

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA14/0523
Proposed development:	Alterations & Additions to Existing Place of Public Worship
Property address:	26 - 48 Kingswood Road, ORCHARD HILLS NSW 2748
Property description:	Lot 43 DP 811320
Date received:	20 May 2014
Assessing officer	Gurvinder Singh
Zoning:	RU4 Primary Production Small Lots - LEP 2010
Class of building:	Class 9b
Recommendations:	Approve

Executive Summary

Council is in receipt of a Development Application for alterations and additions to an existing place of worship at the subject site. The subject site is zoned RU4 Primary Production Small Lots under the Penrith Local Environmental Plan 2010 and the proposal is a permissible land use in the zoning with Council consent. The Development Application was placed on public exhibition from 10 June 2014 to 10 July 2014. One submission from a nearby resident was received during the exhibition period. The concerns raised in that submission are addressed in this report.

The applicant was requested to submit stormwater drainage plans, however those plans were not submitted. These plans will be required to be submitted and approval obtained from Council by way of a deferred commencement condition.

An assessment under Section 79C of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for a deferred commencement consent.

Background

The applicant did not organise a pre-lodgement meeting with Council Officers. The existing development 'Place of Public Worship and Associated Parking' DA34/92 was approved by Council on 21 August 1992.

Council also granted consent to a S96 modification application (DA11/1390) for the following works::

- Sealing of existing overflow car park for 81 car parking spaces and a total of 224 car parking spaces on the site.
- Landscaping and drainage works in association with the overflow car park.

Site & Surrounds

The subject site is situated on the north-eastern corner of the intersection of Kingswood Road and Castle Road, Orchard Hills, approximately 500m north of the M4 Western Motorway. It is rectangular in shape, 2.255ha in area and orientated in a north-south direction. The site has a slope which falls from the north-west to the south.

The site is currently occupied by an existing single storey rendered brick and colourbond roof place of public worship with associated parking. The site also contains a single storey dwelling and shed.

The surrounding area is characterised by rural/residential properties. Directly to the north, east and west are large lot residential properties, to the south is large lot agricultural land.

Proposal

The proposed development includes the following aspects:

1. Additions and alterations to the existing main meeting hall comprising:
 - Additions to include a porch for covered drop off /pick up area.
 - Additions of approximately 280sqm to include a new foyer area, additional amenities (18 pans), parent room and storage.
 - Alterations to refit existing amenities.
 - Additions to include a Ministers' preparation area, security room and garage of approximately 80sqm.
 - New roof awning over existing entry on the northern elevation.
2. Demolition of an existing dwelling and concrete outbuilding and construction of a meeting hall having an area of approximately 90sqm. A new parking area of 9 carspaces (including 1 disabled space) is proposed to replace those displaced from the porch construction.

Plans that apply

- Local Environmental Plan 2010 (Stage 1 LEP)
- Development Control Plan 2010
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• Section 79C - Evaluation

The development has been assessed in accordance with the matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration:

Section 91 - Integrated Development

A copy of the development application was forwarded to the NSW Office of Water who responded that the proposed activity is not occurring on waterfront land. Therefore for the purposes of the Water Management Act 2000, a controlled activity approval was not required.

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

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the application against relevant criteria with Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997) and the application is satisfactory subject to recommended conditions of consent.

Local Environmental Plan 2010 (Stage 1 LEP)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Zone objectives	Complies
Clause 2.3 Permissibility	Complies
Clause 2.5 Additional permitted uses for particular land	N/A
Clause 2.6 Subdivision - consent requirements	N/A
Clause 2.7 Demolition requires development consent	Complies
Clause 2.8 Are the temporary use of land requirements achieved?	N/A
Clause 4.1 - the minimum lot size	N/A
Clause 4.1AA Minimum subdivision lot size for community title schemes	N/A
Clause 4.2 Rural Subdivision	N/A
Clause 4.3 Height of buildings	Complies
Clause 4.4 Floor Space Ratio	N/A
Clause 4.5 Calculation of floor space ratio and site area	N/A
Clause 4.6 Exceptions to development standards	N/A
Clause 5.1 Relevant acquisition authority	N/A
Clause 5.10 Heritage conservation	Complies
Clause 5.11 Bush fire hazard reduction	N/A
Clause 5.12 Infrastructure development and use of existing buildings of the Crown	N/A
Clause 5.13 Eco-tourist facilities	N/A
Clause 5.2 Classification and reclassification of public land	N/A
Clause 5.3 Development near zone boundaries	N/A
Clause 5.4 Controls relating to miscellaneous permissible uses	N/A
Clause 5.5 Development within the coastal zone	N/A
Clause 5.6 Architectural roof features	N/A
Clause 5.7 Development below mean high water mark	N/A
Clause 5.8 Conversion of fire alarms	N/A
Clause 5.9 Preservation of trees or vegetation	Complies
Clause 5.9AA Trees or vegetation not prescribed by development control plan	N/A

Clause 6.1 Earthworks	Complies
Clause 6.10 Villages of Mulgoa and Wallacia	N/A
Clause 6.11 Orchard Hills	Complies
Clause 6.12 Twin Creeks	N/A
Clause 6.13 Waterside Corporate	N/A
Clause 6.14 Development of land in the flight paths of the site reserved for the proposed Second Sydney Airport	N/A
Clause 6.15 Location of sex services premises and restricted premises	N/A
Clause 6.2 Salinity	N/A
Clause 6.3 Flood Planning	Complies
Clause 6.4 Development on natural resources sensitive land	N/A
Clause 6.5 Protection of scenic character and landscape values	Complies
Clause 6.6 Servicing	Complies
Clause 6.7 Dwelling houses on certain land in Llandilo and Mulgoa	N/A
Clause 6.8 Dual occupancies and secondary dwellings in certain rural and environmental zones	N/A
Clause 6.9 Mulgoa Valley	N/A
Schedule 1 Additional permitted uses	N/A

Permissibility

The subject site is zoned RU4 Primary Production Small Lots under Penrith Local Environmental Plan 2010. The proposed development is defined as Place of Public worship, which is permissible with the consent of Council.

The proposed development is consistent with the aims and objectives of both the LEP and the zone itself. The development is compatible with the character of the locality.

5.9 Preservation of Trees or Vegetation

No trees are identified to be removed.

5.10 Heritage conservation

A local heritage item 2260511 (80 Caddens Road 'Farmhouse') is located around 150m north of an existing Church at the subject site. . The heritage item is screened from view by existing landscaping and the natural sloping topography of the site. The existing planting along the northern boundary of the site will ensure the heritage value of the adjoining site is not diminished.

6.1 Earthworks

The development will have some cut and fill in the drop off and pick up area and for the construction of the formal parking area adjacent to the small meeting area. A new retaining wall is proposed to be built to the west of the site. All cut and fill will be retained and used onsite. It is considered this work will have minimal impact on the surrounding area.

6.3 Flood Planning

The site is not identified on the flood planning map, however, the site is identified by Council in a citywide overland flow flood study as subject to flood risk in an extreme event. Council requested the applicant to submit stormwater drainage concept plans for the proposed alterations and additions to the existing building. However the applicant has not submitted those plans. The SEE cites that 'there is a system of

underground pipes that collect stormwater from Kingswood Road to a headwall adjacent to the eastern boundary. Stormwater is currently managed via an 80,000L interceptor pit and detention tank. No changes are expected to the existing storm water system.'

It is recommended that a condition be imposed by way of a deferred commencement consent that requires the applicant to submit stormwater drainage plans for Council's approval prior to the consent becoming operational.

6.5 Protection of scenic character and landscape values

The site is identified as "Land with scenic and landscape values" on the Scenic and Landscape Values Map. In this regard, the proposed development will be suitably screened by existing and proposed new vegetation and the natural sloping topography of the land. The proposed finishes to the new additions are compatible with the existing building and they will blend within the surrounding landscape.

6.11 Orchard Hills

This clause cites as follows:

(3) Despite any other provision of this Plan, development consent must not be granted for the erection of a building on land shown as "Orchard Hills" on the [Clause Application Map](#) and subject to flooding or in a watercourse unless the consent authority is satisfied that:

- (a) no practical alternative location exists for the proposed building, and*
- (b) the building is not likely to be threatened by flood flows, and*
- (c) the erection or use of the building will not divert flood flows or adversely affect drainage flows, and*
- (d) the erection or use of the building will not cause soil erosion.*

The site is located within 'Orchard Hills' as identified on the Clause Application Map. The site contains a watercourse traversing the northern part of the site. The development consent granted in 1992 included the provision of a stormwater drain that takes stormwater from Kingswood Road underground to a headwall located adjacent to the eastern boundary, where the water is transferred into the watercourse. The site is not flood affected. However concept stormwater drainage plans were not submitted with the application. These plans will be required to be submitted and approval obtained from Council prior to the issue of an operational consent.

Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation)

The provisions of Penrith LEP 1991 apply to the site as the proposal adjoins local heritage item (OH2) 'farmhouse'.

Clause 9 of the policy states:

The Council must not grant consent to an application to carry out development on land in the vicinity of a heritage item unless it has made an assessment of the effect the carrying out of that development will have on the heritage significance of the item and its setting.

The development will not detract from the heritage significance of local heritage item 'Farmhouse'. The heritage item is screened from view by existing landscaping and the natural sloping topography of the site. The existing planting along the northern boundary of the site will ensure the heritage value of the adjoining site is not diminished.

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

Draft LEP 2010 - Stage 2 applies to the site. The site is zoned as RU4 Primary Production Small Lots under this Draft LEP. Places of public worship are permissible in the zone with Council's consent.

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

Development Control Plan 2010

Provision	Compliance
Part C 1 - Site planning and design principles	Complies
Part C2 - Vegetation management	Complies
Part C3 - Water management	Complies
Part C4 - Land management	Complies
Part C5 - Waste management	Complies
Part C6 - Landscape design	Complies
Part C7 - Culture and heritage	Complies
Part C8 - Public domain	N/A
Part C9 - Advertising and signage	N/A
Part C10 - Transport, access and parking	Complies - see Appendix - Development Control Plan Compliance
Part C11 - Subdivision	N/A
Part C12 - Noise and vibration	Complies
Part C13 - Infrastructure and services	Complies
Part D5 - Other land uses (e.g. Health consulting rooms, vehicle repair stations)	Complies
Part E3 - Orchard Hills controls	Complies - see Appendix - Development Control Plan Compliance

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

Fire safety

In accordance with Section 143 of the Environmental Planning and Assessment Regulation 2000, an assessment of the fire protection and structural capacity of the proposed building is necessary.

The application was referred to Council's Building Surveyors for assessment who have provided conditions of consent.

The proposed development complies with the requirements of the Regulations.

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

Noise

No additional noise is expected from the proposed development as the capacity of the existing church hall is not being increased.

Social and Economic Impact

The proposed development will provide improved facilities in the existing place of worship for the local and wider community. This will have a positive social and economic impact.

Onsite Sewage Management

A Wastewater Management Plan was submitted in support of the application. The site is currently using an onsite sewage treatment plant. Treated effluent is applied to a grassed irrigation field on site and diverted to an absorption trench system to the south. Council's Environment Section required further information from the applicant regarding nutrient calculations and location of the disposal area. These matters were adequately responded to by the applicant and Council's Environment Section has raised no objections to the proposal subject to conditions of consent.

Waste Management

A Waste Management Plan (WMP) was not submitted with the development application. The applicant has advised that WMP will be submitted prior to a Construction Certificate being issued and that materials will be recycled, where practicable, and the contractor for the development will ensure disposal in accordance with the legislative requirements. A condition of consent is imposed to require a WMP prior to the issue of a construction certificate.

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

The site of the proposed development is considered suitable for the reasons outlined below:

- The site is well located in the context of the local community with regard to providing opportunities for worship.
- The subject site is located within an established rural residential area that is zoned to allow the proposed use of the site.
- The site is not affected by any landslip or movement.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with Penrith Development Control Plan 2010, the proposed development was notified to nearby and adjoining residents/owners and advertised in the local newspapers with submissions invited from 10 June to 10 July 2014. One submission from a nearby resident was received during the exhibition period. The concern raised in the submission was that there was excessive water seepage from the subject site to the neighbouring property at No.149 Castle Road, Orchard Hills. This seepage extended to the foundations of the dwelling on that property.

Comment:

The proposed additions are mainly towards Kingswood Road which is around 100m west of the existing dwelling at No.149 Castle Road Orchard Hills. The proposed additions are unlikely to increase any seepage to that dwelling.

Referrals

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

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions
Development Engineer	Not supported
Environmental - Environmental management	No objections - subject to conditions

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

The proposed development is permissible in the RU4 - Primary Production Small Lots zone under Penrith Local Environmental Plan 2010 and it meets the aims and objectives of the relevant environmental planning instruments. The proposed place of worship will serve the needs of the public. Employment opportunities will be increased during the construction of the additions to the place of worship. Subject to the recommended conditions, the proposed development is unlikely to have a negative impact on the surrounding environment and it is considered to be in the public interest.

Section 94 Contributions

There are no Section 94 contributions applicable to the proposed development.

Conclusion

The proposed additions to an existing place of worship has been assessed against the relevant heads of consideration under Section 79C of the Environmental Planning and Assessment Act 1979. It is consistent with the requirements of the relevant planning instruments and development control plan and is a permissible land use in the RU4 - Primary Production Small Lots *zone* under Penrith Local Environmental Plan 2010.

The applicant did not submit stormwater drainage plans. These plans will be required by way of a deferred commencement condition. The site is suitable for the proposed development. Subject to the recommended conditions, the proposal is unlikely to have a negative impact on the surrounding environment and it is considered to be in the public interest.

Recommendation

That DA14/0523 for alterations and additions to an existing place of worship be approved by way of a Deferred Commencement determination subject to the attached conditions.

General

1 [A003 - Deferred Commencement use only](#)

The development must be implemented substantially in accordance with the stamped-approved plans issued by Penrith City Council and other plans or documents approved in respect to Schedule 1 by Council or an accredited Certifier, except as may be amended in red on the attached plans and by the following conditions.

2 [A019 - OCCUPATION CERTIFICATE \(ALWAYS APPLY\)](#)

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

3 [A039 - Graffiti](#)

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

4 [A046 - Obtain Construction Certificate before commencement of works](#)

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

Demolition

5 [B002 - AS FOR DEMOLITION AND DISPOSAL TO APPROVED LANDFILL SITE](#)

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

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

6 [B003 - ASBESTOS](#)

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

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

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

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

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

7 [B004 - Dust](#)

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

8 [B005 - Mud/Soil](#)

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

9 [B006 - Hours of work](#)

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

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

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

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

Environmental Matters

10 D001 - Implement approved sediment& erosion control measures

Erosion and sediment control measures shall be installed **prior to the commencement of works on site** including approved clearing of site vegetation. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

(Note: To obtain a copy of the publication, you should contact Landcom on (02) 98418600).

11 D002 - Spraygrass

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

12 D005 – No filling without prior approval (may need to add D006)

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

13 D006 - No filling without prior approval (Use always, except for bulk earthworks/ major fill operations)

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

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

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

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

14 D009 - Covering of waste storage area

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

15 D010 – Appropriate disposal of excavated or other waste

A Waste Management Plan shall be submitted to the Certifying Authority prior to the issue of a Construction Certificate. All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

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

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

BCA Issues

16 E006 - Disabled access and facilities

Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 "Design for Access and Mobility". Details of compliance are to be provided in the relevant plans and specifications accompanying the Construction Certificate application.

17 E008 - FIRE SAFETY LIST WITH CONSTRUCTION CERTIFICATE

A fire safety list of essential fire or other safety measures shall be submitted to Penrith City Council prior to the issue of the Construction Certificate. The fire safety list shall specify all measures (both current and proposed) that are required for the building so as to ensure the safety of persons in the building in the event of fire. The fire safety list must distinguish between:

- the measures that are currently implemented in the building premises,
- and the measures that are to be proposed to be implemented in the building premises, and must specify the minimum standard of performance for each measure.

18 E009 - Annual fire safety-essential fire safety (Class 2-9 buildings)

The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:

(a) deal with each essential fire safety measure in the building premises, and

(b) be given:

- within 12 months after the last such statement was given, or
- if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.

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As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:

- must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
- prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.

19 E01A - BCA compliance for Class 2-9

All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:

(a) complying with the deemed to satisfy provisions, or

(b) formulating an alternative solution which:

- complies with the performance requirements, or
- is shown to be at least equivalent to the deemed to satisfy provision, or
- (c) a combination of (a) and (b).

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

Construction

20 H001 - Stamped plans and erection of site notice

Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

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

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

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

All construction signage is to be removed when the Occupation Certificate has been issued for the development.

21 H002 - All forms of construction

Prior to the commencement of construction works:

(a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

- a standard flushing toilet connected to a public sewer, or
- if that is not practicable, an accredited sewage management facility approved by the council, or
- alternatively, any other sewage management facility approved by council.

(b) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

(c) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- must preserve and protect the building from damage, and
- if necessary, must underpin and support the building in an approved manner, and
- must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land, (includes a public road and any other public place).

(d) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place:

- if necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place,
- the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place, and
- any such hoarding, fence or awning is to be removed when the work has been completed.

22 H011 - Engineering plans & specifications

Detailed engineering plans and specifications relating to the work shall be submitted for consideration and approval prior to the issue of a Construction Certificate.

23 [H041 - Hours of work \(other devt\)](#)

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

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

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

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

Engineering

24 [K002 - WAE drawings and certificates](#)

After completion of all the engineering works, Work-as-Executed Drawings and Certificates are to be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Engineering Works Development Control Plan and Guidelines for Engineering Works for Subdivisions and Developments - Part 1 Design and Part 2 Construction. A copy of Work-as-Executed Drawings and Certificates are also to be submitted with Penrith City Council, if Council is not the Principal Certifying Authority.

25 [K027 - Car Parking](#)

A total of 224 off-street parking spaces are to be provided, linemarked and maintained for the development, generally in accordance with the approved schedule of external finishes. The parking space dimensions and manoeuvring areas are to comply with AS2890.1 and AS2890.2 the Building Code of Australia and the Commonwealth Disability Discrimination Act.

Landscaping

26 [L001 - General](#)

Landscaping to screen the proposed carpark shall be provided in the setback area fronting Kingswood Road , Orchard Hills. A detailed landscape plan for that area shall be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate. Landscape works are to be constructed in accordance with Section F5 "Planting Techniques", F8 "Quality Assurance Standards" and F9 "Site Management Plan" of Penrith Council's Landscape Development Control Plan.

Landscaping shall be maintained:

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

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

27 [L008 - Tree Preservation Order](#)

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

28 [L012 - Existing landscaping \(for existing development\)](#)

Existing landscaping is to be retained and maintained at all times.

Payment of Fees

29 [P001 - Costs](#)

All roadworks, dedications and drainage works are to be carried out at the applicant's cost.

Certification

30 **Q01F - Notice of Commencement & Appointment of PCA2 (use for Fast Light only)**

Prior to the commencement of any earthworks or construction works on site, the proponent is to:

- (a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
- (b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

31 **Q05F - Occupation Certificate for Class10**

An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation of the building.

The Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding.

A copy of the Occupation Certificate and all necessary documentation supporting the issue of the Certificate is to be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

Operation of OSSM

32 **R101 - Operational Approval prior to use**

The on-site sewage management (OSSM) system shall be installed and operated in accordance with the recommendations contained in the 'Wastewater Management Plan: Proposed Alterations and Additions - 26 Kingswood Road, Orchard Hills, NSW' (prepared by Martens & Associates Pty Ltd, dated 4 December 2014, Ref. P1404110JR01V05) and the Wastewater Management Plan (prepared by Martens & Associates Pty Ltd, dated 4 December 2014, Drawing SK001 at Appendix D) and the conditions of this consent.

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

33 **R102 - OSSM System Type and Disposal Area (all systems)**

All wastewater generated on the site is to be diverted to a 25 KL balance tank, which is to dose to the existing Gebel Aquasafe extended aeration unit and be disposed of by way of sub-surface irrigation in the approved effluent management area. The effluent management area is to be located in accordance with the stamped approved Wastewater Management Plan (prepared by Martens & Associates Pty Ltd, dated 4 December 2014, Drawing SK001 at Appendix D) and have a minimum area of 2208m².

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

- "Environmental and Health Protection Guidelines On Site Sewage Management for Single Households"
- Australian Standards AS 1547:2012,
- Council's On-Site Sewage Management and Greywater Reuse Policy,
- the 'Wastewater Management Plan: Proposed Alterations and Additions - 26 Kingswood Road, Orchard Hills, NSW' (prepared by Martens & Associates Pty Ltd, dated 4 December 2014, Ref. P1404110JR01V05), and
- the 'Wastewater Management Plan' (prepared by Martens & Associates Pty Ltd, dated 4 December 2014, Drawing SK001 at Appendix D), and
- the approved Hydraulic Report.

The system is to be utilised for a maximum daily wastewater load of 4840 litres in accordance with the approved Wastewater Report.

34 **R103 - Council inspections for Installation**

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

In this regard, the septic tank(s) and disposal area(s) will need to be inspected on completion of the system's installation (before backfilling occurs) and prior to its commissioning, to ensure compliance with those conditions specific to the installation of the system.

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

35 **R104 - No alterations without approval**

The septic tank, drainage and irrigation lines and effluent management area shall not be altered without the prior approval of Council. In addition, the septic tank shall not be buried or covered.

36 **R105 - Plumbing Code of Australia**

All house sewer and plumbing work shall be carried out in accordance with the Plumbing Code of Australia.

37 **R106 - AWTS - Design of Irrigation System**

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

- The distribution line is to be buried from the tank to the designated disposal area.
- The moveable irrigation line and sprinklers (including the plume from the sprinklers) situated within the disposal area can not exceed the designated boundaries of the disposal area.
- The treated wastewater can be evenly irrigated across the entire designated disposal area.
- Sited so as not to contaminate any natural watercourses that traverse the subject property.

38 **R107 - AWTS - Irrigation pipework (surface or sub-surface)**

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

- the irrigation system is not to be connected to/not capable of connection to the mains water supply,
- standard household fittings, soaker hoses, garden sprinklers and standard water hose fittings are not to be used,
- **sub-surface drip irrigation lines are also to be installed in accordance with AS 1547:2012 and are to evenly distribute treated effluent over the designated disposal area, and**
- **all subsurface drip irrigation is to be buried within a minimum of 250mm of topsoil in accordance with AS 1547:2012. Mulch is not to be used as part of the minimum top soil requirement.**

39 **R109 - No effluent runoff**

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

40 **R110 - EMA Signage**

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

41 [R111 - AWTS Servicing](#)

The owner/occupier shall enter into an annual service contract with the manufacturer, distributor or other person authorised (in writing) by Penrith City Council to service the aerated septic tank(s) every three (3) months from the date of commissioning in the following manner:

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

- the chlorinator,
- replenishment of the disinfectant,
- all pumps and switches,
- the air blower, fan or air venturi,
- the alarm system,
- the effluent disposal area and sub-surface irrigation lines and filters,
- the slime growth on the filter media, and
- the operation of the sludge returns system.

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

- free residual chlorine using DPD colorimetric or photometric method,
- pH from a sample taken from the irrigation chamber,
- dissolved oxygen from a sample taken from the final aeration or stilling chamber (although recommended) is optional.

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

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

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

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

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

42 [R114 - EMA Turfed](#)

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

43 [R115 - No structures on EMA](#)

No concreting, driveways, vehicles or any other structure or access way is to be located over any portion of the effluent management area. The effluent management area is not to be used as a carpark at any time.

44 [R116 - Diversion of stormwater from EMA](#)

All stormwater and seepage shall be diverted away from the septic tank and the disposal area by using an agricultural drain or earthen bund and dish drain.

45 [R117 - No plants for human consumption within EMA](#)

Orchards, vegetable gardens or any other plant species that can be used for the purposes of human consumption are not to be planted within the effluent management area.

46 [R123 - Hydraulic Report](#)

Prior to the issue of the Construction Certificate, a Hydraulic Report is to be submitted to Council for approval that demonstrates how the wastewater generated across the site will be transferred to the approved treatment system, and how wastewater will be distributed evenly across the approved Effluent Disposal Area using sub-surface irrigation. This Report is to include an amended Site Plan showing the location of all pipework, any pump stations and all other associated infrastructure required.

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

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

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

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

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

Appendix - Development Control Plan Compliance

Development Control Plan 2010

E3 - Orchard Hills

Setbacks

The setback controls under this section apply to dwellings and outbuildings only. However, the setback of the proposed additions to Kingswood Road is 11m. This is considered satisfactory given the existing sloping topography and landscaping along Kingswood Road setback. The meeting hall is proposed to be further setback than the existing dwelling. This is considered satisfactory. A 5m setback from Kingswood Road is proposed to the carpark of the new meeting hall. A condition of consent is recommended to be imposed that will require landscaping to screen the carpark area.

Part C - Controls applying to all land uses

Parking

A total of 224 car spaces exist on the site.

Section C10 of Penrith DCP 2010 requires parking to be provided at a rate of 1 space per 3.5 seats or 1 space per 3.5m² gross floor area, whichever is greater.

The church seating capacity of 500 people would require 143 car parking spaces. On a total gross floor area of 1404sqm would require 401 spaces.

The development provides a shortfall in car parking when assessed against the current DCP provisions. However, the applicant has provided justification for parking as follows:

'The proposed development does not propose an increase in congregation numbers as a result of the proposal. It is merely to improve the amenity for the existing congregation. Access points to the site will remain unchanged.

The existing Place of Public Worship was approved with 224 spaces, given the additions and alterations are only an additional GFA of 290 sqm and to improve the amenities for the existing congregation and not increase seats, the existing number of already approved car spaces is considered reasonable.

The proposal provides for 222 formal car spaces on the site. The construction of the port cochere to improve accessibility and an additional disabled car space to replace a standard car space has resulted in a deficit of 2 spaces to what has been approved. However, if required there is sufficient hardstand surface in front of the Ministers garage to provide the two spaces in a 'stacked' nature.

Generally, the congregation attend the church as families; therefore family members of 3-4 people per vehicle can be expected. Based on attendance behaviour and the congregation numbers, there is sufficient parking on site.'

Comment:

The additions are mainly to provide a porch, security room and minister's preparation area. The existing residence that is currently being used as meeting rooms will be replaced with a smaller meeting room. These areas will not result in significant parking demand. As number of people attending the site will not be more than 500, the existing 224 spaces are considered reasonable.