potential to result in adverse impacts upon residential properties through noise, general comings and goings, lighting, vehicle movements and loss of privacy.

The proposed hours of operation and the associated intensity of use are not considered suitable in this residential location.

Privacy

There is the potential for impacts upon the privacy of adjoining residential properties from recreation areas, carparks and buildings on site. The basketball court and playground area are cut into the site and will be surrounded by 2.4m high acoustic fences that will limit direct overlooking into private properties. The use of these areas however will create noise that will only be minimised by the proposed solid fencing that extends over 2m in height.

The playground equipment (the details of which are not known) could extend to a height that results in further impacts such as overlooking if children are at an elevated level together with the likelihood of noise disturbance from children playing at elevated levels on the play equipment.

The use of car parks includes people talking and socialising and this is likely to occur at the edge of the site, not in the driveway area, and may have further impacts upon visual and acoustic privacy. Car park 1 includes two pedestrian bridges with direct access into the first floor of the Sunday school building. The extent of overlooking that may be possible from these two bridges raises further concerns. As noted elsewhere in the report the predominant use of the site on a Sunday when neighbouring properties are enjoying private areas of home and gardens will create impacts that cannot be appropriately mitigated.

Services

The site is fully serviced but would require upgrades to sewer and stormwater infrastructure.

Heritage

The site is not within the conservation area and is not identified as a heritage item. There are no cultural heritage items identified on or within proximity of the site.

Natural Hazards

Section 733 of the Local Government Act 1993 provides that Councils will not incur liability for decisions or omissions concerning flood liable land or land subject to the risk of bushfire have been considered. A risk assessment has been completed and Council will be able to demonstrate that it has acted appropriately in its decision making when defending claims in liability or in circumstances where administrative decisions are challenged.

The development has been considered against the relevant provisions of the WWLEP2010 and DCP. A risk assessment is not required as the development is not mapped as being on flood prone land.

The development has been considered against the relevant provisions of the WWLEP2010 and DCP. A risk assessment is not required as the development is not mapped as being on bush fire prone land.

Man-Made Hazards

The site is not subject to any known man-made hazards.

Socio- Economic Impact in the Locality

The construction phase of any development would result in the employment of trades people for a set period. The development includes site works and the construction of buildings providing a positive economic impact for these industries.

The end use of the site is not an employment generating development and will provide minimal direct economic benefits. The provision of a church of such a size specifically for the Coptic community may be a contributory factor for families moving to Wagga who may, in turn, provide indirect economic benefits to the economy through employment and investment in housing.

The place of public worship is recognised as not just a place of worship but also a place of social interaction within the Coptic community where friendships and new relationships are formed. The proximity of the facility to existing and future congregation members assists in strengthening such social connections.

The detrimental impacts to existing levels of residential amenity have been discussed throughout the report and will have further detrimental impact to the social enjoyment of the neighbourhood currently experienced by residents.

The Principles of Ecologically Sustainable Development

The following are principles of ecological sustainability:

1 The precautionary principle

Where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

In the application of the precautionary principle, public and private decisions should be guided by:

(a) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and

(b) an assessment of the risk-weighted consequences of various options.

The principle requires decision-making to give the environment the benefit of the doubt.

2 Intergenerational equity

The present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations (that is, a partnership among all of the generations that may use or expect to benefit from the nation's resources).

3 Conservation of biological diversity and ecological integrity

Conservation of biological diversity and ecological integrity should be a fundamental consideration.

4 Improved valuation, pricing and incentive mechanisms

Environmental factors should be included in the valuation of assets and services:

(a) polluter pays (that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement), and

(b) the users of goods and services should pay prices based on the full cycle costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste, and

(c) environmental goals having been established should be pursued in the most cost-effective way by establishing incentive structures, including market mechanisms which enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.

The proposed development does not include the removal of any significant or native vegetation. There are not considered to be any threats of serious environmental damage and there is no identified or anticipated risk to biological diversity and ecological integrity. The principles of ESD have been suitably addressed.

Section 4.15(c) - The Suitability of the site for the development

An analysis of the land uses and the purpose of the uses concluded that the proposed place of public worship is permitted with consent in the R1 zone. A further assessment of the proposed development found that the development was inconsistent with a number of the WWDCP controls and Guiding Principles.

The subject site is a vacant sloping site over 1ha in size that has remained undeveloped whilst all of the surrounding residential lots have been developed and occupied. The site is located away from main roads making it not conducive for a development of the scale that is proposed. Furthermore, the slope of the site allows the site to be visible from different viewpoints and a building of the scale proposed will appear very dominant not only within the direct streetscape but also when viewed from surrounding viewpoints, for example from Holbrook Road.

In accordance with the Environmental Planning and Assessment Act the impacts of the development have been subject to further review as outlined in the report above. The concluding outcome is that the development is of a size, scale, form, mass, and bulk that is inconsistent with the character of the street and locality.

The site is not suitable for the intended development.

Section 4.15(d) - any submissions made in accordance with the Act or the regulation

Referrals

The application was referred to relevant internal referral groups. Recommended conditions of consent have been included.

Advertising

The application was advertised from 12 - 26 May 2022 in accordance with the provisions of the DCP.

Notification

The application was notified to adjoining neighbours from 12 - 26 May 2022 in accordance with the provisions of the DCP.

In response to the notification and advertising thirty-three submissions were received in objection to the development application.

The grounds of the submissions are detailed below:-

- 1. The overall design of the development is inconsistent with the suburban streetscape in which it is proposed; the height and scale will be detrimental to the suburb.*

Comment: The report concludes that the development is inconsistent with the streetscape and that the scale of development is not suitable.

- 2. The lack of final detail regarding the church is very concerning particularly the height that appears to be about 20m high resulting in detrimental impacts to existing properties. Do not understand how a concept of something is enough to gain approval.*

Comment: The height parameters have been included in the concept design as well as a proposed maximum building envelope volume. Whilst not as high as 20m the scale of a large 7.5m high building with additional 5m high domes and spires is considered detrimental to the area. There is sufficient concept detail provided to determine the suitability of a church of this size.

- 3. The church will be seen as an eyesore and destroy views of the area. It will be very dominant and totally out of character. Due to the location and elevated nature of the site this development will be visible from a significant distance and clearly from the main thoroughfare of Holbrook Road.*

Comment: The visibility of the site from many viewpoints together with the proposed scale of the church contribute to the report conclusion that the development is unacceptable.

- 4. The development is on a hill and will make a very large building even more imposing, it will block natural light to houses on lower levels and cause overshadowing.*

Comment: The proposed buildings have been set into the slope of the hill to minimise their impact and also have greater setbacks to reduce the impacts upon neighbouring properties. The application does not include any final design or elevations of the future church that will be the closest building to the existing houses that are set a lower level on the eastern side of Waterhouse Avenue. There is a risk of overshadowing and loss of natural light from a structure that will have features extending to 12.5m in height.

- 5. Overall cumulative noise disturbance from vehicles, coming and going of people to and from the car-park, people talking in the car-park, playground use, basketball court use, activities in the hall, music and services within the hall/church. Concerned that the assessment of noise has not accurately reflected the nature in which noise travels downhill or looked at the development holistically.*

Comment: The issue of noise has been discussed in the report. The mitigation measures are not considered acceptable and would appear to imply that the noise impacts are considerable and detrimental to existing levels of residential amenity.

6. *The proposed hours of the church and associated activities will have an effect on the quality of life, sleep patterns and overall health enjoyed by residents as they are predominantly when families will be at home - Friday evenings and weekends.*

Comment: The peak use of the site by so many people for a considerable time each Sunday as well as limited other evening uses contributes to the unacceptable cumulative impacts of the proposed development.

7. *Increased traffic, there are 100 car-parking spaces which indicates an additional 100 cars (at least) travelling in and out of residential streets.*

Comment: The anticipated vehicle movements to and from the site are noted and whilst the road network has capacity for increased vehicle movements there are concerns with regard to the impacts such as noise disturbance, lights from vehicles and on-street parking.

8. *Road safety concerns for the many young children who live and play in the area from increased number of cars coming in and out of the site.*

Comment: The road network is designed to accommodate vehicles, and the development may result in many vehicles from outside of the neighbourhood that are not necessarily used to young children playing near to the road.

9. *Insufficient car-parking provided given the size and capacity of buildings*

Comment: The report includes an assessment of car-parking numbers. The application seeks a variation to Council's car parking standards that is not supported.

10. *Anticipated on-street parking given the capacity of buildings that is noted in the application, the streets are narrow and once a car is parked one side then there is very limited room for two cars to pass. On street parking also hinders visibility for pedestrians especially children.*

Comment: The potential for on street parking is noted within the report due to an insufficient number of parking spaces being provided on site. Such parking may further impact the existing safety of the streets for pedestrians and other users if there is not an available footpath.

11. *This is an area where many people walk dogs, exercise and children walk to and from school bus stops - the safety of the area will be severely jeopardised.*

Comment: See comments above.

12. *This is a residential area and this is not a residential development.*

Comment: Residentially zoned areas commonly include a number of non-residential uses such as schools, child-care centres, medical centres and churches. All of these uses are permitted with consent as uses that ordinarily serve the local residential population.

13. *Wedding receptions will be noisy, late events these are generally not allowed in residential areas?*

Comment: There will be no wedding receptions held in the hall, the place of public worship is to be used for wedding services only.

14. *Concern that the commercial kitchen and amenities will be catering for many large social events*

Comment: The events to be held at the place of public worship are detailed in the description of development. The kitchen will be used to prepare meals for the congregation who celebrate with a meal after Sunday worship.

15. *Why are there so many classrooms, audio room etc in the Sunday school is this going to be a school?*

Comment: The classrooms are to be used for Sunday school teachings as well as bible study groups and servant training. The building would not be defined as an educational establishment under the standard LEP definition.

16. The proposal offers no benefit to existing residents living in this area, it is for a closed congregation and not open for all to worship.

Comment: The application is for a single congregation group who worship collectively for an extended period of time. The nature of the worship has influenced the overall design and inclusion of many different elements and activities for use by the congregation members.

17. The basketball court would be a great asset to the younger generation who actually live in Lloyd but it will not be available for their use. Do not agree that a basketball court is anything to do with a church and will create significant noise disturbance.

Comment: See comments above. The use of the basketball court will be limited in terms of both hours of use and users but does have the potential to result in unacceptable levels of noise disturbance that cannot be suitably mitigated.

18. Safety and crime concerns that such a development will attract, the proposal will provide criminals with cover, hiding places, an escape route and a place to gather. They will also be attracted to the proposed basketball court. Potential for under-age drinking, graffiti and malicious damage to the site as well as theft from and damage to cars and surrounding dwellings.

Comment: The CPTED report has been discussed earlier in the report concluding that measures to improve the safety of the site result in unacceptable outcomes.

19. Lloyd is continuing to develop and the roads will only get busier, do not need an additional use bringing so many unnecessary car trips into the suburb. The extra trips will impact upon road safety and have noise and pollution impacts.

Comment: As noted earlier the impacts associated with additional vehicle movements upon residential amenity particularly at weekends is of concern.

20. There must be a better location for a church of this size and scale that would be better for the church community as well as appeasing residents concerns. If this site is their only option then it must be scaled back to just a church to be more suitable.

Comment: The application relates to the subject land and must be assessed on its merit alone, it is not the role of the local planning authority to recommend alternate locations for development nor to redesign developments.

21. Noise mitigation measures identified but it is not clear how they will be achieved or enforced. Some of the measures would appear to be very difficult to comply with such as restricting the times of use of the hall and the levels of music when the proposed uses and hours indicate some late-night services and the use of music.

Comment: As noted in the report the mitigation measures result in unacceptable impacts particularly the 2.4m high acoustic fencing barriers.

22. Considering the number of Coptic Christians identified in the last census (120) the scale seems excessive.

Comment: The predicted growth of the congregation is based upon growth in previous years. It is not possible to accurately determine if the congregation will grow or not.

23. Decrease in property values, it will be impossible to on-sell properties that people have worked so hard to own and build.

Comment: The impact of a development upon property values (either positive or negative) is not a matter that can be considered under planning legislation.

24. Loss of privacy to surrounding houses

Comment: This is addressed within the impacts section of the report.

25. Unaware of any local residents that belong to the Coptic community therefore of no local benefit and means all users of the facility will arrive by car.

Comment: The confidential details regarding where members of the Coptic community may live is not critical to the determination of the application. The application does not make any suggestion that congregation members will walk to and from the place of public worship and all traffic generation and parking assessments have been carried out with the assumption of all worshippers arriving by car.

26. Whilst a church for worship is entirely suitable in a residential area all of the additional buildings and play areas are what makes this over development and unsuitable.

Comment: The report has concluded that the development is not suitable for the site.

27. Concern about water run-off being downhill from the development and risk of our property being damaged as this happened previously when dwellings were built uphill.

Comment: Stormwater management across the site would be subject to detailed design at construction stage as well as sediment and erosion controls being in place.

28. There is a laneway leading into the north of the site, this should be shut off to avoid the adjoining cul-de-sac being used for parking or as a thoroughfare to and from the proposed easement space at the rear of existing residential properties.

Comment: This recommendation from the CPTED would be supported if the development were to go ahead.

29. In the same way that Council recently refused a childcare in Springvale for being completely inappropriate in the proposed location this development is exactly the same and should be refused for the same reasons.

Comment: The application referenced in this submission was in an R5 zone and the characteristics and development details raised a number of differing concerns. Each application is assessed upon its merit and against applicable legislation of the time.

30. Light pollution from the development will impact surrounding residences. Lighting of play areas and the car-park will shine into bedrooms causing further disturbance.

Comment: Concerns with lighting were raised and discussed in the safety section of the DCP.

31. The application states that mechanical plant details have not been finalised. The noise from air conditioning units to serve such a large building could be significant as well as extraction from the commercial kitchen. Without knowing where this essential part of the development will be located makes it impossible to assess.

Comment: Concerns regarding compliance with noise recommendations has been discussed in the report.

Section 4.15(e) - the public interest

The public interest is best served by the consistent application of the requirements of the relevant planning controls and by Council ensuring that any adverse effects on the surrounding area and the environment are avoided.

The proposed development results in a number of impacts that have been discussed throughout the report. The development of a public place of worship with associated buildings and infrastructure is inconsistent with the surrounding context and setting

The place of public worship will result in detrimental visual and acoustic amenity impacts to existing residents in the area and have an adverse effect upon the streetscape to both Waterhouse Avenue and Ansett Street.

The application has been the subject of significant local objection from many properties within the immediately surrounding streets and also from wider within the same suburb. It is in the public interest that the principles of the R1 zoned areas are maintained and that the character

of the suburb that attracts residents to these areas is not adversely impacted by the introduction of uncharacteristic bulk and scale.

Taking into account the full range of matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as discussed within this report) it is considered that approval of the application would not be in the public interest and is therefore recommended for refusal.

Other Legislative Requirements

Section 1.7 of the EPA Act 1979 and Part 7 of the *Biodiversity Conservation Act 2016* (Test for determining whether proposed development or activity likely to significantly affect threatened species or ecological communities, or their habitats)

In accordance with the above listed legislation there are a number of tests to determine whether the proposed development results in the need for offsets.

Firstly, the test to determine whether the proposed development or activity is likely to significantly affect threatened species or ecological communities, or their habitats (7.3). Given that no native vegetation is being removed there is not likely to be a significant impact upon any threatened species or habitats. There are no recordings of endangered species or communities within this locality.

Secondly whether the proposed removal of native vegetation exceeds the biodiversity offsets scheme threshold (7.4). The proposed development does not propose the removal of native vegetation and therefore the threshold has not been exceeded.

Thirdly whether the development is within a declared area of outstanding biodiversity value. The published biodiversity values map does not include any declared areas at the subject site.

Based on the above assessment the application does not fall within the biodiversity offset scheme. Relevant matters under the Biodiversity Conservation Act 2016 have been considered.

Council Policies

None.

Development Contributions - Section 7.11/7.12 Environmental Planning and Assessment Act 1979 & Section 64 Local Government Act, 1993 and Section 306 Water Management Act, 2000

The following contributions will be applicable if the development is approved.

Section 7.11/7.12 of the Environmental Planning and Assessment Act 1979 and the City of Wagga Wagga's Local Infrastructure Contributions Plan 2019-2034 enables Council to levy contributions, where anticipated development will or is likely to increase the demand for public facilities. A Section 7.12 contribution applies to developments that have a value greater than \$100,000.

It should be noted that under the original subdivision application, as amended, that created the subject lot (DA11/0510.06) the condition relating to the payment of per lot s94 contributions specifically excluded any payment for the lots identified as church purpose. Accordingly, as no s94 payments were paid at subdivision stage it is appropriate to charge s7.12 (former 94A) contributions to the development.

In accordance with Clause 25J of the Environmental Planning and Assessment Regulation 2000 the proposed cost of development for the purpose of 7.12 contributions specifically includes and excludes certain costs and expenses and therefore differs from the capital investment cost of a development.

The cost summary associated with the detailed stage 1 works is for \$4,797,080.00. The s7.12 levy is calculated at 1% of the development cost which equates to \$47,971.00.

Contributions associated with Stage 2 will be calculated and payable in association with any future detailed application for the church.

Section 64 of the Local Government Act 1993, Section 306 of the Water Management Act 2000 as well as the City of Wagga Wagga's Development Servicing Plan for Stormwater 2007 and/or City of Wagga Wagga Development Servicing Plan for Sewerage 2013 enable Council to levy developer charges based on the increased demands that new development will have on sewer and/or stormwater.

Sewer

Sewer calculations are based on the impact of a development and are calculated using equivalent tenement (ET) rates. The number of ETs for a place of public worship is calculated at a rate of 0.05ET per sq.metre of kitchen and amenities area.

The applicable area is 182sq.m resulting in the following calculation:

$$0.05\text{ET} \times 182 = \$32,196 \text{ plus CPI } 121.6/100.5 = \$38,956.$$

No s64 contributions were paid for the subject lot during the original subdivision and therefore no credit applies.

Stormwater

Section 64 Stormwater calculations will be developed as per Section 2.1.2 of the Implementation Guide Development Servicing Plan Stormwater May 2022. The Section 64 Stormwater infrastructure contribution for the detailed Stage 1 works is based on the follow formula:-

S64 Stormwater = area of new hardstand/800 x area of additional hardstand as a % of the lot area/0.6 X 1ET

$$\begin{aligned} &= 6,791/800 \times 0.58/0.6 \times \$3,007 \\ &= \$24,675 \text{ (base rate)} \end{aligned}$$

[Area of hardstand as a % of the lot area = area of hardstand/lot area= 6,791m²/11,800m²=0.58]

$$\begin{aligned} \text{CPI S64 Stormwater} &= \$24,675 \times 121.6/87.9 \\ &= \$34,135 \end{aligned}$$

Contributions associated with Stage 2 will be calculated and payable in association with any future detailed application for the church.

As above no s64 contributions were paid for the subject lot during the original subdivision and therefore no credit applies.

Other Approvals

None required

Conclusion

The proposed development results in a number of impacts that have been discussed throughout the report. The development of a place of public worship with associated buildings, earthworks and car-parking is out of character with the residential neighbourhood in which it is proposed to be located. The development will result in detrimental visual and acoustic amenity impacts to existing residents in the area and have an adverse effect upon the streetscape.

The scale and intensity of the development has a high potential to result in land use conflict and would have unreasonable and negative impacts on the amenity of nearby residents and the character of the locality. The proposal is not suitable for the subject site and is not in the public interest.

Despite being a land use that is permitted with consent under the Wagga Wagga Local Environmental Plan 2010 the proposed development is not compatible with local planning controls and it is recommended that the application be refused.

RECOMMENDATION

It is recommended that application number DA21/0806 for Concept application for Place of Public Worship including defined building envelope for a Church building and associated site works with Stage 1 detailed approval for Two-storey Sunday School Building to include study areas, book store and residential accommodation, Multi-purpose Hall with ancillary kitchen and amenities, car-parking (71 spaces), outdoor play area and basketball court with associated earthworks across the site. be refused for the following reasons:-

1. The development is inconsistent with Guiding Principle 2 of the Wagga Wagga Development Control Plan 2010 as the development is not responsive to the physical characteristics and setting and does not achieve a positive contribution to the streetscape and/or natural environment. Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*.
2. The development is inconsistent with Guiding Principle 3 of the Wagga Wagga Development Control Plan 2010 as the development does not achieve quality sustainable development or suitably respond to site conditions. Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*.
3. The development by reason of the proposed number of car-parking spaces is inconsistent with Section 2.2 of the Wagga Wagga Development Control Plan 2010 and does not provide a sufficient number of car-parking spaces to service the development. Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*.
4. The development by reason of the crime prevention measures that are recommended to ensure a safe and secure development is inconsistent with the objectives of Section 2.5 of the Wagga Wagga Development Control Plan 2010. Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*.
5. The proposed development by reason of the bulk, mass, scale and form is not in keeping with the character of the area and has a detrimental impact upon the established and consistent streetscape and existing levels of visual amenity. Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*.

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6. The proposed development by reason of noise disturbance from the cumulative activities proposed on site is considered to result in unacceptable impacts on existing levels of residential amenity. Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*.
7. The development by reason of increased traffic volumes, increased vehicle movements and potential uncontrolled car-parking activity on the streets is considered to result in unacceptable impacts upon residential amenity under section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*.
8. The proposed development by reason of its scale, siting of buildings, earthworks, setbacks, layout, access and parking is not suitable within the recently developed residential area. The site is unsuitable for the development. Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*.
9. The development results in cumulative detrimental impacts upon existing levels of residential and visual amenity enjoyed by neighbouring properties and is therefore not considered to be in the public interest. Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*.