

**REPORT TO GEORGES RIVER COUNCIL
IHAP MEETING OF 25 AUGUST 2016**

| | | | |
|---|--|-----------------------------------|--------------|
| IHAP Report No | 4 | Development Application No | MOD2015/0146 |
| Site Address & Ward Locality | 977 Forest Road LUGARNO NSW 2210 Peakhurst Ward | | |
| Proposal | Section 96 modification to approved church hall and addition - modify Condition 75 of the consent relating to noise criteria | | |
| Report Author/s | Development Assessment Officer, Mr P Nelson | | |
| Zoning: | Zone R2 - Low Density Residential | | |
| Date of Lodgement | 23 November 2015 | | |
| Owner | The Congregational Christian Church of Samoa Parish of Sydney Incorporated | | |
| Applicant | Congregational Christian Church In Samoa Parish Of Sydney | | |
| Submissions | 108 submissions received | | |
| Cost of Works | N/A | | |
| Issues | Submissions received and variations to DCP1 | | |
| Recommendation | THAT the application be modified in accordance with the conditions included in the report. | | |

Site Plan



EXECUTIVE SUMMARY

1. The Section 96 application proposes the deletion of Condition 75 of the original consent which requires that no amplified music or public address systems be audible outside of the hall.
2. Ongoing noise complaints have been received as a result of the operation of the hall both prior to and following the issue of the Interim Occupation Certificate on 15 July 2015.
3. The existing use does not satisfy the requirements of existing conditions of consent.
4. The proposal was notified to thirty two (32) adjoining neighbours for a period of fourteen (14) days during which time a total of one hundred and eight (108) submissions were received

RECOMMENDATION

THAT the application be modified in accordance with the conditions included in the report.

DESCRIPTION OF THE PROPOSAL

1. The Section 96 application seeks approval for the deletion of an acoustic condition of consent relating to the use of amplified music and public address systems. The condition reads as follows:

75. ZC14 - Amplified music/public address systems must not be audible outside the premises, unless approved by Hurstville City Council.

The Acoustic Report submitted by the applicant (Koikas Acoustics letter dated 10 December 2015) in support of the proposal specifies that the deletion of this condition is required to be undertaken in accordance with the conditions provided in the original acoustic report (Koikas Acoustics, dated 04/04/2014) which required:

'In addition, the installation of secondary glazed windows installed to the inside of the hall (non-structural) will provide additional overall noise reduction of a further 10dB. This will allow the hall to play music louder on occasions but maintain compliant noise levels to surrounding premises for the proposed hours of use.'

The Acoustic Report (10/12/15) concludes:

"In addition, in order to satisfy Council's concerns regarding the current operations of the subject place of worship, compliance testing could be undertaken. We are assured by...(the applicant)...that all acoustic measures previously recommended are currently being implemented."

No plans have been submitted indicating that the current proposal seeks to provide the additional glazing in accordance with the recommendation of their acoustic consultant. A site inspection of the property also noted that no provision of additional glazing has been undertaken.

2. In addition to the above, Council proposes to provide a correction to the current wording of Condition 35 and 65 of the original consent, which read:

35. *Prior to a Construction Certificate being issued, submit to Council for approval, detailed acoustic noise attenuation report from a suitably qualified and experienced acoustical consultant addressing the sound level output for all activities associated with the use and running of the premise . The report shall address;*

- * increase in floor area to church,*
- * increase in floor area to new hall,*
- * three (3) new workshops,*
- * new kitchen,*
- * two (2) new conference rooms*
- * mechanical equipment; and*
- * use of air conditioning units vs open windows/doors, etc.*

The report shall demonstrate the sound level output not exceeding 5dB(A) above the ambient background level at the closest neighbouring boundary between the hours of 8.00pm-7.00am on weekdays and Saturdays, 8.00pm-8.00am on Sundays and Public Holidays; and

Outside the above specified hours, the sound level output for all activities associated with the use and running of the premise shall not exceed the ambient background noise level.

65. *Prior to Occupation Certificate being issued, submit to Council for approval documentation from suitably qualified and experienced acoustic consultant certifying, that the noise control measures as recommended in the acoustic report submitted with the Construction Certificate addressing noise impacts*

- * increase in floor area to church,*
- * increase in floor area to new hall,*
- * three (3) new workshops,*
- * new kitchen,*
- * two (2) new conference rooms*
- * mechanical equipment; and*
- * use of air conditioning units vs open windows/doors, etc.*

Comply with the following requirements;

(a) The sound level output for all activities associated with the use and the running of the premise shall not exceed 5dB(A) above the ambient background level at the closest neighbouring boundary between the hours of 8:00pm-7:00am on weekdays and Saturdays, 8:00pm-8:00am on Sundays and Public Holidays.

(b) Outside the above specified hours, the sound level output for all activities associated with the use and running of the premise shall not exceed the ambient background noise level.'

These conditions are to be altered to read 8.00am – 7.00pm weekdays and 8.00am – 8.00pm on Sundays and public holidays rather than the times

stated. This will allow exceedance of up to 5dB(A) during the day, not during the night.

Additional conditions in support of the existing noise conditions will be also be recommended within the report.

3. HISTORY

17 Nov 76 76/BA1065 for church sanctuary approved.

7 Mar 07 2006/DA-372 deferred commencement consent issued for extensions to existing church building.

Notable conditions on this consent relating to noise include:

34. Prior to Construction Certificate being issued, Submit to Council for approval, report from a suitably qualified and experience acoustical consultant detailing types of noise generated from the use and running of the premise and recommendations of noise attenuation works to ensure there will be no noise impact on adjoining residence.

The report is to specifically address use of premise including;

- * increase in floor area to church,
- * increase in floor area to new hall,
- * three (3) new workshops,
- * new kitchen,
- * two (2) new conference rooms,
- * mechanical equipment; and
- * use of air conditioning units vs open windows/doors, etc.

35. Prior to a Construction Certificate being issued, submit to Council for approval, detailed acoustic noise attenuation report from a suitably qualified and experienced acoustical consultant addressing the sound level output for all activities associated with the use and running of the premise . The report shall address;

- * increase in floor area to church,
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- * three (3) new workshops,
- * new kitchen,
- * two (2) new conference rooms
- * mechanical equipment; and
- * use of air conditioning units vs open windows/doors, etc.

The report shall demonstrate the sound level output not exceeding 5dB(A) above the ambient background level at the closest neighbouring boundary between the hours of 8.00pm-7.00am on weekdays and Saturdays, 8.00pm-8.00am on Sundays and Public Holidays; and

Outside the above specified hours, the sound level output for all activities associated with the use and running of the premise shall not exceed the ambient background noise level.

54. Offensive Noise Generally - The use of the premises, building services, equipment, machinery and ancillary fittings must not give rise to offensive noise as defined under the Dictionary of the Protection of the Environment Operations Act 1997.

64. Prior to Occupation Certificate being issued, submit to Council for approval documentation from suitably qualified and experienced acoustic consultant certifying, that the noise control measures as recommended in the acoustic report submitted with the Construction Certificate addressing noise impacts

- * increase in floor area to church,
- * increase in floor area to new hall,
- * three (3) new workshops,
- * new kitchen,
- * two (2) new conference rooms
- * mechanical equipment; and
- * use of air conditioning units vs open windows/doors, etc.

Comply with the following requirements;

(a) The sound level output for all activities associated with the use and the running of the premise shall not exceed 5dB(A) above the ambient background level at the closest neighbouring boundary between the hours of 8:00pm-7:00am on weekdays and Saturdays, 8:00pm-8:00am on Sundays and Public Holidays.

(b) Outside the above specified hours, the sound level output for all activities associated with the use and running of the premise shall not exceed the ambient background noise level.

75. Amplified music/public address systems must not be audible outside the premises, unless approved by Hurstville City Council.

79. The premise shall not give rise to 'offensive' noise as defined under the Protection of the Environment Operations Act 1997.

4 Apr 12 2006/DA-372REV01 application under Section 96 approved for retrospective consent of unauthorised works. These works related to the increase in excavation to provide for a larger floor area underneath the approved hall. No changes were made to the previously approved acoustic conditions listed above.

28 Jun 12 2006/DA-372REV02 application under Section 96 for changing roof finish from tiles to colorbond approved. No changes were made to the previously approved acoustic conditions listed above.

4 Oct 14 Council inspection of the premises is undertaken following a telephone complaint relating to the building being occupied prior to the issue of an Occupation Certificate. The kitchen within the building extension is found to be being used.

- 5 Oct 14 Written complaint received from neighbouring residents in relation to occupation of the hall prior to Occupation Certificate being issued and noise issues. Similar submissions are received on 10/11/14 and again of 11/12/14, 14/01/15, 19/02/15, 28/02/15, 02/03/15, 03/03/15 and 11/03/15. These submissions were followed up in writing by Council following site inspections.
- 10 Oct 14 Order issued to the Congregation Christian Church to cease occupation and/or use of the extensions to the existing church building.
- 19 Sep 14 Notice of an Intention to Serve an Order relating to the occupation of the church extension is sent to the Congregational Christian Church.
- 11 Dec 14 A Council inspection of the premises is undertaken. Church extension is found not to be occupied.
- 28 Feb 15 Telephone complaint received relating to occupation of the hall/church extension.
- 2 Mar 15 Council inspection identifies individual stacking chairs within the hall.
- 6 Mar 15 Council inspection of premises at 5.40pm provides no further evidence of unauthorised occupation of the premises.
- 3 Apr 15 A Council inspection of the Church hall/extension identifies the area being used for a gathering of persons.
- 13 Apr 15 A letter is sent to the Congregational Christian Church of Samoa inviting them to show cause as to why Council should not issue a Penalty Infringement Notice in relation to the offence.
- 15 Apr 15 Written response received from church representative.
- 23 Jun 15 Letter sent to neighbour advising should no further breach occur leading up to the issue of an Interim Occupation Certificate, then no further enforcement action would be taken.
- 15 Jul 15 Interim Occupation Certificate issued for:

Part Use – Church Hall only. Note: The hearing augmentation system in the hall and other works associated with the subject Construction Certificate and Development Consent are to be completed before issue of the Final Occupation Certificate.
- 23 Jul 15 Complaint received in relation to excessive noise emission from the church hall due to fire door being left chocked open. Identical complaint received 03/08/2015.
- 30 Jul 15 Noise complaint received in relation to singing in the hall.
- 4 Aug 15 Council wrote to applicant requesting that the fire door in question remain closed when not in use for access/egress.

- 5 Aug 15 Applicant advises that the fire door will be used for access only.
- 24 Aug 15 Neighbour advises that excessive noise from the premises was audible on 22/07/15, 24/07/15, 01/08/15, 18/08/15, 18/08/15, and generally on Sunday during this period. The submission indicated that the noise was worse when the fire door was left open.
- 29 Sep 15 Letter sent to the Church advising that continued use prior to the issue of the Occupation Certificate would result in the issue of a Penalty Infringement Notice.
- 12 Oct 15 Further noise complaint from neighbour in relation to noise received.
- 27 Oct 15 Written complaint received from neighbour in relation to noise being emitted from the church hall. Submission is repeated on 19/11/15.
- 2 Nov 15 Further noise complaint from neighbour in relation to noise received.
- 11 Nov 15 Council advises Church in writing that continuation of the interference with the fire door will lead to the issue of a Penalty Infringement Notice.
- 19 Nov 15 Meeting between Council's Manager Environmental Services, Environmental Health Officer and Church representatives aimed at addressing the noise issue.
- 23 Nov 15 Current development application MOD2015/0146 lodged.
- 21 Jan 16 Application placed on neighbour notification.
- 11 Feb 16 Neighbour notification period completed with ninety five (95) neighbour submissions being received.
- 17 Feb 16 Council sends written request to the applicant for additional acoustic information.
- 22 Feb 16 Additional copy of Council request emailed to applicant's representative.
- 28 Mar 16 Written noise complaint received in relation to Church and hall use over the Easter long weekend.
- 13 Apr 16 Further written request for acoustic information sent to applicant.
- 13 Apr 16 Acoustic report submitted to Council.
- 14 Apr 16 Council show cause letter sent to Church relating to a Council inspection undertaken on 12/4/2016 that confirmed a variation to Condition 75 of the development consent.
- 15 Apr 16 Council receives written neighbour noise complaint in relation to hall operation.

- 20 Apr 15 Council receives further written neighbour noise complaint in relation to hall operation.
- 26 Jul 16 Church provides written response to Council's "show cause" letter sent on 14/4/2016.
- 16 May 16 Acoustic consultant provides offer of services.
- 9 July 16 Phone complaint relating to hall noise received. Council inspection reveals no evidence of noise emission.
- 11 Jun 16 Two (2) written complaints received on 14/06/2016 and 15/06/2016 in relation to noise emission from the church hall and outdoor areas for events on 11/06/2016. This noise event is included in the data collected for the Noise Emission Report (below).
- 15 Jul 16 Noise Emission Investigation report forwarded to Council.

DESCRIPTION OF THE SITE AND LOCALITY

4. The site is described as Lot 2 in DP 405732 and is known as 977 Forest Road, Lugarno. The site is a rectangular shaped site with a splayed south western corner 1.83m in length which fronts Forest Road and a frontage of 24.69m to Ponderosa Place. The allotment has an area of 3140sqm. The site is located on the eastern side of the street.

A single storey church/sanctuary building with an attached rear part ground/part first floor hall and part ground/part basement community hall is located on the western side of the site. This building has a 2m setback from the southern boundary and a 5.532m setback from the northern boundary. The northern boundary setback is occupied by a driveway that provides vehicular access to the rear (eastern side) of the site.

A concrete courtyard and an open car parking area are provided to the east of the church and associated buildings. A part one (1)/part two (2) storey dwelling house is located at the rear, eastern side of the site.

The allotment has a fall to the rear north eastern corner of 4.81m and a fall within the existing building footprint of the church building/sanctuary and attached rear part one (1) part two (2) storey hall of 2.72m.

There are three (3) significant native canopy providing trees at the front of the site immediately adjacent to the front boundary. Two (2) significant native trees are also located in the eastern yard of the dwelling house on the eastern side of the site and two (2) significant native trees are located between the car park and the dwelling house on the eastern side of the site.

Adjoining the site to the north are five (5) residential neighbours comprising dwelling houses. There are also five (5) adjoining dwelling houses to the south and two (2) adjoining dwelling houses to the east of the proposal.

Church Uses

The church and associated hall have been identified for the following typical uses over a two (2) month period.

June

| Monday | Tuesday | Wednesday | Thursday | Friday | Saturday | Sunday |
|--------|---------|-----------|------------------------------------|--------|--|---|
| | | 1. | 2. | 3. | 4. 4pm-6pm Choir Practice in church | 5. 9am-11am Sunday Worship (Church) |
| 6. | 7. | 8. | 9. 7pm-9pm Womens Bingo (Hall) | 10. | 11. 8.30am-2pm Diocese Meeting (Hall) 4pm-6pm Choir Practice (church) | 12. 9am-11am Sunday Worship + 2 nd service (Church) 4pm-6pm Youth group activities (hall) |
| 13. | 14. | 15. | 16. | 17. | 18. 4pm-6pm Choir Practice (church) | 19. 9am-11am Sunday Worship + 2 nd service (Church) 4pm-6pm Youth group activities (hall) |
| 20. | 21. | 22. | 23. 7pm-9pm Womens Bingo (Hall) | 24. | 25. 4pm-6pm Choir Practice in church | 26. 9am-11am Sunday Worship + 2 nd service (Church) 4pm-6pm Youth group activities (hall) |
| 27. | 28. | 29. | 30. | | | |

July

| Monday | Tuesday | Wednesday | Thursday | Friday | Saturday | Sunday |
|-----------------------|---------|-----------|----------------------|--------|---------------------|------------------------|
| | | | | 1. | 2. | 3. |
| 4. 7pm-9pm Meeting | 5. | 6. | 7. 7pm-9pm Womens | 8. | 9. 4pm-6pm Choir | 10. 9am-11am Sunday |

| | | | | | | |
|----------------|-----|-----|---------------------------------|----------------------------|--|--|
| for the clergy | | | Bingo (Hall) | | Practice in church 7pm-9pm Youth Group Activities (Hall) | Worship + 2 nd service (Church) 4pm-6pm Youth group activities (hall) |
| 11. | 12. | 13. | 14. | 15. | 16. 4pm-6pm Choir Practice in church | 17. 9am-11am Sunday Worship + 2 nd service (Church) 4pm-6pm Youth group activities (hall) |
| 18. | 19. | 20. | 21. 7pm-9pm Womens Bingo (Hall) | 22. 7pm-9pm Youth Practise | 23. 4pm-6pm Choir Practice in church | 24. 9am-11am Sunday Worship + 2 nd service (Church) 4pm-6pm Youth group activities (hall) |
| 25. | 26. | 27. | 28. | 29. | 30. 4pm-6pm Choir Practice in church | |

COMPLIANCE AND ASSESSMENT

5. The development has been inspected and assessed under the relevant Section 79C(1) "Matters for Consideration" of the Environmental Planning and Assessment Act 1979.

Environmental Planning Instruments

6. The land is zoned R2 - Low Density Residential and a place of public worship is a permissible use in the zone. The proposal will meet the zone objectives with the conditions as recommended.

PROTECTION OF THE ENVIRONMENT OPERATIONS ACT 1997

7. The Protection of the Environment Operations Act (POEO) defines offensive noise as:

'offensive noise means noise:

(a) *that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:*

(i) *is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or*

(ii) *interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted, or*

(b) *that is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulations.'*

In the case of the current proposal the requirements of the POEO regulation in relation to musical instruments and sound equipment are:

(1) *'A person must not cause or permit any musical instrument or electrically amplified sound equipment to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):*

(a) *before 8 am and after midnight on any Friday, Saturday or day immediately before a public holiday, or*

(b) *before 8 am and after 10 pm on any other day.*

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.

(2) *A person is not guilty of an offence under this clause unless:*

(a) *the person has, within 7 days after causing or permitting a musical instrument or electrically amplified sound equipment to be used in such a manner, been warned by an authorised officer or enforcement officer not to cause or permit the instrument or equipment to be used in that manner, and*

(b) *the person causes or permits the instrument or equipment to be used in that manner within 28 days after the warning has been given.*

(3) *In this clause:*

electrically amplified sound equipment *means any electrical or battery powered device that can be used to make or amplify sound including television sets and home entertainment systems.'*

The deletion of Condition 75 of the existing consent and the inclusion of the conditions recommended in the Noise Emission Investigation prepared for Council by Acoustic Dynamics, dated 14 July 2016 (see below) will require compliance with the POEO Act and regulation.

HURSTVILLE LOCAL ENVIRONMENTAL PLAN 2012

| Clause | Standard | Assessment Under HLEP 2012 |
|--|---------------------------------|--|
| Part 2 – Permitted or Prohibited Development | R2 Low Density Residential Zone | The proposal is defined as a place of public worship and a dwelling house. This development is permissible in the zone |
| | Objectives of the Zone | The proposal may be conditioned to comply with the objectives of the zone (1) |

(1) Zone Objectives

8. The proposal is permissible within the R2 Low Density Residential Zone and satisfies the following objective:

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

However, the current use of the church hall is contributing to a decrease in neighbour amenity in terms of excessive noise emissions as demonstrated by:

- the neighbour submissions received by Council during the operation of the use up to the present,
- the neighbour submissions received in relation to the current Section 96 modification,
- the conclusions and recommendations of the “Noise Emission Investigation” prepared on behalf of Council by Acoustic Dynamics dated 14 July 2016.

The current operation of the church hall and the proposal to delete Condition 75 of the consent does not satisfy the following objective of the zone:

“To ensure that a high level of residential amenity is achieved and maintained.”

Use of the hall for performances including the use of public address systems, amplified music and singing has been demonstrated in the noise emission investigation to be in excess of the “NSW EPA INP (generally the default noise criteria for those premises without pre-determined Council Conditions) for both windows/doors opened and closed.” (Noise Emission Investigation prepared by Acoustic Dynamics, dated 14 July 2016).

The background noise levels determined in the noise emission investigation indicate that the operation of the hall, for the activity measured (choir practise) is generally in excess of the requirements of Conditions 54, 75, and 79 of the original consent.

The Noise Emission Investigation provides conditions of consent that will allow the deletion of the existing Condition 75, with continued reasonable operation of the hall that would be “feasible for the church to achieve and

would likely be deemed acceptable and reasonable for the nearest residential receivers” (Noise Emission Assessment page 18 of 19).

These conditions are as follows:

1. The subject premise must not be in use between the hours of 10.00pm and 7.00am Monday to Saturday and 10.00pm to 8.00am on Sundays and public holidays.
(Reason: To protect the amenity of the adjacent residential dwellings, including the potential for sleep disturbance through the closing of car doors in the car park)
2. The LAeq(15min) noise level emitted from the use of the subject premise must not exceed the intrusive noise criteria (La90+ 5 decibels) as determined in accordance with the NSW Industrial Noise Policy.
3. The subject premise must operate with windows and doors closed at all times.

However, in order to comply with these conditions the Noise Emission Investigation concludes that *“the subject congregation will likely be required to either significantly change the activities undertaken within the hall and the church, or significantly upgrade the weaker components of the building envelope (windows and doors).”*

Failure of the Church to suitably moderate any noise generating activity in the hall in accordance with the recommended conditions is likely to result in continued neighbour complaints and will require ongoing Council monitoring. This is not an outcome that would result in compliance with the amenity objective of the zone.

As such it is further recommended that the following conditions be placed on the consent:

4. The built form of the hall is to be upgraded as advised by a qualified acoustic consultant so as to ensure that the ongoing use of the hall does not exceed the intrusive noise criteria (La90+ 5 decibels) as determined in accordance with the NSW Industrial Noise Policy.

An acoustic report and associated building plans are to be submitted to Council with an amended construction certificate.

5. All works are to be certified by a qualified acoustic consultant specifying that the building envelope has been strengthened acoustically in accordance with the acoustic report and plans lodged with the construction certificate.

This condition will result in a built form that can accommodate a reasonable range of activities without unreasonably impacting on the amenity of adjacent residential neighbours.

This condition also generally agrees with the comments provided in the applicant supplied Acoustic report prepared by Koikas Acoustics dated 10/12/15 and 04/04/2014).

STATE ENVIRONMENTAL PLANNING POLICY NO 55 – REMEDIATION OF LAND

9. The subject site is zoned residential and, given the types of uses permissible within the residential zones, it is considered unlikely that the land is contaminated.

Based on Council's records, the subject site has not been used for any potentially contaminating activities. As such, it is considered unlikely that the land is contaminated.

Draft Environmental Planning Instruments

10. No draft environmental planning instruments apply in relation to this proposal.

Any other matters prescribed by the Regulations

11. The Regulations do not prescribe any additional matters in relation to the current proposal.

Development Control Plans

DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE – SECTION 2.2 NEIGHBOUR NOTIFICATION AND ADVERTISEMENT OF DEVELOPMENT APPLICATIONS

12. The proposal was notified to thirty two (32) adjoining neighbours for a period of fourteen (14) days during which time a total of one hundred and eight (108) submissions were received from forty five (45) neighbouring residential addresses (multiple submissions from the same addresses were received). A petition with two hundred and twenty four (224) signatures was also received. These submissions are discussed later in the report (below).

Impacts

Natural Environment

13. The current proposal is unlikely to result in any impact on the natural environment.

Built Environment

14. The current proposal does not propose any amendment to the existing built form. A condition of consent will require the alteration of the existing built form to provide for better noise insulation of the building. This condition is unlikely to result in any significant external change to the built form of the proposal.

Social Impact

15. The deletion of Condition 75 of the consent is unlikely to result in any change to the existing social impact experienced by neighbours as the ongoing use of the hall will still be regulated by the following conditions of consent:

54. Offensive Noise Generally - The use of the premises, building services, equipment, machinery and ancillary fittings must not give rise to offensive noise as defined under the Dictionary of the Protection of the Environment Operations Act 1997.

65. Prior to Occupation Certificate being issued, submit to Council for approval documentation from suitably qualified and experienced

acoustic consultant certifying, that the noise control measures as recommended in the acoustic report submitted with the Construction Certificate addressing noise impacts

- * increase in floor area to church,*
- * increase in floor area to new hall,*
- * three (3) new workshops,*
- * new kitchen,*
- * two (2) new conference rooms*
- * mechanical equipment; and*
- * use of air conditioning units vs open windows/doors, etc.*

Comply with the following requirements;

(a) The sound level output for all activities associated with the use and the running of the premise shall not exceed 5dB(A) above the ambient background level at the closest neighbouring boundary between the hours of 8:00am-7:00pm on weekdays and Saturdays, 8:00am-8:00pm on Sundays and Public Holidays.

(b) Outside the above specified hours, the sound level output for all activities associated with the use and running of the premise shall not exceed the ambient background noise level.

80. The premise shall not give rise to 'offensive' noise as defined under the Protection of the Environment Operations Act 1997.

The Noise Emission Investigation (Acoustic Dynamics, Dated 14 July 2016) has identified that amplified music measured within the hall for a small choir practise did not satisfy the 5dB(A) above ambient background level requirement. As such these conditions would also preclude the use of amplified music/public address systems in the hall at the levels recorded.

The intention of the Church to delete Condition 75 of the consent is summarised in the Acoustic Report prepared by Koikas Acoustics Pty Ltd, dated 10 December 2015:

"...the inaudibility criterion as requested by Item 75 related to inaudibility criterion is unreasonable and should be removed for periods between 0700 and 2200 hours. The criterion that should be considered consistent with what has been required for other similar establishments in the EPS'S INP."

This notion that the use of amplified music should be inaudible outside the hall at all hours is unreasonable is supported. However from both the recommendations of the Koikas Acoustics Report and the Acoustic Dynamics report, further conditions are required to enable the existing building to be used for a reasonable range of uses and still comply with the 5dB(A) above background level requirement.

Economic Impact

16. The proposal is unlikely to result in an impact on the local economy.

Suitability of the Site

17. The site is suitable for the proposed use in accordance with the amended conditions of consent included in this report.

REFERRALS, SUBMISSIONS AND THE PUBLIC INTEREST

Resident

18. The proposal was notified to thirty two (32) adjoining neighbours for a period of fourteen (14) days during which time a total of one hundred and eight (108) submissions were received from forty five (45) neighbouring residential addresses (multiple submissions from the same addresses were received). A petition with two hundred and twenty four (224) signatures was also received. These submissions raised the following issues.

Noise

19. – From use of the hall especially when windows are left open and fire doors are propped open. From the use of the rear yard. From vehicles entering and exiting the site.
- Impact on the physical and psychological wellbeing of neighbours.
 - Comments relating to the accuracy of the acoustic report, specifically the background readings and the expected noise generated from the child play areas. Noise from these areas will well exceed background readings and lead to offensive noise.
 - Insufficient information is provided to demonstrate that internally generated noise will not be an issue.

Comment: Council has engaged an Acoustic consultant to assess the proposal and provide comments and recommendations in relation to addressing the existing noise issues through the current Section 96 application.

The conditions of consent provided are aimed at reducing the current noise issues and bring the proposal into compliance with the noise levels permitted under the relevant legislation.

The conditions proposed, if complied with, will result in a complying level of noise emission and a lesser impact on adjoining residential neighbours.

Non-compliance with original DA

20. Neighbours have stated that the proposal is not in compliance with the approved use for the hall being used for the congregation before and after church services and does not relate to the Sunday use stated in the original proposal.

Concern has also been raised into the defective nature of the building and queries have been raised as to the level of compliance with the BCA/Australian Standards, especially in relation to acoustics.

Comment: The approved use is consistent with activities ancillary to a place of public worship.

The existing building has not been strengthened in accordance with the initial acoustic report provided with the original development application. A

condition of consent will require the lodgement of a Construction Certificate and Acoustic Report demonstrating methods by which the acoustically weak points of the building can be reinforced to reduce noise impacts on adjacent neighbours. This work will be required to be undertaken prior to the release of any occupation certificate.

Proposed use of site

21. The current application should provide clarity in relation to the proposed use of the site

Comment: The current proposal does not seek to alter the approved use which is for a place of public worship and for “purposes ancillary to the church only.”

Privacy

22. Neighbours have indicated that the existing rear balcony provides views of neighbouring properties.

Comment: Some overlooking is available from the existing rear balcony of the hall which is serviced by a rear fire door. The current application does not relate to this balcony and no additions can be conditioned in relation to visual privacy as a result.

Parking

23. Neighbours have indicated that during church services and events, parishioners park in adjacent bus zones, park too close to intersections thereby reducing visibility, park over and in neighbouring driveways and park on grass verge areas.

Comment: These submissions are noted, however they do not relate to the current Section 96 modification of the consent in relation to noise.

Rubbish and antisocial behaviour

24. Many neighbours have expressed concern in relation to anti-social behaviour, especially during church events with nearby properties having litter deposited by parishioners in their front and rear yards. Ball games played in at the rear of the hall also land in neighbouring properties causing a nuisance.

Comment: These issues are noted. However they do not relate to the current proposal.

Building not completed in accordance with plans

25. Existing building not completed in accordance with the approved plans – glass bricks not used for all southern windows.

Comment: The existing building has been issued an Interim Occupation Certificate. Conditions of consent relating to the current proposal will require the acoustic weak points of the building to be acoustically upgraded in accordance with an acoustic report prior to the issue of any future Occupation Certificate.

Decrease in property value

26. Many neighbours have indicated that the ongoing noise issue is leading to a decrease in property values.

Comment: Council cannot comment in relation to potential property values.

Hall being used for other uses

27. Neighbours have expressed concern about the hall being leased out for other uses and being utilised as a commercial use.

Comment: The application does not seek to alter the existing approved usage.

LAND AND ENVIRONMENT COURT OF NSW – PLANNING PRINCIPLE

28. In *Stockland Developments v Wollongong Council and others* [2004] NSWLEC 470, a planning principle in relation to noise attenuation was introduced.

The planning principle stated that:

‘As a general planning principle, where there is conflict between a noise source and a sensitive receptor preference should be given to the attenuation of any noise from the source rather than at the sensitive receptor. This is true whether the noise source generated by a proposal is a new noise and the receptor exists or the noise generator exists and the receptor is a proposed use. In deciding whether the noise should be attenuated at the source, consideration should be given to the degree of conflict between the appropriate noise goals, the difficulty and cost associated with treating the noise at the source, the willingness of the noise generator to be treated and the potential amenity impacts associated with noise attenuation at the receptor. Depending on the circumstances of the case, the cost of attenuation measures may be borne by either party or shared between them, irrespective of the location.’

This planning principle gives preference to attenuation measures being provided to the noise generating use.

In the case of the current application the applicant is requesting the deletion of Condition 75 of the original consent which does not permit audible amplified noise. The Acoustic Report (Koikas Acoustics 10/12/15) submitted in support of the proposal indicates that the deletion of this condition is necessary and further that the proposal will be reasonable in acoustic terms if undertaken in accordance with the acoustic report lodged in support of the original proposal (Koikas Acoustics 04/04/2014) which required noise attenuation measures as follows:

“...the installation of secondary glazed windows installed to the inside of the hall (non-structural) will provide an additional overall noise reduction of a further 10dB. This will allow the hall to play music louder on occasions but maintain compliant noise levels to surrounding premises for the proposed hours of use.”

This statement is generally in agreement with the Acoustic Report (Acoustic Dynamics, Dated 14 July 2016) which states that to provide for appropriate noise attenuation:

“...the subject congregation will likely be required to either significantly change the activities undertaken within the hall and the church, or significantly upgrade the weaker components of the building envelope (windows and doors).”

On the basis of these recommendations and the LEC planning principle it is considered reasonable to require the strengthening of weaker components within the built form to provide for appropriate noise attenuation. This will be achieved by a suitable condition of consent.

Council Referrals

Environmental Health Officer

29. Council’s Environmental Health Officer has indicated that the recommended conditions of consent provided in the Acoustic Dynamics report and the additional conditions relating to the upgrade of the built form for additional noise attenuation are appropriate.

External Referrals

30. No external referrals were required in relation to the proposal.

CONCLUSION

31. The Section 96 application seeks to amend the existing proposal by deleting the following condition of consent:

75. ZC14 - Amplified music/public address systems must not be audible outside the premises, unless approved by Hurstville City Council.

The deletion of this condition is supported provided the existing use be moderated in terms of noise and that the existing building provide appropriate physical attenuation measures including the strengthening of weak points in the building envelop (windows and doors).

The proposal was notified to thirty two (32) adjoining neighbours for a period of fourteen (14) days during which time a total of one hundred and eight (108) submissions were received from forty five (45) neighbouring residential addresses (multiple submissions from the same addresses were received). A petition with two hundred and twenty four (224) signatures was also received. These submissions related predominately to acoustic issues where the neighbours are currently experiencing levels of noise not commensurate with the local area.

These submissions will be better addressed by the recommended conditions of consent relating to both ongoing operation/noise levels permitted and the additional requirement to strengthen the envelope of the building as a physical noise attenuation measure.

DETERMINATION

32. THAT pursuant to Section 96(1A) of the Environmental Planning and Assessment Act, 1979, as amended, the Council grants development consent to Development Application MOD2015/0146 for the Modification to approved

church hall and addition - modify Condition 75 of the consent relating to noise criteria on Lot 2 DP 405732 and known as 977 Forest Road, Lugarno, subject to the attached conditions:

Delete:

75. Amplified music/public address systems must not be audible outside the premises, unless approved by Hurstville City Council.

Add:

- 79C. The subject premise must not be in use between the hours of 10.00pm and 7.00am Monday to Saturday and 10.00pm to 8.00am on Sundays and public holidays.

(Reason: To protect the amenity of the adjacent residential dwellings, including the potential for sleep disturbance through the closing of car doors in the car park)

- 79D. The LAeq(15min) noise level emitted from the use of the subject premise must not exceed the intrusive noise criteria (La90+ 5 decibels) as determined in accordance with the NSW Industrial Noise Policy.

- 79E. The subject premise must operate with windows and doors closed at all times.

- 9C. The built form of the hall is to be upgraded as advised by a relevantly qualified acoustic consultant so as to ensure that the ongoing use of the hall does not exceed the intrusive noise criteria (La90+ 5 decibels) as determined in accordance with the NSW Industrial Noise Policy.

An acoustic report and associated building plans are to be submitted to Council with an amended construction certificate.

- 60A. All works are to be certified by a relevantly qualified acoustic consultant specifying that the building envelope has been strengthened acoustically in accordance with the acoustic report and plans lodged with the construction certificate. Certification must be provided to the satisfaction of Council prior to the issue of any occupation certificate.

Amend:

35. Prior to a Construction Certificate being issued, submit to Council for approval, a detailed acoustic noise attenuation report from a suitably qualified and experienced acoustical consultant addressing the sound level output for all proposed activities associated with the use and running of the premise. The report shall address;

- * increase in floor area to church,
- * increase in floor area to new hall,
- * three (3) new workshops,
- * new kitchen,
- * two (2) new conference rooms
- * mechanical equipment; and

- * use of air conditioning units vs open windows/doors, etc.

The report shall demonstrate the sound level output not exceeding 5dB(A) above the ambient background level at the closest neighbouring boundary between the hours of 8.00am-7.00pm on weekdays and Saturdays, 8.00am-8.00pm on Sundays and Public Holidays; and

Outside the above specified hours, the sound level output for all activities associated with the use and running of the premise shall not exceed the ambient background noise level.

65. Prior to an Occupation Certificate being issued, submit to Council for approval documentation from suitably qualified and experienced acoustic consultant certifying, that the noise control measures have been implemented as recommended in the acoustic report submitted with the Construction Certificate addressing noise impacts

- * increase in floor area to church,
- * increase in floor area to new hall,
- * three (3) new workshops,
- * new kitchen,
- * two (2) new conference rooms
- * mechanical equipment; and
- * use of air conditioning units vs open windows/doors, etc.

Will result in the satisfaction of the following requirements;

(a) The sound level output for all activities associated with the use and the running of the premise shall not exceed 5dB(A) above the ambient background level at the closest neighbouring boundary between the hours of 8:00am-7:00pm on weekdays and Saturdays, 8:00am-8:00pm on Sundays and Public Holidays.

(b) Outside the above specified hours, the sound level output for all activities associated with the use and running of the premise shall not exceed the ambient background noise level.

Conditions of Consent:

1. **OC1 - Act, Regulations and Environmental Planning Instruments Prevail**
- This modification to original Development Consent No 06/DA-372 endorsed 23 March 2007 is granted subject to compliance with the relevant requirements of the Environmental Planning and Assessment Act 1979 as amended ("the Act"), the Environmental Planning and Assessment Regulation 2000 ("the Regulation"), the Building Code of Australia ("the BCA"), Hurstville City Council's ("the Council's") Local Environmental Plan 1994, the following Development Control Plans:
 - a. No. 2 - Car Parking, effective 12/08/99
 - b. No.15 - Contaminated Lands, effective 05/10/99
 - c. No.18 - Crime Prevention Through Environmental Design, effective 26/06/01
 - d. No. 19 - Access and Mobility, effective 27/12/01

and Adopted Codes:

(i) Drainage and on site detention requirements - effective reprinted 26/11/04

except where varied by this consent.

2. **OC2 - Approved Plans** - The development shall be carried out in accordance with the details set out on the application form, supporting information received with the application and the schedule of plans and details below, except as amended by the conditions of this consent. A copy of the plans is stamped approved, and attached to this consent.

| Plan Number | Plan Date | Description | Prepared By |
|-------------------------|-----------|----------------------------|------------------------------------|
| 05977/06A Sheets 1-4 | 11 Dec 06 | Architectural | Draft Aid |
| A 1016/2 E | 2 Feb 12 | Main floor plan | Abrecon Designs and House Plans |
| A1016/3 E | 2 Feb 12 | Lower Ground Floor Plan | Abrecon Designs and House Plans |
| A1016/4 H | 21 Jun 12 | Elevations | Abrecon Designs and House Plans |

(This condition is amended as part of 06/DA-372REV01 and subsequently as part of 06/DA-372REV02)

3. The proposal must comply with the provisions of the Building Code of Australia. However, if this requires any changes to the external portion of the building it may require a Section 96 Modification to be lodged and approved with Council, prior to the issue of the Construction Certificate.
4. **OC3 - Amenity** - The implementation of this development shall not adversely affect the amenity of the neighbourhood by way of the emission or discharge of noise, vibrations, fumes, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.
5. **OC4 - Prescribed Conditions** - This development consent is subject to the conditions as prescribed pursuant to Section 80 A(11) and Section 85A(6)(a) of the Environmental Planning and Assessment Act 1979 and Clauses 98-98E of the Environmental Planning and Assessment Amendment Regulation 2000.

Erection of Signs

- (1) A sign must be erected in a prominent position on any work site on which building work, subdivision work or demolition is being carried out:
- (a) showing the name, address and telephone number of the principal certifying authority for the work
 - (b) showing the name of the principal contractor (if any) for any building work and a telephone number at which that person may be contacted outside working hours

- (c) stating that unauthorised entry to the work site is prohibited
- (2) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, and must be removed when the work has been completed.
- (3) This clause does not apply to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- (4) These signage requirements do not apply to in relation to Crown building work that is certified to comply with the technical provisions of the State's building laws.

6. HOI - Hoardings

- (a) A separate Development Consent for the erection of an A class (fence type) or B class (overhead type) hoarding along the street frontage(s) complying with WorkCover requirements must be obtained;
- (b) The payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges (available on our website) before the commencement of work; and
- (c) A Public Risk Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained a copy provided to Council. The Policy is to note Council as an interested party. The copy is to be provided to Council before the issue of the Construction Certificate.

To Obtain a Construction Certificate

7. The following must be submitted to either Council or an Accredited Certifier before a Construction Certificate is issued:

- (a) Fees to be paid to Council:

| Schedule of fees, bonds and contributions | | | | | |
|---|------|----------|-----------|--------------|------------|
| Fee Type | Paid | Fee Type | Amount | Receipt Date | Receipt No |
| Development Application Fee | X | DA1 | \$661.36 | 2 Aug 06 | 263431 |
| Plan First Fee | X | AP35 | \$105.60 | 2 Aug 06 | 263431 |
| Notification Fee | X | AP12 | \$100.00 | 2 Aug 06 | 263431 |
| Imaging Fee | X | AP165 | \$40.00 | 2 Aug 06 | 263431 |
| Long Service Levy | X | AP34 | \$577.00 | 2 Aug 06 | 263431 |
| Builders Damage Deposit | X | BON2 | \$3200.00 | 2 May 08 | 296544 |
| Inspection Fee for Refund of Damage Deposit | X | DA6 | \$92.00 | 2 May 08 | 296544 |
| Company Search Fee | | | \$20.00 | | |
| The following fees apply where you appoint Council as your Principal Certifying | | | | | |

| Authority (PCA). (If you appoint a private PCA, separate fees will apply) | | | | | |
|---|---|------|----------|----------|--------|
| Building Inspection Fees | X | DA6 | \$459.00 | 2 May 08 | 296544 |
| Occupation Certificate Fee | X | AP22 | \$74.00 | 2 May 08 | 296544 |

Fees and charges above are subject to change and are as set out in the version of Council's Schedule of Fees and Charges or as required by other Government Authorities, applicable at the time of payment.

8. **BI1 - Building Code of Australia ("BCA")** - A Construction Certificate must be obtained before the commencement of work from Council or an Accredited Certifier. Detailed plans and specifications for the proposed building must demonstrate compliance with the BCA.
9. **OC8 - Design Changes Required** - The following design changes are required and are to be incorporated into the plans to be lodged **with the Construction Certificate application**.
 - (a) A fully accessible toilet facility for disabled person must be provided on both the lower ground floor and the church/hall level of the building. These facilities must comply with AS1428.1.
 - (b) Two (2) disabled car parking spaces shall be provided on the site. These spaces shall be clearly line marked and shall be designed and located in accordance with AS2890.
 - (c) **The built form of the hall is to be upgraded as advised by a relevantly qualified acoustic consultant so as to ensure that the ongoing use of the hall does not exceed the intrusive noise criteria (La90+ 5 decibels) as determined in accordance with the NSW Industrial Noise Policy.**

An acoustic report and associated building plans are to be submitted to Council with an amended Construction Certificate.

(This condition is amended as part of MOD2016/0146 (06/DA-372))

10. **BI2 - Long Service Leave Levy** - Submit evidence of payment of the Building and Construction Industry Long Service Leave Levy to the Principal Certifying Authority. Note this amount is based on the cost quoted in the Development Application, and same may increase with any variation to estimated cost which arises with the Construction Certificate application. To find out the amount payable go to www.lspc.nsw.gov.au or call 131441. **Evidence of the payment of this levy must be submitted with the Construction Certificate application.**
11. **BD1 - Damage to Council Property** - In order to insure against damage to Council property the following is required:
 - (a) Payment to Council of a Damage Deposit for the cost of making good any damage caused to any Council property as a result of the development: **\$3,200.00**

- (b) Payment to Council of a non refundable Inspection Fee to enable assessment of any damage and repairs where required: **\$92.00**
 - (c) At the completion of work Council will inspect the public works, and the damage deposit will be refunded in full upon completion of work where no damage occurs. Otherwise the amount will be either forfeited or partly refunded according to the amount of damage.
 - (d) Prior to the commencement of work a photographic record of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal, shall be submitted to Council.
 - (e) Payments pursuant to this condition are required to be made to Council before the issue of the Construction Certificate.
12. Four (4) mature native trees shall be planted on the site. The trees shall be located so as not to interfere with any essential services, buildings or drainage infrastructure on the site or neighbouring sites.
13. DR11 - **Stormwater drainage plans** - Stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a qualified practising hydraulics engineer in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (1987) and Council's Stormwater Drainage Guidelines, shall accompany the application for the Construction Certificate.
14. Pursuant to Clause 94 of the Environmental Planning and Assessment Regulation 2000, the existing building must be brought into total conformity with the Building Code of Australia except, for the protection of openings in the external wall of the existing building. In this regard, construction plans that demonstrate compliance with the Building Code of Australia must be submitted to the Principal Certifying Authority. Should there be any non-compliance, an alternative method of fire protection and structural capacity must be submitted, with all supporting documents prepared by a suitably qualified person.
15. Should Council be appointment Principal Certifying Authority, in determining the Construction Certificate, all new building work must comply with the applicable deemed to satisfy provision of the Building Code of Australia. However, if an alternative solution is proposed it must comply with the performance requirements of the Building Code of Australia, in which case, the alternative solution must be fully detailed and supported with suitable evidence and expert judgement. Council will also require, if deemed necessary, for the alternative solution to undergo an independent peer review by either the CSIRO or the SSL (Scientific Service Laboratory). In these circumstances, the applicant must pay all costs for the independent review.
16. Access for persons with disabilities must be provided to the existing church, the proposed hall and workshops, and to all other areas normally used by the occupants in accordance with the requirements of the Building Code of Australia and AS 1428.1. Details must be submitted with the Construction Certificate application.

17. The proposed hall must not be used as a Place of Public Entertainment unless separate application under the provisions of Section 68 of the Local Government Act 1993, to carry out Entertainment as defined in the Local Government (Approvals) Regulations 1999 is made and approved by Council. The intended use of the hall must be clearly specified and submitted to the Principal Certifying Authority with the application for a Construction Certificate.
18. The Construction Certificate application must be accompanied by the following details, with plans prepared and certified by an appropriately qualified person demonstrating compliance with the Building Code of Australia:
 - * Mechanical ventilation system.
 - * Fire fighting services and equipment including hydrants, hose reels, sprinklers, portable fire extinguishers, emergency lights, exit signs, etc.
 - * Smoke hazard management system.
 - * Fire resistance levels of all building elements.
 - * Protection to wall openings that stand less than 3 metres from the boundary or fire source feature.
 - * Details of sanitary and disabled sanitary facilities.
 - * Provisions for an adequate number of exits and egress widths.
19. The new works on the site shall be constructed so that any use within those sections do not exceed the background noise level by more than 5dB(A) when measured at the boundary of the nearest residential premises. Details showing how compliance will be achieved shall be submitted with the Construction Certificate.
20. **SM3 - Construction Management Plan** - Submit to the Principal Certifying Authority a Construction Management Plan that clearly sets out the following:
 - (a) What actions and works that are proposed to ensure safe access to and from the site, and what protection will be provided to the road and footpath area from building activities, crossings by heavy equipment, plant and materials delivery, or static loads from cranes, concrete pumps and the like.
 - (b) The proposed method of loading and unloading excavation machines, building materials, formwork, and the erection of any part of the structure within the site.
 - (c) The proposed areas within the site to be used for a builder's site office and amenities, the storage of excavated material, construction materials and waste containers during the construction period.
 - (d) How it is proposed to ensure that soil/excavated material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways.
 - (e) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve - the proposed method of support is to be designed by a Chartered Civil Engineer with National Professional Engineering Registration 3 (NPER3) in structural design.
 - (f) A Soil and Water Management Plan detailing all sedimentation controls.

21. PN9 - No excavation, pier hole drilling, construction or the like may be carried out **before the issue of the Construction Certificate**.
22. PN10 - The site is not to be filled or excavated other than as strictly indicated on the approved plans.
23. PN11 - Details of all proposed retaining walls, including height, materials, finish and structure, must be submitted **with the Construction Certificate Application**.
24. PW1 - The developer must ensure that appropriate dust suppression measures are installed/utilised during the periods of excavation/placement of fill/construction. Details of the means of dust suppression must be submitted **with the Construction Certificate application**.
25. PW4 - The developer must take all measures available to control the emission of dust from the site and in this regard adequate watering equipment acceptable to Council shall be used on the site at all times other than in wet weather. The developer must ensure that the contractor is able to control emission of dust from the site on weekends when windy conditions prevail. Details to be submitted **with the Construction Certificate application**.
26. PW5 - The developer must submit a site works plan detailing sedimentation controls, fencing, builders site sheds office and amenities, materials storage and unloading arrangements **with the Construction Certificate application**. This is required before the commencement of any work on-site, including demolition.
27. PW6 - **Vehicle Wash Bays** - All car washing shall be conducted in a roofed and bunded wash bay, with pre-treatment approved by Sydney Water, graded to a drainage point and connected to the sewer. Evidence of approval of the system by Sydney Water to be submitted **with the application for a Construction Certificate**.
28. FP3 - **Trade Waste** - A Trade Waste Agreement with Sydney Water must be obtained. If no trade waste agreement or grease trap is required, a letter from Sydney Water is to be submitted to Council to this effect. A copy of the Trade Waste Agreement or letter to Council shall be provided **before the issue of the Construction Certificate**.
29. PU1.1 - **Sydney Water - Access to Water and Waste Water Services** - A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Co-ordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, as it can take some time to build water/sewer

pipes and this may impact on other services and building, driveway or landscape design.

The Notice of requirements must be submitted **with the application for a Construction Certificate.**

30. PU2 - **Sydney Water** - The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Water assets sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the web site www.sydneywater.com.au for:

- * Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- * Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.

or telephone 13 20 92.

31. IN3 - **Fire Safety Measures** - Prior to the issue of a Construction Certificate a list of the fire safety measures that are to be provided in relation to the land and any building on the land as a consequence of the building work must accompany an application for a Construction Certificate, which is required to be submitted to either Council or an accredited certifier. Such list must also specify the Minimum Standard of Performance for each Fire Safety Measure included in the list. The Council or Accredited Certifier will then issue a Fire Safety Schedule for the building.
32. PU4 – **Energy Australia - Substations/Kiosks** Energy Australia shall be consulted to determine if an electricity distribution substation is required. If so, it will be necessary for the final film survey plan to be endorsed with an area, having the required dimensions as agreed with Energy Australia, indicating the location of the proposed electricity distribution substation site. The substation must be located within the boundary of the development site, or within the building, subject to compliance with the BCA. The substation site to be dedicated to Council as public roadway, or as otherwise agreed with Energy Australia. For details visit www.energy.com.au or call 131525:
- (a) written confirmation of Energy Australia's requirements is to be submitted before the issue of the Construction Certificate; and
 - (b) Energy Australia's requirements are to be met before the issue of the Occupation Certificate.
33. PU5 - **Energy Australia - Underground Electrical Conduits** - Energy Australia is to be consulted to determine if underground electricity conduits are to be installed in the footway. If so, the developer is to install the conduits within the footway across the frontage/s of the development site, to Energy Australia's specifications. Energy Australia will supply the conduits at no charge. The developer is responsible for compaction of the trench and

restoration of the footway in accordance with Council direction. . For details visit www.energy.com.au or call 131525.

- (a) A copy of Energy Australia's requirements is to be submitted to Council **before issue of the Construction Certificate.**
- (b) Where conduits are to be installed, evidence of compliance with Energy Australia's requirements is to be submitted **before the issue of the Occupation Certificate.**

Where works within the road reserve are to be carried out by the developer, a Road Opening Permit Application must be submitted to, and approved by, Council **before the commencement of work.**

34. Prior to Construction Certificate being issued, Submit to Council for approval, report from a suitably qualified and experience acoustical consultant detailing types of noise generated from the use and running of the premise and recommendations of noise attenuation works to ensure there will be no noise impact on adjoining residence.

The report is to specifically address use of premise including;

- * increase in floor area to church,
- * increase in floor area to new hall,
- * three (3) new workshops,
- * new kitchen,
- * two (2) new conference rooms,
- * mechanical equipment; and
- * use of air conditioning units vs open windows/doors, etc.

35. Prior to a Construction Certificate being issued, submit to Council for approval, detailed acoustic noise attenuation report from a suitably qualified and experienced acoustical consultant addressing the sound level output for all activities associated with the use and running of the premise . The report shall address;

- * increase in floor area to church,
- * increase in floor area to new hall,
- * three (3) new workshops,
- * new kitchen,
- * two (2) new conference rooms
- * mechanical equipment; and
- * use of air conditioning units vs open windows/doors, etc.

The report shall demonstrate the sound level output not exceeding 5dB(A) above the ambient background level at the closest neighbouring boundary between the hours of 8.00am-7.00pm on weekdays and Saturdays, 8.00am-8.00pm on Sundays and Public Holidays; and

Outside the above specified hours, the sound level output for all activities associated with the use and running of the premise shall not exceed the ambient background noise level.

(This condition is amended as part of MOD2016/0146 (06/DA-372))

36. Prior to Construction Certificate being issued, submit to Council for approval, plans and specifications for the garbage storage area.

The waste storage area must be:

- i) provided with a hose tap connected to the water supply;
 - ii) paved with impervious floor materials;
 - iii) bunded, graded and drained to a waste disposal system in accordance with the requirements of the relevant regulatory authority (Sydney Water);
 - iv) adequately ventilated (mechanically or naturally) so that odour emissions do not cause offensive odour as defined by the Protection of the Environment Operations Act 1997.
37. Prior to Construction Certificate being issued, submit to Council for approval, plans and specifications detailing locations of equipment, ductwork, flues etc for all mechanical equipment associated with premise including but not limited to mechanical exhaust systems to kitchen, fans, air conditioning units etc.
- 37A. Prior to the issuing of a Construction Certificate, the stormwater disposal system as outlined in Appendix 2 in the submission prepared by Engineer M Maran and received by Council on 17 April 2007 shall be noted on the Construction Certificate plans.

(This condition is added as part of Deferred Commencement approval 21 May 2007)

Before Commencing the Development

38. **IN3 - Appointment of Principal Certifying Authority** - No work shall commence in connection with this Development Consent until;
- (a) a construction certificate for the building work has been issued by:
 - (i) the consent authority; or
 - (ii) an accredited certifier; and
 - (b) the person having the benefit of the development consent has appointed a principal certifying authority for the building work; and
 - (c) the principal certifying authority has, no later than 2 days before building work commences:
 - (i) notified Council of his or her appointment;
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are required to be carried out in respect of the building work; and
 - (d) the person having the benefit of the development consent has:

(i) appointed a principal contractor for the building work who must be the holder of a contractor licence for the residential building work involved;

(ii) notified the principal certifying authority of any such appointment, and

(iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work;

and

the person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.

Note: If the Principal Certifying Authority is the Council, the nomination will be subject to the payment of a fee for the service to cover the cost of undertaking all necessary inspections and the issue of the appropriate certificates.

39. **BC1 - Construction Certificate - No work shall commence until you:**

(a) Obtain a Construction Certificate from Hurstville City Council - a fee applies for this service; or

(b) Lodge with Hurstville City Council any Construction Certificate obtained from an Accredited Certifier (together with associated plans and documents) - a fee applies for this service.

40. **BC2 - Notice of Commencement - No work shall commence until** you submit a Notice of Commencement (form attached or available from our website) giving Council:

(a) Not less than two (2) days notice of the date on which it is proposed to commence work associated with this Development Consent.

(b) Details of the appointment of a Principal Certifying Authority (either Hurstville City Council or an Accredited Certifier).

(c) Details of the name, address and licence details of the Builder.

41. Prior to the demolition or the carrying out of any building works, a certificate of adequacy from a practicing structural engineer must be submitted to the Principal Certifying Authority certifying the adequacy and structural stability of the existing building.

42. **BC3 - Site Safety Fencing** - Erect site fencing complying with WorkCover Guidelines, to exclude public access to the site throughout the demolition and/or construction work, except in the case of alterations to an occupied dwelling. The fencing must be erected before the commencement of any work and maintained through out any demolition and construction work.

43. **BC4 - Principal Certifying Authority (PCA) Sign** - A sign must be erected in a prominent position on the site indicating that entry to the site by

unauthorised persons is not permitted, and including the contact details of the PCA. Where Council is the PCA, a sign may be obtained at no cost from Council's Customer Service Centre. A PCA sign must be erected on the site **before the commencement of any work.**

44. PW2 - The developer must ensure that sediment-laden runoff from the site is controlled at all times subsequent to commencement of construction works. Sediment control measures must be maintained at all times and checked for adequacy at the conclusion of each day's work.
45. **ES1 - Erosion and Sedimentation Controls** - Erosion and sedimentation controls must be provided to ensure:
- (a) compliance with the approved Soil and Water Management Plan
 - (b) removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)
 - (c) all uncontaminated run-off is diverted around cleared or disturbed areas
 - (d) silt fences or other devices are installed to prevent sediment and other debris escaping from the cleared or disturbed areas into drainage systems or waterways
 - (e) all erosion and sediment controls are fully maintained for the duration of demolition/ development works
 - (f) controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadways
 - (g) all disturbed areas are rendered erosion-resistant by turving, mulching, paving or similar
 - (h) all water pumped or otherwise removed from excavations or basement areas is filtered to achieve suspended solids/non filterable residue levels complying with the *Australian Water Quality guidelines for Fresh and Marine Waters*
 - (i) pumped or overland flows of water are discharged so as not to cause, permit or allow erosion
 - (j) compliance with the Do it Right on Site brochure requirements publicated by SSROC

before the commencement of work (and until issue of the Occupation Certificate).

46. PU6 - **Energy Australia - Clearances to Electricity Mains** - If any part of the proposed structure, within 5m of a street frontage, is higher than 3m above footway level, Energy Australia is to be consulted to determine if satisfactory clearances to any existing overhead High Voltage mains will be affected. If so, arrangements are to be made, at your cost, with Energy Australia for any necessary modification to the electrical network in question. For details visit www.energy.com.au or call 131525.
47. ST1 - **Structural Details** - Structural plans and specifications prepared and endorsed by a suitably qualified practising structural engineer shall be submitted to the Principal Certifying Authority for any of the following, as required by the building design:

- a. Piers
- b. Footings
- c. Slabs
- d. Columns
- e. Structural steel
- f. Reinforced building elements
- g. Retaining walls
- h. Stabilising works

before the commencement of work.

48. **PU11 - Water, Waste Water, Electricity, Gas and Telecommunications -** Arrangements are to be made with utility authorities in respect to the services supplied by those authorities to the development. The cost associated with the provision or adjustment of services within the road and footway areas is to be at the developer's expense.

During the Development

49. **IN3 -** The Principal Certifying Authority must carry out the last critical stage inspection and, as well, the Principal Certifying Authority, or another certifying authority, must carry out all other critical stage inspections, as are prescribed in the Environmental Planning and Assessment Regulation, 2000, together with the inspections required by the principal certifying authority and the undermentioned inspections:
- (a) All structural inspections,
 - (b) All inspections necessary to determine that the appropriate conditions attached to this consent have been complied with, and
 - (c) All inspections necessary to determine that the requirements of the Building Code of Australia are being met.

Where Council has been appointed as the principal certifying authority, an inspection fee will be paid in accordance with the Schedule of Fees and Charges. Inspection fees are payable for each and every inspection, whether an initial inspection or follow up inspection where remedial work has been necessary. Forty-eight (48) hours notice in writing, or alternatively twenty-four (24) hours notice by facsimile or telephone, must be given to Council when specified work requiring inspection has been completed.

Fee Required: \$459.00 where Council is the Principal Certifying Authority, payment before issue of the Construction Certificate.

50. **DD2 - Registered Surveyor's Report - Submit to the Principal Certifying Authority During Development Work**

A Registered Surveyor's Report must be submitted to the Principal Certifying Authority at each of the following applicable stages of construction:

- (a) Setout before commencing excavation.
- (b) Floor slabs or foundation wall, before formwork or commencing brickwork.

- (c) Completion of Foundation Walls - Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans.
- (d) Completion of Floor Slab Formwork - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi-storey buildings a further survey must be provided at each subsequent storey.
- (e) Completion of any Pool Formwork - Before concreting of pool shell, detailing the location of the pool relative to the adjacent boundaries and its height relative to the datum shown on the approved plans.
- (f) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.
- (g) Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey must indicate the reduced level of the main ridge.
- (h) Other.

Work must not proceed beyond each stage until the Principal Certifying Authority is satisfied that the height and location of the building is proceeding in accordance with the approved plans.

51. **PN1 - Hours of Operation for Building and Demolition Work** - Work in connection with the proposed development or building that involves the demolition of any existing buildings, any excavation or earthworks, the depositing of materials on the site, the removal of spoil and materials from the site or the erection of the building that requires the use of any tools (including hand tools) or any power operated plant or machinery that creates noise on or adjacent to the site shall only be performed between the hours of 7.00 am and 5.00 pm, Monday to Saturday inclusive. No work is to take place on Sundays, Good Friday, Christmas Day, and any public holiday.

Additionally, construction work on all buildings (except that on single dwelling houses and associated structures on the site of a single dwelling house) is prohibited on Saturdays and Sundays on weekends adjacent to a public holiday.

A Penalty Infringement Notice may be issued for failure to comply with this condition.

52. **BC5 - Bulk Excavation or Filling Levels** - The bulk excavation or filling levels for footings or slabs, when placed, shall not exceed the levels as required by this consent. A surveyor's certificate verifying compliance with this condition must be submitted **before placement of concrete in footings or slabs**.

53. DE4 - **Ground Levels** - The ground levels of the site shall not be raised, or retaining walls constructed on the allotment boundary, except where indicated on approved plans or approved separately by Council.
54. PN4 - **Offensive Noise Generally** - The use of the premises, building services, equipment, machinery and ancillary fittings must not give rise to offensive noise as defined under the Dictionary of the Protection of the Environment Operations Act 1997.
55. LA8 - **Protection of Tree Roots** – During construction, protective fencing shall be provided around the existing trees and/or bushland to be retained.

This fencing shall encompass the maximum possible area covered by the drip line of the canopy to prevent damage to the trees and their root system by the movement of vehicles, the handling or storage of building materials, any excavation, filling, or the like. There is to be no storage of building materials, fill or equipment permitted under the canopy of trees retained on site. The Principal Certifying Authority is to approve on-site protection methods **before work commences and to ensure maintenance of those protection methods during construction works.**
56. PU8 – The electricity supply to the subdivision must be underground.
57. PA3 - **Prohibition of Burning Off** - No article, material or the like shall be ignited or burnt whatsoever on or in association with the work on the site.
58. PW3 - The developer must remove any material deposited on public roads, adjacent to the site, resulting from construction/subdivision works, immediately it occurs and as directed by Council.
59. RR6 - **Obstruction of Road or Footpath** - The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste bins or any other matter is not permitted unless approved in accordance with Council's Waste Skip Bin Policy. A Penalty Infringement Notice may be issued for any offence. A severe penalty applies.
60. RR7 - **Maintenance of Road and Footpath** - During construction, the footpath and road are to be maintained in a condition which prevents any trip or safety hazard to pedestrian or vehicular traffic.

Before Occupation

- 60A. All works are to be certified by a relevantly qualified acoustic consultant specifying that the building envelope has been strengthened acoustically in accordance with the acoustic report and plans lodged with the construction certificate. Certification must be provided to the satisfaction of Council prior to the issue of any Occupation Certificate.

(This condition is added as part of MOD2016/0146 (06/DA-372))

61. **Occupation Certificate (Class 1 to 10 buildings inclusive)** - The building must not be occupied or used until an occupation certificate is issued by the principal certifying authority appointed for the erection of the building.

Prior to the issue of the Occupation Certificate the principal certifying authority for the building work to be carried out on the site must be satisfied that:

- (a) any preconditions required by the development consent to be met have been met; and
- (b) such building work has been inspected by that principal certifying authority, or, in the case of all inspections other than the last critical stage inspection, by another certifying authority, on such occasions as are prescribed in the Environmental Planning and Assessment Regulation, 2000, and on such other occasions as may be required by the principal certifying authority and the conditions required by this development consent.

62. **Fire Safety Certificate before Occupation or Use** - Prior to the issue of an occupation certificate the owner of the building must issue a fire safety certificate and must cause a copy of that fire safety certificate to be given to the principle certifying authority issuing the occupation certificate. The fire safety certificate must be issued to the effect that each essential fire safety measure specified in the fire safety schedule for the building to which the certificate relates:

- (a) has been assessed by a properly qualified person, and
- (b) was found, when it was assessed, to be capable of performing to at least a standard required by the current fire safety schedule for the building for which the certificate is issued.

Note: The owner of the building:

- (a) must cause a copy of the fire safety certificate (together with a copy of the current fire safety schedule) to be given to the Fire Commissioner, and
- (b) must cause a further copy of the fire safety certificate (together with a copy of the current fire safety schedule) to be prominently displayed in the building.

63. WA7 - All rubbish and waste materials on-site must be removed before occupation of the premises/commencement of the approved activity.

64. Prior to Occupation Certificate being issued, submit to Council for approval documentation from suitably qualified and experienced acoustic consultant certifying, that the noise control measures as recommended in the acoustic report submitted with the Construction Certificate addressing noise impacts

- * increase in floor area to church,
- * increase in floor area to new hall,
- * three (3) new workshops,
- * new kitchen,
- * two (2) new conference rooms
- * mechanical equipment; and
- * use of air conditioning units vs open windows/doors, etc.

Comply with the following requirements;

- (a) The sound level output for all activities associated with the use and the running of the premise shall not exceed 5dB(A) above the ambient background level at the closest neighbouring boundary between the hours of 8:00am-7:00pm on weekdays and Saturdays, 8:00am-8:00pm on Sundays and Public Holidays.
- (b) Outside the above specified hours, the sound level output for all activities associated with the use and running of the premise shall not exceed the ambient background noise level.

(This condition is amended as part of MOD2016/0146 (06/DA-372))

64A. The efficacy of the existing stormwater drains and downpipes from the roof of the Church building shall be established to the satisfaction of the Principal Certifying Authority and where necessary the drains and pipes shall be cleared, repaired and connected so as drain roof waters to the drainage pit in Ponderosa Place.

(This condition is added as part of Deferred Commencement approval 21 May 2007)

After Occupation/Ongoing Conditions

- 65. The proposed hall shall be used for purposes ancillary to the church only and shall not be hired or let to any other person/s for private use.
- 66. PV14 - **Prohibited Parking** - Staff, company and visitors' vehicles must only be parked in the spaces provided on the subject premises and not on adjacent footpath or landscaped areas.
- 67. PV15 - **Disabled Parking** - The parking space(s) for disabled persons must be sized/marked/signposted in compliance with Australian Standard 2890.1-1993.
- 68. PV16 - **Obstruction of Parking and Manoeuvring Areas** - Goods and/or waste or extraneous material must not be stored in the vehicular manoeuvring and parking areas. Those areas must be kept clear at all times for the manoeuvring of vehicles.
- 69. PV19 - **Loading or Unloading** - The loading and/or unloading of all goods and materials used in conjunction with the development must take place within the property.
- 70. LA4 - **Parking on Landscaped Areas** - No vehicles, goods, materials or extraneous matter may be parked, deposited, or stored on any of the landscaped areas.
- 71. WA4 - **Handling of Waste** - No bottle, can or garbage disposal shall take place between the hours of 10.00pm and 8.00am daily.
- 72. WA5 - Service of trade waste bins must be carried out between 7.00 am and 7.00 pm. weekdays.

73. **EF3 - Annual Fire Safety Statement** - The owner of the building must issue an annual fire safety statement in respect of each essential fire safety measure in the building premises and cause a copy of that certificate to be given to Council within 14 days of its receipt by the owner.

The annual fire safety statement must be to the effect that:

- (a) in respect of each essential fire safety measure, such measure has been assessed by a properly qualified person and was found, when it was assessed, to be capable of performing:
 - (i) in the case of an essential fire safety measure applicable by virtue of a fire safety schedule, to a standard no less than that specified in the schedule, or
 - (ii) in the case of an essential fire safety measure applicable otherwise than by virtue of a fire safety schedule, to a standard no less than that to which the measure was originally designed and implemented, and
- (b) the building has been inspected by a properly qualified person and was found when it was inspected to be in a condition that did not disclose any grounds for a prosecution under Part 2, Division 7 of the Environmental Planning and Assessment Regulation, 2000.

The owner of the building must also cause a copy of the statement (together with a copy of the current fire safety schedule) to be given to the Fire Commissioner and as well cause a further copy of the statement (together with a copy of the current fire safety schedule) to be prominently displayed in the building.

74. ZC10 - The building exterior is to be maintained in a clean and neat manner, including the regular cleaning of windows. Any such window cleaning is to be done in an water efficient manner, for example no hosing of the windows is permitted.

- ~~75. ZC14 - Amplified music/public address systems must not be audible outside the premises, unless approved by Hurstville City Council.~~

(This condition is deleted as part of MOD2016/0146 (06/DA-372))

76. ZC2 - Only signage that is exempt under Council's *Development Control Plan No. 14 – Exempt and Complying Development* or has consent from Council may be affixed to the building. All signage must comply with Council's *Development Control Plan No. 23 – Advertising and Signage*. In particular:
- (a) window signs should be on the inside of the glass and must not cover more than one half of the window
 - (b) if a language other than English is used on the sign, there must be an accurate English translation in lettering of at least the same size
 - (c) signs should look professional (not handwritten) and must be securely fastened

- (d) signs, posters or notices must not be glued to any part of the exterior of the building
77. Washing of waste receptacles to take only take place wholly within approved garbage storage area.
78. All waste, empty bottles, cardboard, used cooking oil drums etc to be stored wholly within approved garbage storage area at all times with the exception of collection day/s.
79. The premise shall not give rise to 'offensive' noise as defined under the Protection of the Environment Operations Act 1997.
- 79A. The stormwater drainage systems shall be maintained so as to effectively discharge water to Ponderosa Place and minimise stormwater discharging across the site to neighbouring premises.
- (This condition is added as part of Deferred Commencement approval 21 May 2007 (Added as part of 06/DA-372REV01))
- 79B. The approved hall shall only be used for Church activities and is not permitted to be leased for commercial activities, functions or the like.
- 79C. **The subject premise must not be in use between the hours of 10.00pm and 7.00am Monday to Saturday and 10.00pm to 8.00am on Sundays and public holidays.**
- (Reason: To protect the amenity of the adjacent residential dwellings, including the potential for sleep disturbance through the closing of car doors in the car park)**
- (This condition is added as part of MOD2016/0146 (06/DA-372))**
- 79D. **The LAeq(15min) noise level emitted from the use of the subject premise must not exceed the intrusive noise criteria (La90+ 5 decibels) as determined in accordance with the NSW Industrial Noise Policy.**
- (This condition is added as part of MOD2016/0146 (06/DA-372))**
- 79E. **The subject premise must operate with windows and doors closed at all times.**
- (This condition is added as part of MOD2016/0146 (06/DA-372))**

Other Approvals - Section 78(5), Local Government Act 1993

Nil.

Advices to Applicant

80. **Consent Operation** - This consent operates from the date the original consent was endorsed, ie 23 March 2007, except as qualified by Section 93 of the Act.

This development consent will lapse unless acted upon within five (5) years from the date of the original endorsement, except as qualified by Section 99 of the Environmental Planning and Assessment Act 1979.

81. If you are not satisfied with this determination, you may:
- (a) Apply for a Review of a Determination under Section 96AB of the Environmental Planning and Assessment Act 1979. A request for review and the decision by Council of that request must be made within twenty-eight (28) days from the date of this Notice of Determination and be accompanied by the relevant fee in accordance with Environmental Planning and Assessment Regulations 2000 Clause 123I. You must ensure that an application for review of determination gives Council a reasonable period in which to review its decision having regard to the relevant issues and complexity of the application.

OR

- (b) Appeal to the Land and Environment Court within six (6) months after the date on which you receive this Notice of Determination, under Section 97AA of the Environmental Planning and Assessment Act 1979.
82. AD1 - **Dial Before You Dig** - contact Sydney One Call Service to ascertain which utility services are underground in the proposed excavation area, via details of:
- (a) street/house number and street name
 - (b) side of the street
 - (c) name of nearest cross street
 - (d) distance from nearest cross street

For more details visit www.dialbeforeyoudig.com.au or call 1100. You can find out the location of Council drainage pipes by contacting Council's Service Delivery Directorate.

83. AD2 - **Dividing Fences** - You must satisfy the requirements of the Dividing Fences Act before erecting any fencing on common boundaries. The Chamber Magistrate at the Local Court advises on the Dividing Fences Act, particularly for legal advice or disputes, and the Community Justice Centre can also assist with disputes.
84. AD3 - **Covenants** - irrespective of the terms of this consent you must make sure that covenants on the title of the property are complied with for proposed construction. For more details contact the Lands Department - www.lands.nsw.gov.au or call 9228 6713 or contact your Solicitor.
85. AD4 - **WorkCover Authority** - For premises which are/will be workplaces a copy of the approved plan to the WorkCover Authority shall be submitted to ensure that the proposal complies with WorkCover requirements. Where factory registration is required by WorkCover, a separate application to Council may be required for a statement of compliance with the egress

provisions of the Building Code of Australia. If so it is best to do so as soon as possible. For more details visit www.workcover.nsw.gov.au or call 131050.

86. AD5 - **Australia Post** - A mail box meeting certain position, dimension and height requirements must be installed to satisfy Australia Post. For more details visit www.auspost.com.au or call 131318.
87. AD6 - **Access for Persons with a Disability** - In addition to Development Control Plan no. 19 - Access and Mobility and the Building Code of Australia, the Commonwealth Disability Discrimination Act 1992 may impose greater obligations on providing access/facilities for disabled persons. For more details visit the Human Rights and Equal Opportunity Commission website www.hreoc.gov.au or call 9284 9600.
88. AD7 - **Tree Preservation** - Council's Tree Preservation Order prohibits the ringbarking, cutting down, lopping, removing, injuring, or the wilful destruction of any tree, that is 3 metres or more in height, have a girth of 30cm or more when measured 45cm above the ground and/or has a branch spread of 3 metres or more, except with the specific consent of the Hurstville City Council. Severe penalties apply for an offence.
89. AD8 - **Stencilling** - Colouring or stencilling of the footpath crossing within the road reserve is prohibited.
90. AD9 - **Construction Zone** - You may apply for a construction zone on the roadway adjacent to the site for the duration of the construction work, by way of written application and payment of fees detailed in our Schedule of Fees and Charges.
91. AD10 - **Energy Australia** - The minimum safe distance from overhead power lines shall be maintained in accordance with the requirements of Energy Australia. For details visit www.energy.com.au.
92. AD11 - Other approvals required - Where it is proposed to:
 - (a) Pump concrete from within a public road reserve or laneway.
 - (b) Stand a mobile crane within the public road reserve or laneway.
 - (c) Use part of Council's road/footpath area.
 - (d) Pump stormwater from the site to Council's stormwater drains.
 - (e) Store waste containers, skip bins, and/or building materials on part of Council's footpath or roadway.

an appropriate application for a Work (construction) Zone, a pumping permit, a hoarding, an approval to stand a mobile crane or an application to pump water into a public road, together with the necessary fee in accordance with Council's Schedule of Fees and Charges shall be submitted to Council and approval obtained before commencement of any of the those activities.

93. AD13 - A separate application must be lodged and approved under Section 68 of the Local Government Act 1993 for the erection of any A-Frames or signage boards proposed to be erected on Council's footway.
94. If you need more information, please contact Development Assessment Officer, IHAP Report – 977 Forest Rd Lugarno – MOD2015-0146

Peter Nelson on 9330-6156 during normal office hours.