

ITEM 5 DEVELOPMENT APPLICATION: UNITING CHURCH AND CHURCH HALL, 395-429 OXFORD STREET, PADDINGTON

FILE NO: D05-02194

SUMMARY

Date of Submission: 22 December 2005

Applicant: Uniting Church of Australia Property Trust NSW on behalf of Paddington Uniting Church

Proposal Summary: Permanent renewal of Place of Public Entertainment (POPE) for Uniting Church Hall and George Smith Memorial Hall, with hours of operation as follows: -

Church	
Monday to Thursday	6am – 10pm
Friday	6am – Midnight
Saturday	5pm – Midnight
Sunday	1pm – 10pm

Hall	
Monday to Thursday	7am – 10pm
Friday	7am – Midnight
Saturday	5pm – Midnight
Sunday	9am – 10pm

Attendance varies from 5-200 at either location, with total attendance at both locations not exceeding 200.

Under the previous temporary POPE for the site, there were two parking configurations in the Church's car park. A total of up to 150 patrons were permitted to attend the Church and Church Hall when 62 car parking spaces in the Church's car park were available. A maximum of 200 patrons was permitted when the car park was used on a valet parking basis (84 parking spaces in a stacked arrangement).

The current proposal increases the total maximum number of patrons permitted to attend the Church and Church Hall to 200 when 62 car parking spaces are available. When the car park is used on a valet parking basis, the maximum number of patrons attending the Church and Church Hall remains unchanged at 200.

Summary Recommendation:

Council did not receive any complaints during the 12 month trial. The Police have advised that they have not received any complaints and do not object to a permanent POPE. Seven (7) objections were received to this application concerned about hours of operation, noise from vehicles and patrons, parking and traffic, cumulative impact from activities in the area, the alcohol licence and the inappropriateness of the proposed activities for the site and zone.

Given the inconsistency between lack of complaints received during the 12 month trial period and concerns raised in response to the notification of the current application, the need to monitor a potentially disruptive use and the substantial noise attenuation works undertaken to the Church and Hall in response to condition 20 of U03-00702 for the 12 month trial period, it is considered appropriate to implement a further three year trial period of the POPE with the same operating hours as previously approved, with an increase in patron numbers from 150 to 200 when 62 parking spaces are used and maximum attendance remaining at 200 when 84 valet car park spaces are utilised.

Attachments:

- A - Site Location Plan
- B - Plans and elevations of the development as built
- C - Car Park Layouts from Temporary POPE (U03-00702)

RECOMMENDATION

It is resolved that consent be granted subject to the following conditions:-

SCHEDULE 1A

Approved Development/Design Modifications/Covenants and Contributions/Use and Operation

Note: Some conditions in Schedule 1A are to be satisfied prior to issue of a Construction Certificate and some are to be satisfied prior to issue of Occupation Certificate, where indicated.

(1) APPROVED DEVELOPMENT

Development must be in accordance with Development Application No. D2005/02194 dated 22 December 2005 and Statement of Environmental Effects prepared by dem, dated December 2005 and drawings numbered and as amended by the conditions of this consent:

(2) HOURS OF OPERATION

(a) The hours of operation in the Church must be restricted to between:

Monday to Thursday 6am-10pm

Friday 6am-midnight

Saturday 5pm-midnight

Sunday 1pm-10pm

(b) The hours of operation in the George Smith Memorial Hall must be restricted to between:

Monday to Thursday 7am-10pm

Friday 7am-midnight

Saturday 5pm-midnight

Sunday 9am-10pm

(c) The use may operate for a trial period of 36 months from the date of consent. The applicant is to notify the City of Sydney upon commencement of the use in accordance with this consent.

(d) A further application may be lodged to continue the trading hours outlined in (a) and (b) above before the end of the trial period. Council's consideration of a proposed continuation and/or extension of the hours permitted by the trial will be based on, among other things, the performance of the operator in relation to the compliance with development consent conditions, any substantiated complaints received and any views expressed by the Police.

(3) APPROVED USES

That the activities to be held in the Church shall generally be restricted as outlined in the following table:

Activity	Frequency of Occurrence	Maximum Attendance
▪ Religious music (eg. Time Out)	2 times per month	200
▪ Concerts of all types (eg. A Cappella, chamber music, jazz)	1 time per week	200
▪ Rehearsals of concerts	4 times per month	20
▪ Art Exhibitions	3 times per year	200
▪ Rehearsals for plays	4 times per year	20
▪ Plays (eg. Eastern Suburbs Musical Society)	1 time per year = 5-10 shows per week for 2-4 weeks	200
▪ Dance and Movement Classes	1 time per week	50
▪ Workshops (eg. Sydney Process Workers)	4 times per year	100
▪ Choir rehearsals	1 time per week	50
▪ Commercial Hirings	1 time per year	200
▪ Market Arts / Crafts / fashion events in Church	2-3 times per year	200

That the activities to be held in the George Smith Memorial Hall shall be restricted as outlined in the following table:

Activity	Frequency of Occurrence	Maximum Attendance
▪ Concerts	1 night per week	200
▪ Choir Rehearsals	1 time per month	50
▪ Sunday evening coffee shop	1 time per week	50
▪ Fundraising events for the church, with or without an alcohol licence	2 times per year	200
▪ Music Café (Café Carnivale with an alcohol licence)	2 times per week	200
▪ Private functions	2 times per month	200
▪ Corporate functions	6 times per year	200
▪ Filming of commercials etc.	6 times per year	25
▪ Fundraising events for non-profit organisations	6 times per year	200

An annual report is to be submitted to Council verifying compliance with this condition.

(4) OFF-STREET PARKING

That the parking needs associated with the application should be accommodated within the existing off-street car park. Any over-spill parking into the surrounding local street network is to be minimised through staff advising people making bookings to attend activities at the Church or Church Hall to park their vehicle in the car park, the employment of a site manager to facilitate appropriate car park usage and the provision of public transport information and timetables in the Church and Hall.

(5) CAR PARK CAPACITY

That except for weddings and funerals, the parking demand generated by activities held at the Centre should not exceed the capacity of the car park available to serve the Centre, that is 62 vehicles or 84 vehicles on a valet parking basis. The total attendance at activities held in the Centre (excluding weddings and funerals) will not exceed 200 persons.

(6) CAR PARK USAGE

That the car park can be used on a self-park basis on all occasions, except when it is used to accommodate the parking demand generated by stall holders at the Saturday market when it will be operated on a valet parking basis, subject to the Church encouraging and co-ordinating a car pooling system amongst its regular patrons and requiring this information to be passed onto anyone using the Centre.

That the Village Church Centre shall employ staff necessary to supervise operation of the car park for any activity expected to be attended by 100 persons or more, whether the car park is operated on a self-park or valet basis as follows:

Self Park 1 x car park supervisor

Valet 1 x car park supervisor + 3 x parking attendants

(7) POPE ACTIVITIES TO CEASE DURING CONSTRUCTION

That during construction of a mixed use building on 24-26 Gordon Street (existing car park) as approved on 7 August 1996 under Development Application U96-00149, the activities and uses relating to the Place of Public Entertainment License must cease until such time as the building is complete and the associated car parking spaces are available for use.

(8) CAR PARK STAFF

That car park staff will be in attendance at least 1 hour prior to the nominated commencement of an activity, and 1 hour after the nominated completion time of the activity.

(9) PUBLIC TRANSPORT INFORMATION

That public transport information on how to get to the site is provided on the back of tickets issued for activities and is provided within the Village Church Centre.

(10) ACOUSTIC ASSESSMENT

That the following on-going operational controls be carried out at all times:

- (a) Closure of the rear (southern) egress doors to the Church when used for any function except a conventional low-noise emission church service;
- (b) Lessee to provide security personnel to ensure ingress and egress only occurs through the nominated entrance(s) when loud music is being played;
- (c) Lessee to provide supervisory traffic wardens to monitor and control patron behaviour and activities in Gordon Street;
- (d) Lessee to provide appropriate monitoring or automated noise measurement and control equipment is installed or provided to ensure that the peak music levels within the venue are limited and appropriately controlled to maintain acceptable external limits;
- (e) The lessee's failure to comply with agreed contractual conditions constitutes a valid and accepted basis for the termination of the contract without financial penalty being imposed on the Village Church;
- (f) In the event that the lessee fails to comply, it will accept full responsibility for both the Council's and/or EPA's actions and subsequent outcomes that may be associated therewith.

(11) NO OTHER ACTIVITY PERMITTED DURING SATURDAY MARKETS

That no other activity shall be held in the Church Centre when the Saturday Markets are being held or when a wedding or funeral is being held.

(12) LOADING AND UNLOADING

That all loading and unloading of vehicles associated with the activities held in the Church Centre shall be conducted and completed within the approved hours of operation.

(13) AMPLIFIED MUSIC

That no amplified music shall be permitted to commence before 10.00am Monday to Sunday. However, activities which do not require amplified music are permitted before this time.

(14) PRESENCE OF SITE CARETAKER

That a site caretaker shall be present on site for the duration of all activities. The site manager shall ensure that the activities are carried out in accordance with the conditions of consent.

(15) OPERATOR RESPONSIBILITY FOR PATRONS LEAVING

That it shall be the responsibility of the operator of the premises to ensure that patrons, upon leaving the premises and the surrounding area, do so in a timely and non-disruptive manner.

(16) FIRE SAFETY AND EGRESS

This approval is granted without prejudice to any further action being taken under Section 121B of the Environmental Planning and Assessment Act 1979 (as amended), in respect of the provision of adequate fire safety and egress in the building.

(17) PLACE OF PUBLIC ENTERTAINMENT

- (a) The use of the premises (or subject part) for the provision of entertainment must not commence until such time as an application, pursuant to section 68 of the *Local Government Act 1993*, has been submitted to and approved by Council. The premises must comply with the requirements of the *Building Code of Australia*, in particular those relating to Places of Public Entertainment.
- (b) The provision of entertainment within the premises must cease after a period of 24 months from the date of the Place of Public Entertainment final approval under section 68 of the *Local Government Act 1993*. A further application may be lodged before the expiration of the 24 month trial period for Council's consideration.
- (c) Where a licensed premises holds, or obtains, a Place of Public Entertainment approval, each specific area to which the approval refers must display, in a prominent position, a sign which states the number of people the area is approved for as identified below.
- (d) That individual area capacities shall not exceed the following:
 - (i) The Church 200 people (including 8 entertainers and 8 staff)
 - (ii) The Hall 166 people (including 8 entertainers and 8 staff)

(18) COPIES OF APPROVALS AND MANAGEMENT PLANS

(19) NO SPRUICKING/AMPLIFIED NOISE

(20) BICYCLE PARKING

(21) NOISE - MECHANICAL PLANT

(22) SIGNS - SEPARATE DA REQUIRED

(23) REMOVAL OF GRAFFITI

SCHEDULE 1B

Prior to Construction Certification/Commencement of Work/Health and Building

Note: Prior to the issue of the Construction Certificate, sufficient information must be forwarded to the certifying authority (whether Council or a private accredited certifier) illustrating compliance with the relevant requirements of the Building Code of Australia (and a copy forwarded to Council where Council is not the certifying authority). If Council is to be the certifying authority, please contact the Building Unit to discuss the requirements prior to submission of the application for construction certificate.

(24) EXITS

That all doors serving as required exits or forming part of a required exit shall comply with the requirements of D2.21 (g) of the BCA.

(25) FIRE SAFETY MEASURES

That all existing essential fire safety measures shall be maintained in accordance with clause 182 of the Environmental Planning and Assessment Regulation 2000.

(26) NOISE – USE

(27) RECEPTACLES FOR CIGARETTE BUTTS

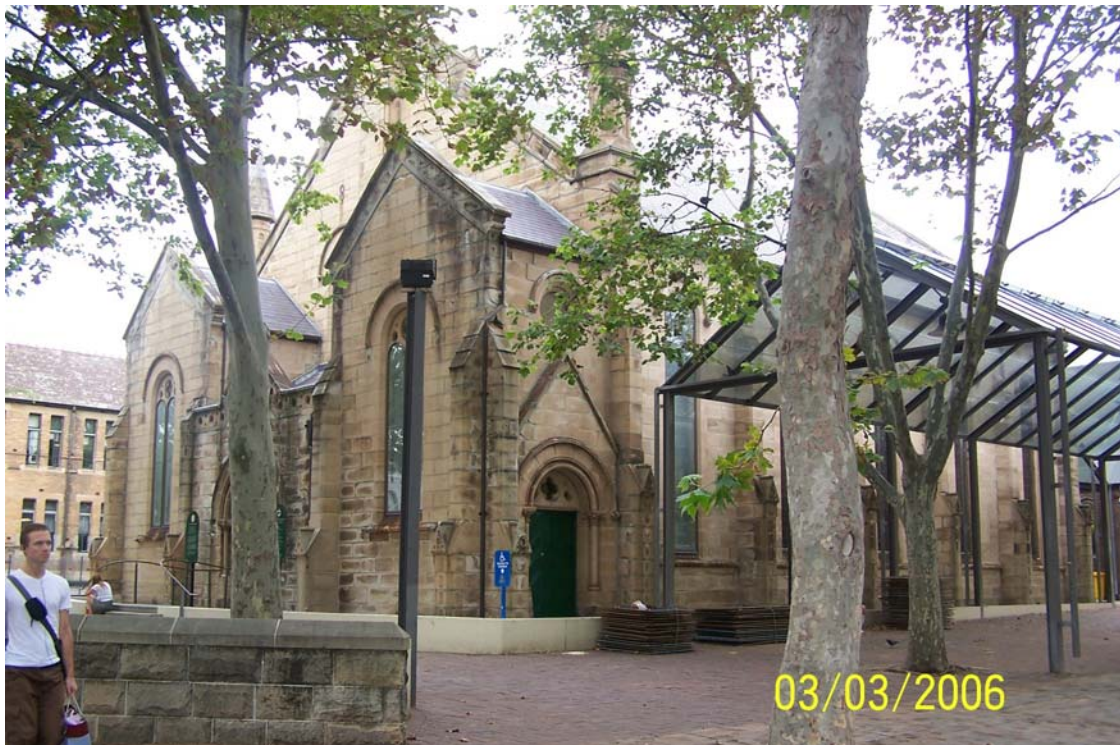
SCHEDULE 2

The prescribed conditions in accordance with Clause 98 of the Environmental Planning and Assessment Regulation 2000 apply to the development.

BACKGROUND

The Site and Surrounding Development

1. The Church Building and the Hall are listed heritage items under Local Environment Plan 1998 (LEP 1998) and are within the Paddington South Conservation Area.
2. The site is located at 395-429 Oxford Street and consists of the Paddington Uniting Church Building, the George Smith Memorial Hall and a separate car park. The Church and Hall are bound by Oxford, Newcombe and Gordon Streets and adjoin the Paddington Public (primary) School to the south-east. The car park is located on the corner of Newcombe and Gordon Streets at 24-28 Gordon Street. It is separated from the Paddington Uniting Church site by Newcombe Street.
3. The Church, Hall and car park are currently used by the Paddington Uniting Church in Australia for religious and community activities. Each Saturday the site area is used for the Paddington Markets. The market use approval relates to both sites being used together.
4. The land to the east of the site is zoned Special Uses 5 - School, the land to the south is zoned residential 2(b) and the land to the west is Mixed Uses 10. On the opposite side of Oxford Street to the north of the subject site, the properties fall within Woollahra Council Area and are retail/commercial shops fronting Oxford Street as well as a Hotel.
5. A Site Location Plan is provided in **Attachment A**.
6. Photographs of the site are provided below.



Uniting Church



George Smith Memorial Hall



Entrance to Church Car Park

History of Development Applications Relevant to this Site

7. On 24 February 1975 Development Application 409/74 was approved to use the Church grounds for Church bazaar purposes between the hours of 9.00am and 4.00pm on Saturdays only for a three (3) month trial period.
8. On 24 October 1977, Development Application 416/77 was approved for the use of the Church Hall as a community centre for public lectures, discussions, film showings, recorded music sessions and a refreshment room (in addition to usual Church activities) and operating between the hours of 10.00am and 10.00pm Monday to Saturday inclusive and 12.00 noon and 1.00pm Sunday. Consent to extend the hours of operation until 12.00 midnight Thursdays and Saturdays was granted on 9 April 1979. This consent is active.
9. At its meeting of 9 April 1979, Council resolved to refuse consent to extend the bazaar to operating on Thursdays between the hours of 2.00pm to 9.00pm on the grounds of noise and injury to the amenity of the neighbourhood.
10. On 10 March 1986, Council received notification that the Minister for Planning and Environment had made a Direction under Section 101 of the Environmental Planning and Assessment Act 1979 requiring that all applications for the purpose of retail markets be referred to him for determination.
11. On 27 March 1986 an application was submitted to Council to continue the operation of the Saturday Village Bazaar with up to 250 stalls operating between the hours of 10.00am and 4.00pm (and until 5.00pm during daylight saving periods) with loading during the periods 7.30am to 9.00am and 4.00pm to 5.00pm (5.00pm to 6.00pm during daylight saving) and to use the nearby parking area for associated parking for 79 vehicles between the hours of 7.30am and 6.00pm. At its meeting held on 5 May 1987, Council resolved to advise the Minister of Planning and Environment that it did not oppose the application. On 18 December 1987, the Minister for Planning and Environment granted conditional consent (Pursuant to Sections 100A and 101 of the Environment Planning and Assessment Act 1979) to the development application for the Saturday market use and associated car park.
12. On 7 August 1996 development consent was granted by Council for the construction of a new mixed use development and proposed alterations and additions to the existing Church and Hall. The alterations to the Church and Hall included new awnings and canopies, new kitchen amenities and skylight to the hall, new ceremonial church driveway off Oxford Street, new fencing, landscaping and drainage works. The development also involved the construction of a new mixed use development containing a place of assembly, refreshment room, two commercial premises, a residential flat building containing 19 units and two levels of basement car parking for 105 vehicles at 24-28 Gordon Street (existing market car park). The alterations to the Church and Hall were conducted in 1999 and have since been completed. As such this development approval has been substantially commenced and is therefore still active. The Church has indicated that they are hoping to start construction of the remaining part of the approval (to 24-28 Gordon Street) in the next one to two years.
13. On 10 March 2004 (U03-00702), Council (during Administration) granted consent for the use of the Uniting Church and George Smith Memorial Hall as a Place of Public Entertainment for a 12 month trial period. The permitted hours of operation were:

Church	
Monday to Thursday Friday Saturday Sunday	6am - 10pm 6am - Midnight 5pm - Midnight 1pm – 10pm
Hall	
Monday to Thursday Friday Saturday Sunday	7am – 10pm 7am – Midnight 5pm – Midnight 9am – 10pm

14. The total attendance at activities held at the Centre (excluding weddings and funerals) was not to exceed 150 people. However, this increased to 200 people if the car park was used on a valet parking basis.

Pre-Development Application Discussions

15. Limited pre-development application discussions have taken place with the applicant in respect of this development.

PROPOSAL

16. The permanent renewal of the recent 12 month approval for the use of the Uniting Church and George Smith Memorial Hall as a Place of Public Entertainment (POPE) . Development consent was granted on 10 March 2004. Two separate POPE licences were issued for the church and church hall. The POPE licence for the Church was granted on 9 December 2004 and for the Church Hall on 16 February 2005. Condition 2 of the DA consent specified that the use must cease after a period of 12 months from the date of commencement.
17. Work undertaken in accordance with conditions relating to the previous temporary POPE (U03-00702) to the Church include restoration of existing stained glass windows, improving acoustic performance of the primary and secondary access doors, acoustic treatment of sound locks, modification of Church reverberation time and supplementary treatment for the roof and ceiling. Works to the Hall include acoustic related alterations to the main western entrance doors, improving the sound lock at the base of the stair case, refurbishment of the double swing doors separating the entrance lobby from the main hall, repair and refurbishment of the northern window on stair case, alterations to the office and kitchenette doors and office windows, supplementary glass glazing panels to stained glass windows in the southern façade, under floor ventilation, kitchen exhaust silencer, refurbish stained glass windows to northern elevation, seals to emergency egress doors and acoustic panels to western wall.
18. The proposed permanent hours of operation for the Church are the same as previously approved, namely:

Monday to Thursday	6am – 10pm
Friday	6am - Midnight
Saturday	5pm – Midnight
Sunday	1pm – 10pm

19. The activities to be carried out in the Church include the following:

Activity	Frequency of Occurrence	Maximum Attendance
▪ Religious music (eg. Time Out)	2 times per month	50-200
▪ Concerts of all types (eg. A Cappella, chamber music, jazz)	1 time per week	50-200
▪ Rehearsals of concerts	4 times per month	10-20
▪ Art Exhibitions	3 times per year	50-200
▪ Rehearsals for plays	4 times per year	5-20
▪ Plays (eg. Eastern Suburbs Musical Society)	1 time per year = 5-10 shows per week for 2-4 weeks	50-200
▪ Dance and Movement Classes	1 time per week	10-50
▪ Workshops (eg. Sydney Process Workers)	4 times per year	20-100
▪ Choir rehearsals	1 time per week	10-50
▪ Commercial Hirings	1 time per year	25-200
▪ Market Arts / Crafts / fashion events in Church	2-3 times per year	5-200

20. The proposed permanent hours of operation of the George Smith Memorial Hall are the same as previously approved, namely:

Monday to Thursday	7am – 10pm
Friday	7am – Midnight
Saturday	5pm – Midnight
Sunday	9am – 10pm

21. The activities to be carried out in the George Smith Memorial Hall include the following:

Activity	Frequency of Occurrence	Maximum Attendance
▪ Concerts	1 night per week	25-200
▪ Choir Rehearsals	1 time per month	10-50
▪ Sunday evening coffee shop	1 time per week	10-50
▪ Fundraising events for the church, with or without an alcohol licence	2 times per year	50-200
▪ Music Café (Café Carnivale with an alcohol licence)	2 times per week	50-200
▪ Private functions	2 times per month	25-200
▪ Corporate functions	6 times per year	25-200
▪ Filming of commercials etc.	6 times per year	5-25
▪ Fundraising events for non-profit organisations	6 times per year	25-200

22. It is proposed to continue the POPE use on the basis of details outlined in the approved Plan of Management (U03-00702) and as amended by the consent to U03-00702.
23. There are no physical works proposed with the current application as all required acoustic and fire upgrading was carried out according to the previous consent.
24. The Church and Hall are served by a car park located at the north-western corner of Gordon and Newcombe Streets with vehicular access via a combined entry/exit driveway off Gordon Street. This car park can accommodate up to 84 vehicles when it is used for 'valet' parking and 62 vehicles when it is used as a 'self-park' car park.
25. The proposal includes increasing the maximum number of patrons to the church and church hall when the car park is utilised on a self – park basis from 150 up to 200 people utilising 62 spaces. The maximum number of patrons to the church and church hall when the car park is utilised for valet parking remains at 200 people utilising 84 spaces in a stacked arrangement.
26. Plans and elevations of the development as built are provided in **Attachment B**.

IMPLICATIONS OF THE PROPOSAL

Section 79C Evaluation

27. An assessment of the proposal under Section 79C of the Environmental Planning and Assessment Act 1979 has been made, including the following:-

Section 79C(1)(a) Environmental Planning Instruments, DCPs and Draft Instruments

STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs)

28. The proposed development is not subject to any relevant State Environmental Planning Policies.

LEP'S AND DCP'S

29. The following Local Environmental Plans are relevant to the proposal:

South Sydney Local Environmental Plan 1998

30. Compliance of the proposal with the LEP controls is summarised below:

Development Controls	Permissible under South Sydney LEP 1998	Proposal as assessed under South Sydney LEP 1998
Planning Principles (Part 2)	Development is to be considered having regard to the goals and objectives within the Strategy for a Sustainable City of South Sydney	The proposed development application satisfies the Strategy. Refer to issues section of report.
Zoning Controls (Part 3)	5 – Special Uses Church	The development is permissible.
Heritage Conservation (CI 22 to 27)	Development is to satisfy certain heritage requirements.	There are no physical works proposed.
Urban Design Principles and Master plans (CI 28)	Development is to satisfy urban design requirements.	There are no physical works proposed.

South Sydney DCP 1997

31. Compliance of the proposal with the DCP controls is summarised below:

Matter to be Considered	Compliance	Comment
PART B: URBAN DESIGN PRINCIPLES		
Urban Villages, Public Spaces and Pedestrian Networks <i>Section 3</i>	✓	Complies: Signage clearly marks the entrances to the car park.
Sustainable, Healthy Environment <i>Section 4</i>	✓	Complies: Noise, traffic and parking demand from the temporary POPE have been found to be acceptable subject to conditions of consent and a 2 year trial period.

Matter to be Considered	Compliance	Comment
PART D: SOCIAL PLANNING		
Access <i>Section 2</i>	✓	Complies: Access is readily available to anyone wishing the centre
Cultural Issues <i>Section 4</i>	✓	Complies: The proposal provides a venue for various cultural performances, exhibitions, classes and gatherings.
Community Infrastructure <i>Section 5</i>	✓	Complies: The site is in close proximity to a range of bus routes running along Oxford Street.
Cumulative Impacts and Trade-Offs <i>Section 6</i>	✓	Able to comply: Concern has been raised about the impact of the proposal on parking and noise.
Economic Issues <i>Section 7</i>	✓	Complies: Up to 8 staff will be located in the Church and also the Hall.
Security <i>Section 9</i>	✓	Complies: The Plan of Management details staffing and security arrangements.
PART E: ENVIRONMENTAL DESIGN CRITERIA		
Parking , Access and Servicing <i>Section 1.6</i>	✓	Able to comply: Concerns have been raised regarding proposed parking arrangements and traffic.
Site Facilities <i>Section 1.9</i>	✓	Complies: Site facilities are already in place.
Signage <i>Section 2.6</i>	✓	Complies: Appropriate signage is in place.
Heritage and Conservation <i>Section 3</i>	✓	Complies: There are no works proposed as they were carried out as part of the previous application.
Visual and Acoustic Privacy <i>Section 4.1</i>	✓	Able to comply: The Church and Hall comply, however concern has been raised regarding noise generated by patrons and vehicles accessing/exiting the centre.
Safety and Security <i>Section 4.2</i>	✓	Complies: A condition of consent requires car park staff to be in attendance at least 1 hour prior to and 1 hour after a nominated activity at the centre.

Matter to be Considered	Compliance	Comment
Access and Mobility <i>Section 4.4</i>	✓	Complies: An accessibility report for the site finds that the proposal complies with Parts D3 and F2.4 of the BCA and related Australian Standard AS 1428.1.
Fire Regulations <i>Section 4.6</i>	✓	Complies: A condition of consent requires all existing essential fire safety measures to be maintained.
Operational Controls <i>Section 6</i>	✓	Able to comply: Concerns have been raised about the impact of a permanent POPE on parking and residential amenity.
PART F: DESIGN CRITERIA FOR SPECIFIC TYPES		
Shopping Streets <i>Section 5 to 5.5</i>	✓	Complies: Vehicular entry to the car park is located away from the main shopping street.

Development Control Plan (DCP) No. 11 – Transport Guidelines for Development 1996

32. DCP No. 11 seeks to encourage a reduction in the level of vehicular travel by reducing parking requirements and improving facilities for pedestrians, cyclists and public transport whilst still ensuring that an acceptable level of parking is provided on-site to minimise the unreasonable overflow of parking onto surrounding streets.
33. DCP No. 11 requires that a Traffic Management Report be submitted for development which is likely to have a significant impact on the surrounding parking, public transport or road system. Accordingly, a Traffic and Car Parking Assessment was submitted in support of the original application. The Report states that with the exception of weddings and funerals, the parking demand generated by the activities held at the Centre shall not exceed the capacity of the car park available to serve the Centre. A Parking and Traffic Management Plan Review has been submitted as part of the current application for a permanent POPE. The report finds that 200 people can be accommodated at the centre with the car park used in self-park mode.

ISSUES

34. The issues identified in the above instruments/policies as non-complying or requiring further discussion in the abovementioned tables are discussed in detail below:-

Strategy for a Sustainable City of South Sydney

35. One of the principal objectives of the LEP as stated in Clause 7 is to implement the goals and objectives contained in the Strategy for a Sustainable City of South Sydney. Clause 8 also provides that in assessing any development application that the Council must take into consideration the goals and objectives of the Strategy as they relate to the proposed development.
36. In order to realise the main goal of the strategy, a number of detailed strategies were developed and are grouped under sub-goals of Environment, Land Use and Transport, Character and Identity, Community Well-Being and City Management. An assessment of the development application reveals that it generally meets the relevant goals of the above strategies. There has been recent concern raised however with regard to noise, traffic and parking impacts of a permanent POPE. These issues are dealt with in detail in the issues section of this report.

Permanent Consent

37. The applicant seeks permanent consent for the use of the Uniting Church and George Smith Memorial Hall as a POPE.
38. Council in 2004 granted development consent for the use of the church and church hall for a POPE subject to a 1 year trial. This trial expired on 16 February 2006.
39. Council records reveal no complaints during the trial period to the POPE and the application was referred to the Police who advised that they also had not received any complaints during the trial period and raised no objections to granting of a permanent POPE.
40. As a result of the notification of this application concerns were raised by local residents in respect of hours of operation, noise, traffic and parking and the inappropriateness of the use in the zone it is considered appropriate to grant a further trial consent for a period of three (3) years. This will allow the Council to consider complaints made to the use during this time, compliance with ongoing conditions and monitoring of any change on nature of the uses.

Section 79C(1)(b) Other Impacts of the Development

41. The proposed development will not result in any significant additional impacts other than those already identified and discussed above.

BCA Matters

42. The BCA Classification of the building is Class 9(b).
43. The development is capable of satisfying the requirements of the BCA without significant modification.

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

44. The site is suitable for the proposed development. Site suitability has already been discussed in the table/issues section above

Section 79C (1) (e) Public Interest

45. The proposed development is generally consistent with the relevant controls. In this regard it is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being imposed on any consent.

POLICY IMPLICATIONS

46. Not applicable to this report.

FINANCIAL IMPLICATIONS - SECTION 94 CONTRIBUTIONS

Section 94 Contributions

47. The development is not subject to a Section 94 Contribution.

PUBLIC CONSULTATION

Section 79C(1)(d)

Advertising and notification

48. Adjoining and nearby owners and occupiers of buildings were notified of the proposal and invited to comment. In addition, notices were placed on the site and the proposal was advertised in the daily press in accordance with the provisions of the City of Sydney Notification of Planning and Development Applications Development Control Plan 2005.
49. Nine submissions were received, seven objecting to the proposal and two supporting it. The grounds for objection are summarised as follows:-
- (a) ***The proposed permanent development contravenes the current and long established zoning of the site. The application suggests that the proposed activities are ancillary to the Church use, but Café Carnivale with an alcohol licence for 200 people is not. The POPE is in conflict with the objectives of the "Special Uses" Zone.***

Comment: The proposed use is a permissible form of development because the "Special Uses" zone allows development to be carried out that is consistent with adjoining or adjacent land in the same or different zone.

- (b) ***The application dwells on the community activities and says little about the fact that the result will effectively be licensed premises with associated problems where liquor is served-theft, damage, noise. There are loud, drunk people coming from the direction of the Church yard on a regular basis. There is adequate nightclub type activity within 100 metres of this site.***

Comment: The proposed use is a permissible form of development. The applicant has submitted a plan of management and traffic management plan. The use has previously had a 12 month trial. During this time council did not receive any objections and police have raised no objections to the permanent renewal of the POPE. Given the concerns of the residents a further 3 year trial period is considered appropriate rather than granting a permanent POPE for the site.

- (c) ***The applicant states that they held a DA for the adjoining area of 24-28 Gordon Street for several levels of units which never proceeded. This DA has now expired and should not be used as a point of reference.***

Comment: This development approval has been physically commenced and is therefore still active.

- (d) ***The traffic management plan addresses the adequacy of parking but not the movement of traffic through the residential area at midnight.***

Comment: The parking and traffic management plan submitted with the original application concluded that traffic generated by activities held at the centre would be expected to approach and depart the centre via the arterial road system.

- (e) ***The acoustic report addresses noise from the buildings which appears to be adequately controlled, but does not address the noise created at midnight by 200 people (60-70 cars) leaving the area.***

Comment: A sign is erected at the exit of the car park requesting patrons to consider their neighbours and drive quietly. It is appropriate that council grant a trial period of three (3) years rather than a permanent POPE so that if Council receive complaints during this period they can be taken into consideration in any further extension of the POPE.

- (f) ***The proposed operating hours are in conflict with the traffic and parking amenities available in the vicinity. How many of the suggested dates clash with football, cricket, soccer, concerts etc at the cricket and football grounds which generate parking problems in the area?***

Comment: Traffic and parking associated with the Sydney Football Stadium and Sydney Cricket Ground when major events take place is managed by a Special Events working group attached to the State government. It is considered that these conflicts will not be on a regular basis.

- (g) ***The parking situation in South Paddington every Saturday is already strained due to the markets held at the Church site, particularly vehicles parked in one hour zones all day that are never booked. Could the markets continue after 5pm? Is there sufficient street parking for up to 200 people in the current application?***

Comment: A condition is included in the recommendation that does not allow any other activity to be held in the Church Centre when the Saturday markets are held or when a wedding or funeral is held.

- (h) ***The acoustic report in the application cannot be relied upon as a source of impartial or adequate information.***

Comment: Council officers have reviewed the acoustic report and consider the report addresses the application. It is recommended that a 3 year trial period be imposed so that the application can be reviewed in regards to compliance with the consent.

- (i) ***Commercial alienation of the site will impair the attraction of the area for tourism and damage its historic and heritage values. The village nature will be spoiled.***

Comment: It is considered that the historic and heritage value of the site remains for all visitors to appreciate.

- (j) ***Ample facilities nearby cater for public interest in businesses of the kind proposed by the Church.***

Comment: This is not a planning issue for consideration in this development assessment.

- (k) ***The Uniting Church has rate free land and the use of the school grounds, yet they have obtained a POPE licence and applied for a liquor licence.***

Comment: This is not a planning issue for consideration under section 79c of the Environmental Planning and Assessment Act, 1979.

- (l) ***The restrictions on the number of patrons related to the number of car spaces should remain as they were originally approved because conditions can easily change on Oxford St and if another venue becomes popular, then Oxford St will be fully parked. Patrons of the church site would use residential streets to park if the car park was also full.***

Comment: The recommendation includes a condition that only allows the applicant a 3 year consent for the POPE. It is considered that this addresses the concerns of the residents as car parking can be reviewed and take into consideration any changes that have occurred in the local area.

- (m) ***The non-church activities are commercially oriented and are unsuitable for a residential area. We are concerned that the proposal is a disguised attempt to achieve a commercially viable use for the site to enable sale in the Church's ongoing program of selling off underutilised Church properties.***

Comment: The use is a permissible form of development within the zone.

Submissions of support

50. Two submissions support the permanent POPE application on the basis that Eastside Arts provides at the Church, a venue for acoustic, less commercial performances that are generally available in the area with little or no background noise.

EXTERNAL REFERRALS

NSW Police

51. NSW Police was notified of the proposed development. NSW Police has advised that there have been no noise or parking complaints registered and that licensing police have not had any issues with regard to the operation of the temporary POPE or alcohol related incidents. The Police have no objection to a permanent POPE approval being granted.

Integrated Development

52. The proposal is not Integrated Development.

INTERNAL REFERRALS

53. The application was referred to Council's:-

- (a) Health Unit;
- (b) Fire Safety Officer; and
- (c) Transport Management Unit.

54. No objection to the proposed development was raised, subject to the imposition of appropriate conditions. Appropriate conditions have been included in the recommendation of this report.

RELEVANT LEGISLATION

55. The Environmental Planning and Assessment Act 1979.

CONCLUSION

56. The applicant seeks consent for a permanent POPE for the Church and Church hall, with hours of operation that are consistent with a previous 12 month trial of a POPE that recently expired.
57. During the 12 month trial period of the POPE, Council did not receive any complaints. Comments were also sought from the police who advised that they have not received any complaints and did not object to a permanent POPE.
58. Council received submissions from local residents in relation to the notification of this application concerned with hours of operation, noise, traffic and parking and the inappropriateness of the use in the zone. It is understood the use of the site for markets causes some tensions with residents in terms of amenity and parking difficulties. There is understandable concern about the uses of the site morphing into commercial as opposed to community based uses.
59. The use has the potential to disrupt residential amenity if not managed well. While the cultural benefits of the proposal are supported, the use allows ongoing conservation of the buildings and positive noise attenuation has occurred, the use and compliance with conditions requires ongoing monitoring. It is therefore appropriate to grant consent for this application subject to a further trial for 3 years. Council can then consider any complaints that are received with any further development application.

JASON PERICA

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