

## AGENDA - LPP

<b>Meeting:</b>	Georges River Local Planning Panel (LPP)
<b>Date:</b>	Thursday, 26 August 2021
<b>Time:</b>	10.00am
<b>Venue:</b>	Electronic Meeting
<b>Panel Members:</b>	Sue Francis (Chairperon) Michael Leavey (Expert Panel Member) Paul Vergotis (Expert Panel Member) Fiona Prodromou (Community Representative)

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<b>1. On Site Inspections – Carried out by Panel Members prior to meeting</b>	
<b>2. Opening</b>	
<b>3. Consideration of Items and Verbal Submissions</b>	
<b>LPP045-21</b>	<b>88-92 Botany Street Carlton (Lots 21, 22, 23 and 24 in DP87691) – DA2019/0644</b> (Report by Consultant Planner)
<b>4. LPP Deliberations in Closed Session</b>	
<b>5. Confirmation of Minutes</b>	

# REPORT TO GEORGES RIVER COUNCIL LPP MEETING OF THURSDAY, 26 AUGUST 2021

LPP045-21

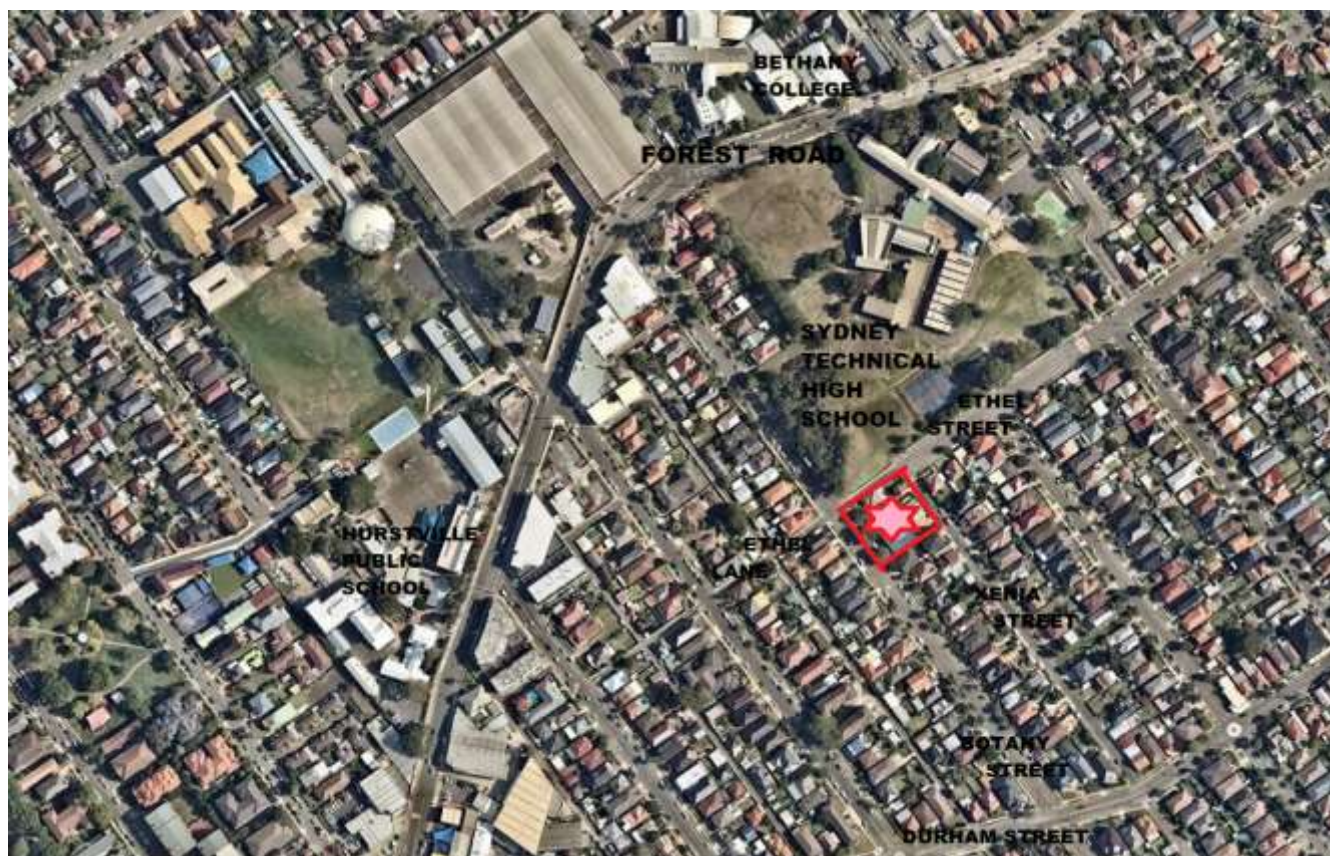
<b>LPP Report No</b>	<b>LPP045-21</b>	<b>Development Application No</b>	<b>DA2019/0644</b>
<b>Site Address &amp; Ward Locality</b>	88-92 Botany Street Carlton (Lots 21, 22, 23 and 24 in DP87691) Kogarah Bay Ward		
<b>Proposed Development</b>	Change of use and associated construction works, from a Nursing Home to a Place of Public Worship with community facilities		
<b>Owners</b>	Hurstville Community Centre Inc		
<b>Applicant</b>	Hurstville Community Centre Inc		
<b>Planner/Architect</b>	Fuse Architecture and Elton Consulting		
<b>Date Of Lodgement</b>	6/01/2020		
<b>Submissions</b>	4310		
<b>Cost of Works</b>	\$948,075.00		
<b>Local Planning Panel Criteria</b>	Exceeds 10 public submissions to a Place of Public Worship		
<b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>	Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy No.55 – Remediation of Land, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, Draft Remediation of Land SEPP, Draft Environment SEPP, Kogarah Local Environmental Plan 2012, Kogarah Development Control Plan 2012, Draft Georges River Local Environmental Plan 2020 and Draft Georges River Development Control Plan 2020.		
<b>List all documents submitted with this report for the Panel's consideration</b>	Statement of Environmental Effects, 20/12/19, Elton Consulting. Architectural Plans, 13/12/19, Fuse Architecture Plan of Management, 3/12/19, Elton Consulting. Transport Impact Assessment, 20/12/19, GTA Consultants DA Acoustic Report, 20/12/19, Renzo Tonin & Associates. Access Report, 2019, Vista Access Architects, Draft Plan of Management dated 3 December 2019 and amended on 7 September 2020, 14 October 2020 and 14 July 2021, Waste Management Plan, December 2019, Dickens Solutions. Soil & Water Management Plan, 9/12/19, Global Project Engrs. NCC Assessment Report, 18/12/19, Credwell Consulting. The following documents submitted on behalf of submitters – Koikas Acoustics report dated 17 March 2020, Day Design Acoustic Report dated 9 August 2021; Traffic and Parking review by The Transport Planning Partnership dated 6 March 2020		
<b>Report prepared by</b>	Consultant Planner		

<b>Recommendation</b>	That the application be approved in accordance with the conditions referenced at the end of the report.
<b>List of Attachments</b>	The following attachments are found on Council's LPP page: Attachment 1 – Locality Photographs Attachment 2 – Architectural Plans

	Attachment 3 – Landscape Plans Attachment 4 – Plan of Management Attachment 5 – Acoustics Assessment Report Attachment 6 – Amended Statement of Environmental Effects Attachment 7 – Amended Light Spill Assessment Report Attachment 8 – Amended Traffic Letter Attachment 9 – Amended Arborist Report Attachment 10 – Traffic Report
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<b>Summary of matters for consideration under Section 4.15</b> Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	<b>Yes</b>
<b>Legislative clauses requiring consent authority satisfaction</b> Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed and relevant recommendations summarised, in the Executive Summary of the assessment report?	<b>Yes</b>
<b>Clause 4.6 Exceptions to development standards</b> If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	<b>Not Applicable</b>
<b>Special Infrastructure Contributions</b> Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	<b>Not Applicable</b>
<b>Conditions</b> Have draft conditions been provided to the applicant for comment?	<b>No</b>

## Site Plan



Subject site outlined in red

## EXECUTIVE SUMMARY

### Proposal

1. The proposal seeks development consent for alterations and additions and a change of use from an existing (vacant) nursing home (residential aged care facility) development at 88-90 Botany Street, Carlton to a place of public worship and community facility, requiring an internal fitout and demolition of a dwelling house at 92 Botany Street and construction of car parking to service the Place of Public Worship on that lot.
2. The land at 92 Botany Street currently accommodates a single dwelling house which is proposed to be demolished to provide additional on-site car parking. The final proposed on-site car parking accommodates 23 car spaces, one of which is to be a shared visitor/service bay. The proposal does not seek consolidation of the allotments.

### Site and Locality

3. The subject site has been used as a residential aged care facility for a number of decades, and also as a dwelling house. The surrounding locality is predominantly low density residential in nature and includes the Sydney Technical High School adjacent.

### Zoning and Permissibility

4. The proposal as a place of public worship and a community facility is currently permissible with consent under the Hurstville Local Environmental Plan 2012.
5. Places of public worship (POPW) are proposed to be a prohibited use within the R2 Residential Low Density zone under the recently exhibited Draft Georges River Local Environmental Plan 2020, where public exhibition closed on 31 May 2020. The Draft LEP

2020 is to be supported by a Development Control Plan which is proposed to include provisions relating to any proposed establishment of a POPW within the Georges River Local Government Area.

### Submissions

6. The application has been notified to neighbours and placed on public exhibition for an extended period of 123 days, from 29 January to 31 May 2020, to ensure suitable opportunity for public comment during the New Year period and also in response to the advent of the COVID19 pandemic restrictions. Council received a total of 3284 individual submissions and petition form letters against the proposal (this figure includes multiple submissions from the same people).
7. In response to public submissions and issues raised by Council, the Applicant provided additional information which amended the original operational procedures and this warranted a second public notification for a period of 76 days from 2 December 2020 to 12 February 2021. Council received a total of 1,026 individual submissions, pro-forma submissions and petitions.

### Conclusion

8. THAT the application be approved in accordance with the conditions referenced at the end of this the report.

### REPORT IN FULL PROPOSAL

9. This application seeks approval to carry out minor demolition, minor alterations and alterations to an existing residential aged care facility (88-90 Botany Street, Carlton) and demolition of an adjacent dwelling at 92 Botany Street, Carlton, to facilitate the development of a POPW and associated community facilities and car parking. The demolition of the existing dwelling house and garage at 92 Botany Street is to provide at-grade parking for the same POPW and associated community uses.
10. The proposal seeks to retain existing setbacks and locate the proposed car parking area away from neighbouring residential development. A maximum gross floor area of 1029sqm is proposed within the existing external building form of the original residential aged care facility.
11. The following key uses are proposed:
  - Ground Floor (652sqm) – Entry off Botany Street :
    - Female prayer room (approximately 91sqm as calculated)
    - Separate male and female senior community rooms
    - Separate male and female youth community rooms
    - Male and female bathroom facilities
    - Accessible bathroom
    - Staff kitchenette
    - Female washroom
    - Administration offices
    - One-bedroom short-stay accommodation for visiting clerics
    - 17 at grade car parking spaces (in the primary car park) and 2 accessed directly off Botany Street.

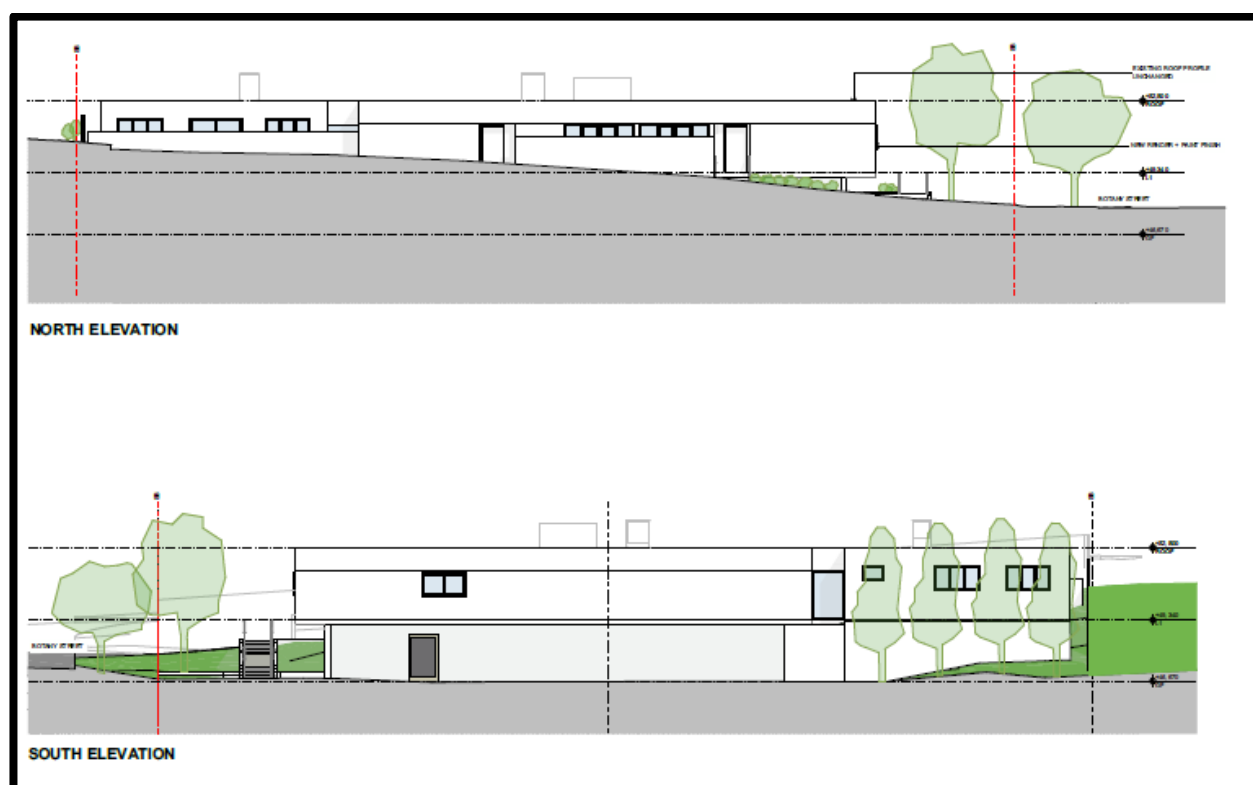


- Lower Ground Floor (357sqm) :
  - Administration office
  - Male prayer room (approximately 105sqm as calculated)
  - Storage area for chairs, tables, cleaning equipment and the like
  - Bathroom and accessible bathroom
  - 4 at-grade car parking spaces accessed off Xenia Avenue
  - Reading room/library
  - Male washroom
  - Lift and stair access will be provided between the floors.

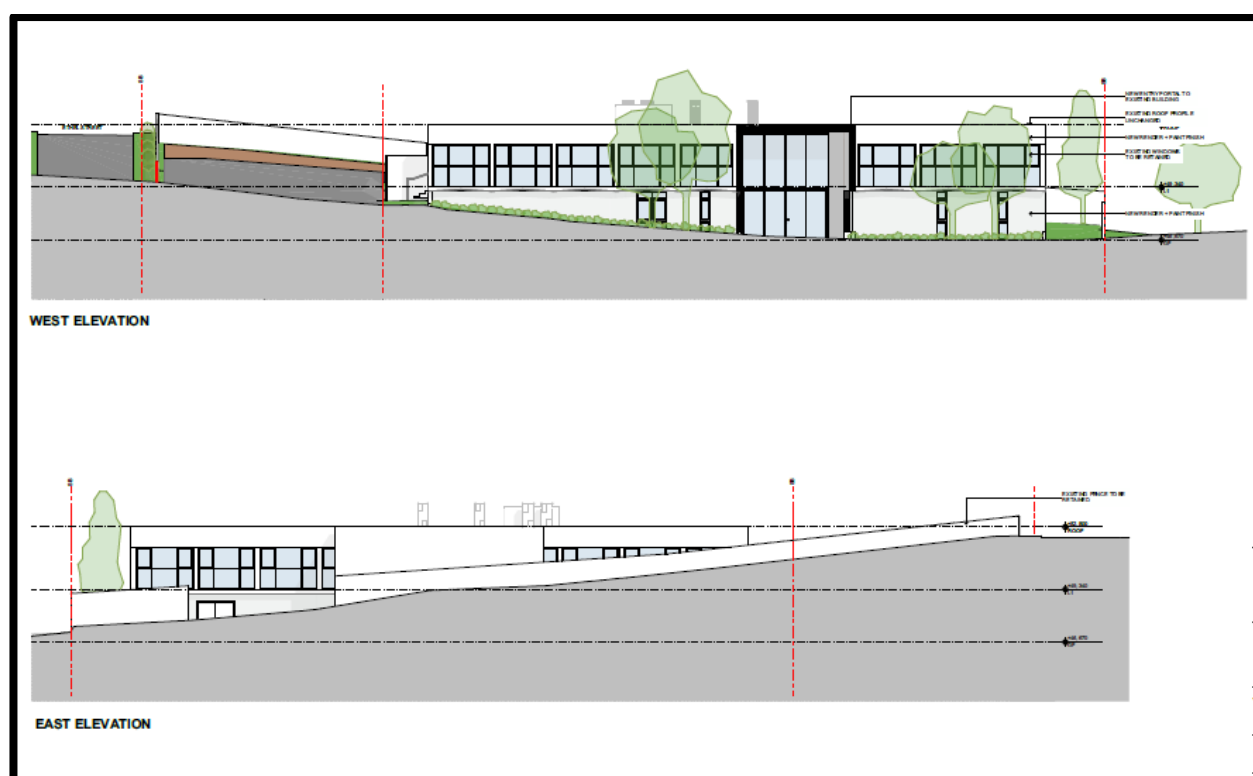
12. A site plan and elevation plans are included in Figures 1 to 3 below.



Figure 1: Site Plan (Source: Fuse Architects)



**Figure 2: North and South Elevations (Source: Fuse Architects)**



**Figure 3: West and East Elevations (Source: Fuse Architects)**

13. The application is accompanied by a Draft Plan of Management which sets out the guidelines by which the POPW and community facility would operate and the principles by which the Mosque officers/volunteers and worshippers would be expected to operate/behave when attending the subject land, having all due regard to the residential nature of the locality.

14. The general operational procedures of the proposed POPW/community facility will include:
  - a) typical operating capacity of 20 people up to a maximum capacity of 100 persons during weekly peak periods, principally being Friday prayers.
  - b) up to 10 times per year a maximum of 120 patrons will be permitted on the site, typically during festival periods such as Ramadan or concurrently with Friday Prayers. By correspondence dated 4 March 2020 Elton Consulting advised on behalf of the Applicant that these 120 person events are likely to be ...” *public holidays that occur for Easter and the annually celebrated Ramadan (first three days and last two days of Ramadan)*”.
  - c) Maximum of 20 persons attending early morning, pre-dawn 7am, prayers and late evening prayers, departing after 10pm, daily.
  - d) Applicant has confirmed that the EID celebrations will not be undertaken at the subject premises.
  - e) Additional traffic measures are proposed to be in place during peak operational times.
  - f) No *Call-to-Prayer*, using an external amplified system, is proposed from site.
15. The hours of operation are proposed to be between 5:30am and 9:55pm seven (7) days a week. During the period of 5:30am to 7:00am and after 6:00pm, it is proposed that additional noise mitigation measures (as recommended by the acoustic consultant and discussed further in this report) will be enforced and are incorporated into the recommended conditions.
16. It is proposed that the community rooms, which are proposed to be available to the wider community, will be closed during prayer times to limit/control the capacity of patrons attending the POPW. In accordance with the Draft Plan of Management submitted with the application, during high capacity periods staff will monitor and limit how many people will be admitted inside the premises. High capacity periods are expected to be Fridays and during Ramadan. EID and other special events, including weddings and funerals, will not be held at the Mosque in order to limit the potential impact on the neighbours. A condition is recommended regarding this in the proposed conditions of consent.
17. Service vehicles are proposed to access the site through the proposed car park at 92 Botany Street, and their timing will be coordinated to take place outside of prayer hours or off-peak periods. Waste collection will be from the kerb, with the staff managing the waste bins as required by Council’s waste collection services. The POPW will recycle materials where appropriate. A condition regarding this forms part of the proposed conditions.
18. **NOTE 1: RAMADAN** is the ninth month in the Islamic calendar, which consists of 12 months and lasts for about 354 days. The word “Ramadan” is derived from an Arabic word for intense heat, scorched ground and shortness of food and drink. It is considered to be the most holy and blessed month. Many Muslims (except children, the sick and the elderly) abstain from food, drink, and certain other activities during daylight hours in Ramadan. This is considered as the holiest season in the Islamic year and commemorates the time when the Qu’ran (Islamic holy book) is said to have been revealed to the Prophet Muhammad. In 2022 Ramadan will occur from 3 April to 2 May. From 2028 it is projected that Ramadan will occur during the summer season.
19. **EID** is a festive period under the Islamic Calendar which celebrates and recalls two events that are significant to the story of Islam:



- **Eid-al-Fitr** is the first day of the Islamic month of Shawwal. It marks the end of Ramadan, which is a month of fasting and prayer. Many Muslims attend communal prayers, listen to a *khutba* (sermon) and give *zakat al-fitr* (charity in the form of food) during Eid al-Fitr. Eid will be celebrated for three days from Saturday evening 3 May in 2022.
- **Eid al-Adha** is celebrated on the 10th day of the final month in the Islamic calendar. Eid al-Adha, is the “feast of the sacrifice.” It comes at the end of the Hajj, an annual pilgrimage by millions of Muslims to the holy city of Mecca in Saudi Arabia that is obligatory once in a lifetime, but only for those with means. Eid al-Adha recalls the story of how God commanded Ibrahim to sacrifice his son Ismail as a test of faith. Eid will be celebrated for four days from Friday evening 10 July in 2022.

Year	First Day of Ramadan	Last Day of Ramadan	Eid – al - Fitr Celebration 1	Eid – al – Adha Celebration 2
2020	April 24	May 23	May 24	July 31
2021	April 13	May 12	May 13	July 20
2022	April 3	May 2	May 3	July 10
2023	March 23	April 21	April 22	June 29
2024	March 11	April 9	April 10	June 17
2025	March 1	March 30	March 31	June 7
2026	February 18	March 19	March 20	May 27
2027	February 8	March 9	March 10	May 17
2028	January 28	February 26	February 27	May 5
2029	January 16	February 14	February 15	April 24
2030	January 6	February 4	February 5	April 14
2030	December 26	Jan 25 (2031)	Jan 25 (2031)	April 3

**Table 1:** Projected timings for Ramadan and EID celebrations 2020-2030

## THE SITE AND LOCALITY

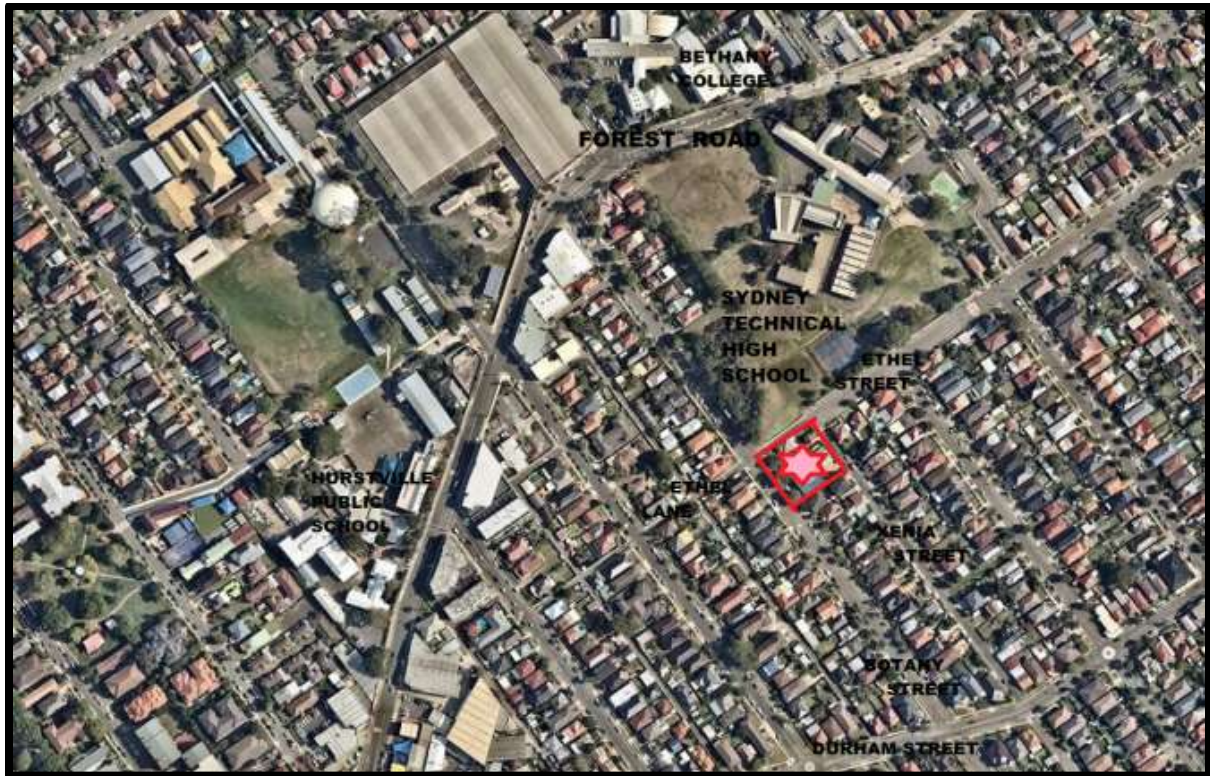
### Subject Site

20. The subject land is legally identified as Lots 21, 22, 23 and 24 in DP87691, being 92 Botany Street and 88-90 Botany Street, respectively. The total site area is 1,988sqm. The site falls by approximately 4m from the north to the south. The lot configuration is shown in Figure 4 below.



**Figure 4:** Lot Configuration of the Subject land (Source: Intramaps – Georges River Council)

21. The subject land is located on the north-east corner of the intersection of Botany Street and Ethel Lane, and is bounded by Xenia Avenue to the East with the following frontages:
  - Botany Street - western boundary (49m);
  - Ethel Lane – northern boundary (41m); and
  - Xenia Avenue – eastern boundary (49m).
22. The subject land is located in an area characterised by low density residential development. Directly to the north and across Ethel Lane from the site is the Sydney Technical High School, see Figures 5 and 6 below.
23. The site is also within walking distance, see Figure 5, of the Hurstville Public School to the east, Bethany College further to the north, past Sydney Technical High School, Allawah Train Station some 800m to the south east, Hurstville Train Station 1km to the west and Westfield Hurstville in the Hurstville City Centre.



**Figure 5:** Aerial View of Subject land (Source: Google Maps)



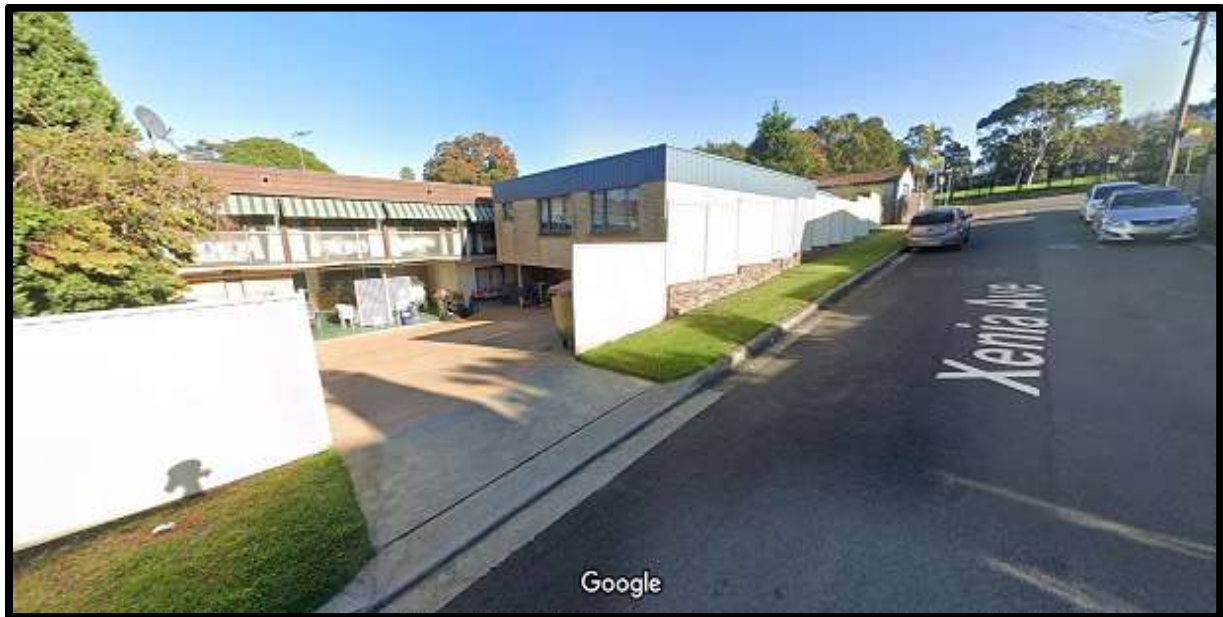


**Figure 6:** Aerial View of Subject land and buildings (Source: Google Maps)

24. Existing on the site at 88-90 Botany Street is a vacant two storey 21-room residential aged care facility, whilst on the northern allotment (92 Botany Street) a single storey dwelling house and garage exists (See Figure 4 above).
25. Separate driveway access to the aged care facility (two vehicle access points) and dwelling house (one access) is provided from Xenia Avenue, and a further third driveway access to the aged-care facility is provided from Botany Street. Seven (7) at-grade parking spaces are located on the residential aged-care site accessed from Xenia Avenue with pedestrian access provided from Botany Street. See Figures 7 and 8 below.



**Figure 7:** Street View of Subject land from Botany Street (Source: Google Maps)



**Figure 8:** Street View of Subject land from Xenia Avenue (Source: Google Maps)

26. On 12 February 2020 the site was inspected by the assessing officer to replace the official notification board which had been displaced. The inspection of the interior of the original residential aged care facility revealed that it is in a poor condition with water damage being evident. The exterior of the building appeared to be in reasonable condition capable of retention.
27. The site slopes down at a moderate gradient from the corner of Ethel Lane and Xenia Avenue. The existing building is close to the south east boundary of the property which adjoins two residential dwellings with a relatively small separation between the existing buildings. The site has three (3) street frontages being Botany Street, Ethel Lane and Xenia Avenue.

### **Surrounding Locality**

28. The subject land is located in an area characterised by residential low density one to two storey developments, apart from the nearby Sydney Technical High School. The architecture is a mix of early 20th century and newly built construction, see Figures 9 and 10 below.
29. Botany Street serves as a link road from Durham Street in the south, through to Forest Road in the north, also serving as the principal south connecting bus route servicing Sydney Technical High School. On this basis Botany Street is significantly busier during peak school hours drop-off/pick-up times being prior to 9:30am and between 2:30pm-4:00pm on weekdays.





**Figure 9:** Housing form in Xenia Street (Source: Google Maps)



**Figure 10:** Housing form on Botany Street (Source : Google Maps)

30. Botany Street falls from Forest Road in the north to Durham Street in the south, along a straight line which provides reasonable sight lines for vehicles entering from the east or west. It is noted that Ethel Lane, being a narrower lane width, intersection with Botany Street will have obstructed sight lines during the school peak periods where individuals park vehicles close to the intersection.

## **BACKGROUND**

31. The property is currently vacant and in a dilapidated condition. 92 Botany Street previously was a dwelling house with no significant background history of works. 88-92 Botany Street previously accommodated a residential aged care facility, providing 21 beds, known as the Botany Gardens Nursing Home. This residential aged care facility had operated from the premises for in excess of 20 years until ceasing its operations and had various applications for upgrading of the operations over many years.
32. It is noted that the Applicant, the Hurstville Community Centre Incorporated, is a registered Incorporated Association with the NSW Fair Trading. The site was acquired by the Applicant/landowner in 2019.
33. On 11 November 2019 a Pre-Lodgement Meeting for the establishment of a Place of Public Worship at the subject site was held between the applicant's representatives and Council Officers. On 2 December 2019, formal advice was issued from Council to the



applicant's architect regarding potential issues to be addressed as part of any development application which was in line with the matters raised at the meeting, namely:

- Implications relating to the proposed prohibition of POPWs under the Draft Georges River LEP 2020;
- Implications relating to the proposed development controls for POPWs under the Draft Georges River DCP Guidelines;
- Consideration is required to be given to the requirements for a Plan of Management as outlined under the Draft DCP Guidelines;
- Adequate details are required relating to security, lighting and fencing;
- Provision of a detailed Traffic Impact Study and a Parking Management Plan, having due regard to road safety impacts, based upon a predicted typical capacity of 90 persons, up to a maximum of 120 persons, and a prayer area of 190sqm;
- Submission of a detailed Arboricultural Impact Assessment (AIA) report which identifies all vegetation and trees to be removed whilst acknowledging Council Policy of replacing each tree removed with two (2) new trees as part of a landscaping plan;
- Submission of a schedule of the fire safety measures to be implemented in accordance with the requirements of the National Construction Code (NCC) prepared by an appropriately qualified building consultant;
- Submission of a detailed Acoustic Report prepared by a suitably qualified and experienced acoustic consultant;
- Preparation of an Odour Management Plan and assessment under relevant the relevant food premises Acts/Regulations where the community café and kitchen is pursued. In the final application the kitchen is not identified as a public facility but rather for internal use; and
- Submission of a stormwater report and flooding report based upon the acknowledgement that the land is partly inundated during storm/flood events.

34. The subsequent development application was accepted by Council on 6 January 2020 and placed on public exhibition from 29 January 2020.
35. Following a review of the documentation lodged with the application, a request for additional information relating to the requirements outlined in the Pre-Lodgement Advice was sought by Council on 27 February 2020. This additional advice related to:
  - a) The land was identified as being partially flood prone and the application was required to be accompanied by a submission prepared by a qualified hydraulic drainage engineer;
  - b) Submission of a POM which details the site operation calendar (including a daily calendar for all events), noting that the submitted POM provides approximate times for the daily prayers which would exceed the proposed 5:30am-10:00pm operating times for the POPW;
  - c) The application was required to be accompanied by an Arboricultural Impact Assessment Report; and
  - d) The application was required to be accompanied by a Landscape Plan which would include details of any replacement trees for any removed, at a rate of 2 per tree removed.
36. Council records reveal that this additional documentation was provided over a period of time up until 27 April 2020, through the lodgment of a modified SEE, Acoustic Report, Traffic Report responding to initial public submission issues and matters raised by Council.

37. It is further noted that on 29 April 2020, in response to public and Council concerns relating to early morning prayer times and potential amenity impacts, the applicant's planning consultant recommended the following change:

*Taking the above into consideration can we please request a 5.30am start with a maximum of 30 people present until 7am for a one (1) year probationary period from the date of the OC being issued. A complaints register will be maintained during this period and any specific complaints (if any) made in relation to the pre-7am prayer period will be noted. After the 1 year period, a modification application or new DA will be submitted to Council to extend or make permanent this trial period. This application can then be publicly notified and the community will have a further opportunity to comment on the impacts (if any) of the morning prayer.*

38. This request will be addressed in more detail within the body of the report, below, considering the likely noise and car parking issues and the practicality of policing this arrangement and the functionality of the Mosque prayer arrangements.

## **COMPLIANCE AND ASSESSMENT**

39. The proposal has been assessed under the relevant Section 4.15 "Matters for Consideration" of the Environmental Planning and Assessment Act 1979.

### **Environmental Planning Instruments**

#### Deemed State Environmental Planning Policy – Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment

40. The primary relevant aims and objectives of this plan are:

- *to maintain and improve the water quality and river flows of the Georges River and its tributaries and ensure that development is managed in a manner that is in keeping with the national, State, regional and local significance of the Catchment,*
- *to protect and enhance the environmental quality of the Catchment for the benefit of all users through the management and use of the resources in the Catchment in an ecologically sustainable manner,*
- *to ensure consistency with local environmental plans and also in the delivery of the principles of ecologically sustainable development in the assessment of development within the Catchment where there is potential to impact adversely on groundwater and on the water quality and river flows within the Georges River or its tributaries,*
- *to establish a consistent and coordinated approach to environmental planning and assessment for land along the Georges River and its tributaries and to promote integrated catchment management policies and programs in the planning and management of the Catchment,*

41. The stormwater design was referred to Council's Development Engineer for review. The disposal of stormwater is considered to be consistent with the Council requirements for the disposal of stormwater within the catchment.
42. In summary, the proposal is consistent with the aims, objectives or purpose of the Regional Plan if affected in accordance with the recommended conditions of consent.

#### State Environmental Planning Policy (Infrastructure) 2007

43. Clause 104 of the SEPP Infrastructure identifies, through Schedule 3, various forms of Traffic Generating Development requiring referral to the Department. It is noted that the

subject development is located greater than 90m from a Classified Road and does not propose a development with 200 car spaces off a local road. On that basis it is considered that the provisions of SEPP Infrastructure do not apply to the subject development.

#### State Environmental Planning Policy No 55 – Remediation of Land

44. Based on Council's records, the subject site has not been used for any potentially contaminating activities and has operated for many years as a residential aged care facility. As such, it is considered unlikely that the land has unidentified contamination issues. However, an unexpected finds condition forms part of the recommendation to ensure proper action in the event that unexpected materials are identified during works.

#### State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

45. The Vegetation SEPP regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
46. The Vegetation SEPP applies to clearing of:
- a) *Native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the Local Land Services Amendment Act 2016; and*
  - b) *Vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the council's development control plan (DCP).*
47. The objectives of the SEPP are to protect the biodiversity values of trees and other vegetation in non-rural areas and preserve the amenity of non-rural areas through the preservation of trees and other vegetation. This policy is applicable pursuant to Clause 5(1) of the SEPP as the site is within both Georges River Council and the R2 Low Density Residential zone.
48. Pursuant to Clause 8(1) of the SEPP, clearing does not require authority under the policy as it is a type of clearing that is authorised under Section 60O of the Local Land Services Act 2013 (specifically, that associated with a development consent issued under Part 4 of the Environmental Planning and Assessment Act 1979).
49. Although tree removal is proposed, a new landscape plan is provided and conditions are incorporated into the recommendation proposing replacement planting. The proposal is therefore considered satisfactory having regard to State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.

#### Draft Remediation of Land SEPP

50. The Department of Planning and Environment has announced a Draft Remediation of Land SEPP, which will repeal and replace the current State Environmental Planning Policy No 55 — Remediation of Land.
51. The main changes proposed include the expansion of categories of remediation work which requires development consent, a greater involvement of principal certifying authorities particularly in relation to remediation works that can be carried out without development consent, more comprehensive guidelines for Councils and certifiers and the clarification of the contamination information to be included on Section 149 Planning Certificates.

52. Whilst the proposed SEPP will retain the key operational framework of SEPP 55, it will adopt a more modern approach to the management of contaminated land. The Draft SEPP will not alter or affect the findings in relation to contamination at the site.
53. The site has a history of residential uses and as such, site contamination is not suspected. In this regard, no further assessment is warranted with regard to site contamination, and an unexpected finds condition is incorporated into the recommendation.

#### Draft Environment SEPP

54. The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property.
55. Changes proposed include consolidating the following seven existing SEPPs:
- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
  - State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
  - State Environmental Planning Policy No. 50 – Canal Estate Development
  - Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
  - Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No. 2-1997)
  - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
  - Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property
56. The proposal is not inconsistent with the provisions of this Draft Instrument.

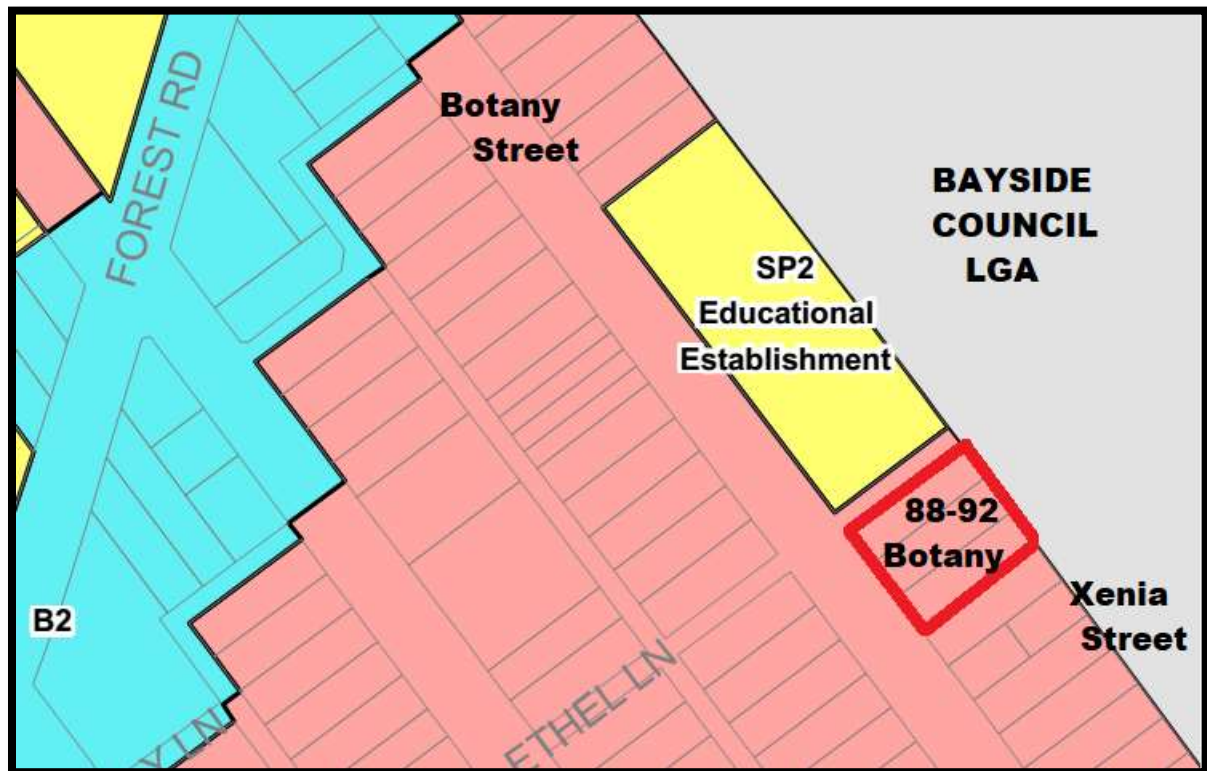
#### Hurstville Local Environmental Plan 2012

57. The subject land is zoned R2 Low Density Residential, see Figure 11 below, and the proposed development is defined as a *place of public worship* (POPW) and a *community facility* under Hurstville Local Environmental Plan 2012 (HLEP 2012). The HLEP2012 defines these uses as follows:

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

***“community facility*** means a building or place—

- (a) owned or controlled by a public authority or non-profit community organisation, and
  - (b) used for the physical, social, cultural or intellectual development or welfare of the community,
- but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.



**Figure 11:** Zoning Map extract from Hurstville LEP 2012 (Source: NSW Legislation)

58. For the purpose of assessment of the development application the proposal, as lodged, has been assessed with the primary use being a place of public worship (POPW) with secondary community facility activities to be conducted from the premises. A POPW and a Community Facility are both permissible uses within the R2 zoning.
59. The proposal is assessed against the Objectives for the R2 Low Density Residential zoning under the HLEP2012, as follows:
- *To provide for the housing needs of the community within a low density residential environment.*
60. Comment: Not relevant as proposal is for a permissible non-residential activity and does not seek to include residential accommodation as part of the development. However the permissible land use does not prevent this objective being achieved within the R2 Zone.
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
61. Comment: The proposed POPW and community facility functions of the development will provide services for the local Muslim community and the general wider community as part of the community facility operations.
- *To encourage development of sites for a range of housing types, where such development does not compromise the amenity of the surrounding area, or the natural or cultural heritage of the area.*
62. Comment: Not relevant as the proposal is for a permissible non-residential activity on a site that has operated previously as a commercial residential aged care facility. However the permissible land use does not prevent this objective being achieved within the R2 Zone.

- *To ensure that a high level of residential amenity is achieved and maintained.*
63. Comment: The proposal seeks to retain the existing built form on 88-90 Botany Street and to demolish the existing dwelling at 92 Botany Street in order to accommodate additional site car parking. This will remove a residential structure from the streetscape to be replaced by a hard stand area for car parking and some perimeter landscaping.
64. On this basis it is considered that the proposal will not be compliant with this objective as the site will have a semi-commercial appearance which may detract from the residential character of the locality. However, it is noted that the primary structures on the site constitute an existing built form that is not proposed to be substantively altered in external appearance as part of this application.
65. In general terms the carpark area is a necessity to service the development in a similar manner to car parking for other residential or permissible uses. In this instance, the non-residential use of 92 Botany Street is not unreasonable in this as perimeter landscaping is proposed. Further, the parking is proposed on a corner allotment, located away from the residential interface to the south.
66. In terms of amenity, conditions with respect to the application of a revised plan of management, tight regulation of the hours of operation (including prohibition of morning prayer on site), tight regulation of maximum capacity limits and appropriate infrastructure to monitor compliance with these requirements are recommended at the end of this report to ensure that residential amenity is maintained.
- *To encourage greater visual amenity through maintaining and enhancing landscaping as a major element in the residential environment.*
67. Comment: The proposal will introduce new landscaping, see comments in this report, including the embellishment of the existing landscaping of the residential aged care facility and perimeter landscaping around the proposed car park. This will be sufficient to comply with the intent of this objective, which requires that landscaping be a major element in a residential environment.
- *To provide for a range of home business activities where such activities are not likely to adversely affect the surrounding residential amenity.*
68. Comment: Not relevant to this proposal as the development does not propose a home business activity.
69. In addition to the above considerations, other provisions within the HLEP2012 applying to the subject development are addressed in the following table 2.

**Table 2:** Compliance with provisions of Hurstville LEP 2012

Clause	Standard	Assessment Under HLEP 2012
Part 2 – Permitted/Prohibited Development	R2 Low Density Residential	The application is for a place of public worship (POPW) and community facility. Both land uses are permissible within the zone. For the purposes of this assessment the primary land use is as a POPW. See Note 3 below.



		Note permissibility of community facility use under Draft LEP.
	Objectives of the Zone	The proposal although not being a residential land use, is considered generally consistent with the objectives of the zone.
4.3 – Height of Buildings	9m as identified on Height of Buildings Map	Complies. Remains as existing and height is not proposed to be altered.
4.4 – Floor Space Ratio	0.6:1 as identified on Floor Space Ratio Map	Complies. Proposed works are to be contained within the existing building form of the residential aged care facility and will involve demolition of existing dwelling. Overall FSR proposed as 0.52:1.
4.5 – Calculation of floor space ratio and site area	FSR and site area calculated in accordance with Cl.4.5	Complies
5.9 – Preservation of trees or vegetation	Consent is required for pruning or removal of specified vegetation	Council's consultant Arborist concurs with the Applicant Arborist with regard to the retention of the existing street trees and removal of existing on site trees where they are replaced 2 for 1 and raises concerns with protection of the trees within the subject design. Conditions are recommended to resolve this issue.
5.9AA – Trees or vegetation not prescribed by DCP	Any tree or vegetation to be removed that is not specified in DCP No.1	Trees are proposed to be removed to accommodate the carpark. It is noted that SEPP now deals with the assessment of such proposals.
5.10 – Heritage Conservation	There are no heritage items on or near the site and the site is not located in a heritage conservation area.	Not Applicable.
6.7 – Essential Services	<p>The following services that are essential for the development shall be available or that adequate arrangements must be made available when required:</p> <ul style="list-style-type: none"> <li>* Supply of water, electricity and disposal and management of sewerage</li> <li>* Stormwater drainage or on-site conservation</li> </ul>	<p>The site has operated as a residential aged care facility and dwelling for many years and is considered to be adequately serviced for essential services.</p> <p>Adequate facilities for the supply of water and for the removal of sewage and drainage are available to this land.</p> <p>A stormwater drainage report and plan accompanies the application.</p>

	* Suitable vehicular access	Appropriate stormwater disposal is proposed; see comments from Council's Stormwater Engineer.  Vehicular access from Xenia Street is proposed as this has been previously the prime access to the existing two developments.
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70. **NOTE 3:** The POPW is a permissible form of development under the Hurstville Local Environmental Plan 2012, however under the Draft Georges River Local Environmental Plan 2020, which has been publicly exhibited and is currently awaiting gazettal; a POPW will be a prohibited use within the R2 Zone. This issue is discussed in more detail within this report.
71. The proposal is generally in compliance with the objectives of the R2 Zone and the planning principals discussed at Table 2 and any minor inconsistencies relating to landscaping and tree removal are to be further addressed via suitable conditions of consent should the development be approved.

#### Draft Georges River Local Environmental Plan 2020

72. At the time of final drafting of this report the Draft Georges River Local Environmental Plan 2020 (DGRLEP2020) had been issued Gateway approval by the Department of Planning Industry and Environment (DPIE) and had been publicly exhibited with closure date for submissions being 31 May 2020. A final report to the Georges River Local Planning Panel has been undertaken and the Plan has now been referred to the Minister for final gazettal. On this basis the making of the Draft Plan is considered imminent and is a relevant document for consideration.
73. It is noted that Clause 1.8A of the Draft Plan is the proposed standard savings provisions relating to development applications, as follows:  
*If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.*
74. This clause provides protection for a development application which has been lodged prior to the making of the DGRLEP2020 where the activity sought is proposed to be made a prohibited land use, as would be the outcome for *places of public worship* in the R2 Low Density Residential zone.
75. Under the DGRLEP2020 Land Use Table of *Part 2 – Permitted and prohibited development*, the new land use table for R2 Low Density Residential proposes to prohibit *places of public worship* but still permit *community facilities*. The basis for this change is that *places of public worship* have been identified by Council as a use that is not compatible with a low density residential environment due to potential noise and traffic impacts that may be unresolvable in a local residential street environment (note: see relevant report to Council dated 1 May 2017), which also recommended the making of a development control plan setting standards for POPW's, where permissible in other zones.
76. These acoustic and traffic amenity matters have been raised by the general public as part of public submissions for the subject application and remain primary matters of

consideration and are discussed in detail further in this Report. It is noted that conditions are incorporated into the recommendation relating to provision of a robust plan of management, limited hours of operation (including removal of the proposed morning prayer) and conditions limiting, and allowing for the monitoring of, capacity, which it is considered substantively address these issues. The application has been assessed against the provisions of the draft POPW DCP below, and a tabulated assessment of the development against the proposed controls is at Annexure 1.

77. The proposed prohibition of a POPW within the R2 zone under the DGRLEP2020 is noted but the subject application is considered to be preserved via the provisions of Clause 1.8A of the DGRLEP2020, subject to an appropriate amenity assessment.
78. The objectives proposed for the R2 zoning under the DGRLEP2020 are:
  - *To provide for the housing needs of the community within a low density residential environment.*
  - *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
  - *To promote a high standard of urban design and built form within a landscaped setting that enhances the local character of the suburb and achieves a high level of residential amenity.*
79. It is noted that the POPW will be a prohibited land use under the DGRLEP2020, however, the proposed POPW/community facility is considered to be otherwise generally consistent with these draft objectives for the following reasons:
  - The proposal aims to contain the building form within the external shell of the existing residential aged care facility with only minimal new external works, including the reduction in building form on the land by the demolition of the dwelling house at 92 Botany Street, Carlton and creation of a new carpark and landscaping on that land;
  - The operation of the proposed POPW would provide a local Muslim religious service for the residents of the locality and the wider community on occasions, such as Friday lunchtime Prayers and during Ramadan;
  - The operation of the community facility activities will provide local community benefits and potential meeting place for the Muslim and wider community;
  - The provision of on-site car parking will ensue that for the majority of the POPW/Community facility operation, being normal daily prayers, adequate off-street car parking will be available. It is noted that the operations of the premises as a community facility is not detailed, however, the general restriction of a maximum of 100-120 persons on site at any time would ensure that no greater demand is placed on car parking than that originally assessed; including with respect to special events.
  - The proposed development seeks to retain the existing residential aged care facility form and on this basis the quality of design of the built form is considered acceptable, although the building is not considered to be a complimentary building form in this residential environment.
80. The proposal would be a prohibited development on the land under the DGRLEP2020 and thus would not be permitted should the Draft Plan be made, subject to the introduction of the Savings Clause provision. It is noted however, that the proposed POPW is a form of development that is generally consistent with the objectives for the R2 zone.

## Development Control Plan

### Hurstville Development Control Plan No 1 (DCP1)

81. A full assessment of the proposed development against the provisions of the DCP1 is attached at Annexure 2 of this report. The following is a detailed assessment of specific matters under DCP1.

#### Public Notification

82. The proposed development was lodged on 20 December 2019 and pursuant to Section 2.2.6 of DCP1, the proposal required formal public advertising as:
- d) Applications for places of public worship along with development considered to be contentious by the Director (such as child care, seniors living, school facilities and other development proposals) that are received between the 15 November and 2 January are to be notified as soon as possible and the exhibition period to be extended for a minimum 28 days after 15 January.*
83. On this basis, and consistent with Council's Community Engagement Strategy, the proposal was formally publicly notified from 29 January 2020 for a period of 29 days until the 26 February 2020. This notification period complied with the 28 day requirement under Section 2.2.6(d) of DCP1 and reflected Council Policy for public notification for development lodged during the holiday period, being 15 December to 15 January.
84. The period for general submissions was extended by Georges River Council until the 31 May 2020, being a total of 123 days, due to the evident public interest, the inadvertent impacts relating to the COVID 19 Virus within Australia and to incorporate the requirements of sub-section (f) of Section 2.2.6 of DCP1:
- f) An additional period of 7 calendar days, excluding public holidays, will be granted for persons to inspect an application pertaining to places of public worship (outlined in Category D) and make a submission. This extension is applied in addition to the timeframes outlined in (a), (c) and (e) above.*
85. This extended period for public submissions also provided opportunity:
- for public assessment of additional information lodged by the applicant during the interim period; and
  - to accommodate further public submissions following an information Webinar(16 May, 2020) held by the applicant to brief the public on the proposal.
86. As part of the public exhibition/notification the following was undertaken:
- Notification within the local newspaper the St George Leader;
  - Written notification placed on subject premises;
  - Notification on the Georges River Council website;
  - Publication on the Georges River Council website of an information page for this particular application;
  - Formal letter notifications to relevant agencies (eg NSW Police, and to Bayside Council with property adjoining the Georges River/Bayside Council boundary, being residences along the eastern side of Xenia Avenue).
87. It is further noted that during the exhibition period the proposed development also attracted wide spread public attention through a campaign of action by interested objectors, including reports in local internet media, which served the purpose of further informing the general public of the proposal.

88. At the close of the public submission period, being 31 May 2020, 3284 public submissions had been lodged on the proposal, including:
- formal written submissions of objection; and
  - petitions and pro-forma letters of objection.
89. An assessment of these submissions and relevant matters raised for consideration are further discussed in Annexure 3 and specific primary issues further in this report. These assessments include a review by the assessing planner of the issues raised by the community in the Webinar undertaken by the Applicant also in Annexure 3 of this report.
90. During the exhibition period additional information was requested by Council from the applicant in response to a number of issues raised within the public submissions and also in order for the completeness of the application to enable a detailed assessment. The documents lodged in response included a revised SEE, revised traffic report, revised acoustic report, an arborist report, landscaping plan and flooding report.
91. The subsequent documents and information submitted did not result in any amendments to the proposed building design. This additional documentation was submitted prior to the staging of the Webinar on 16 May 2020, and was available for public consideration prior to the closing date for public submissions, being 31 May 2020.
92. Based upon the above procedures and variety in method of public notification, including the applicants' public consultation as part of the Webinar process, extensive public engagement and notification has been undertaken to ensure appropriate public awareness and understanding of the proposal.
93. On 6 July 2020 a meeting between the applicant and Council officers was held to generally address the issues raised by the public during the public notification process and those identified by Council. The meeting concluded with the applicant proposing to consider the issues raised and possible amendment to the application. In September 2020 the Applicant submitted additional information and an amended concept which was publicly exhibited from 2 December 2020 to 12 February 2021.
94. At the close of the public submission period on 12 February 2021, 1026 public submissions had been lodged on the proposal.
95. An assessment of these submissions and any additional relevant matters raised for consideration are further discussed as part of the assessment under Annexure 3. The primary issues identified by objectors related to traffic generation, on-street car parking, noise impacts, public safety and hours of operation. These issues are addressed in detail as part of the Section 4.15 criterion of the Environmental Planning and Assessment Act, 1979 in this Report.
- Vehicle Access Parking and Manoeuvring:
96. Pursuant to Section 3.1.2 of DCP1 the purpose of this consideration is to achieve the following objectives:
- *to provide detailed parking requirements for individual land use categories*
  - *to provide measures to protect the natural environment*
  - *to ensure parking areas relate to site conditions.*
97. The proposal's compliance with these objectives will be addressed below.

Transport Impact Assessment – applicantOriginal Application Report

98. The application was supported by a Transport Impact Assessment (TIA), Issue B, prepared by GTA Consultants and dated 13 March 2020. This study undertook an assessment of the existing car parking and traffic conditions for this locality and conducted a peak period traffic count to assess the ability of this location to accommodate a *Place of Public Worship*. The TIA relied upon the following data to reach conclusions:
- SIDRA modelling for intersection and street traffic modelling;
  - Matrix Traffic and Transport Data for traffic movement along local streets over a 24 hour by three day period Wednesday 18 September 2019 to Friday 20 September 2019;
  - Matrix Traffic and Transport Data for traffic movement at intersections from 12:00-18:00 on Friday 20 September 2019; and
  - Matrix Traffic and Transport Data for on-street car parking for local streets over a 12:00-18:00 hour period on Friday 20 September 2019.
99. The TIA concluded that the site was suitable for the proposed POPW development on the basis that:
- a) although the site does not have capacity for the required car parking under DCP1, there would be sufficient car parking provided on-site (23) and available in the surrounding streets to support the development. The TIA found that the proposal had a requirement under DCP1 to provide 105 car spaces based upon 100 attendees and 1,047sqm floor space but argued that the assessment should be based upon solely the 190sqm of prayer room, being 19 spaces;
  - b) existing traffic at intersections and streets currently operated well, with minimal queues and delays, and that post an approved POPW development they would continue to operate satisfactorily;
  - c) overall demand for on-street parking was moderate at the busiest times of the day;
  - d) The site is reasonably serviced by public transport being within 800m of a train station (Allawah) and is serviced by buses (Routes 452, 455 and 947) along Botany Street and from as close as 50 metres of the site;
  - e) There are pedestrian facilities in the local area providing good connectivity to a variety of local destinations and public transport facilities; and
  - f) Adequate loading area is provided on-site to accommodate manoeuvring for small rigid trucks and vans/utilities.
100. The applicant's TIA further contended that, due to the nature of the use, that an assessment against the total floor space was impractical and should instead be assessed by the use of the building and any 100-120 person limit placed on attendees/worshippers. Using this criterion, it was argued that vehicle occupancy (based upon 90% of the 100 worshippers travelling by car) would be in the range of 1.5 to 2.5 persons per vehicle. This would generate between 36 and 60 cars per 100 persons, and where 120 persons attended it would increase to 43 and 72 respectively. The vehicles in excess of the 23 accommodated on-site, being up to 49 vehicles, would then be accommodated as on-street car parking in the locality, which would represent an uptake of on-street parking of approximately 50% of the identified typical vacant on-street parking in this locality.
101. This TIA conclusion was supported by the on-street car parking survey undertaken as part of the TIA assessment, as tabulated in Table 3 below. This illustrates that with a



minimum of 110 and maximum of 133 on-street parking available during the Friday Prayer period that the 49 car space requirement could be accommodated.

**Table 3: On-street Car Parking Availability 12:00 – 15:00 weekdays**

Street Parking Location	Calculated Car spaces Available	Minimum Car spaces Available	Maximum Car spaces Available
Xenia Avenue – West	20	15	16
Xenia Avenue – East	28	21	24
Ethel Street – North	17	14	15
Ethel Street – South	21	16	17
Botany Street – West	59	19	24
Botany Street – East	60	25	37
<b>TOTAL</b>	<b>205</b>	<b>110</b>	<b>133</b>

102. It was further noted that this peak situation would generally apply to the Friday midday prayers (and the 10 x 120 services proposed annually, primarily being the Ramadan festival period), whilst the remainder of the prayer services (being five daily including the Friday prayer session) would generate far less car parking requirements and result in minimal impact on street car parking.

Modified Report September 2020 Submission

103. In response to issues raised by public submissions in the initial public exhibition and to matters raised by Council, GTA consultants lodged an addendum to their original report responding to concerns, dated 2 September 2020. This addendum was supported by new car parking counts detailed as follows:
- Additional on-street parking counts completed for Friday 31 July, Wednesday 5 August, Thursday 6 August 2020, being three days during 2020 school term 3;
  - Count periods included the proposed 12:00pm to 2:30pm Friday lunchtime and 4:00pm to 10:00pm evening periods;
  - Car park count areas included the same areas as originally surveyed for the purposes of consistency and excluded Ethel Lane, Xenia Avenue and Fleet Streets. The revised survey was undertaken on the basis that car parking required to service the proposed Mosque could be adequately accommodated within Botany Street and Ethel Street only;
  - Demand along Botany Street and Ethel Street identified 60-90 vacant out of 160 available car spaces during the lunchtime prayer period;
  - Minor variations to on-street car parking between the original report survey (2019) and the additional survey (2020) and this has been attributed to the COVID 19 pandemic and general home occupation/isolation events.
104. Based upon these survey results the GTA addendum traffic report concluded as follows:
105. *“.....there is adequate capacity in the study area (and Botany Street and Ethel Street in isolation) to accommodate the minor additional parking demands associated with the proposed place of worship and for all prayer sessions including dawn, midday, afternoon, sunset and evenings.....*
106. *Overall, the parking survey data from 2020 is relatively consistent with that collected in 2019. The slight increase in demand is likely attributed to more people working from home due to the effects of COVID-19, with more students also typically arriving and departing school by private car. Hence, parking demand and traffic activity would*

*generally be expected to be higher now than under typical conditions. Irrespective, there is more than adequate capacity to accommodate the parking demands associated with the proposal.....*

107. *With surveys indicating about 75 vacant spaces on Botany Street and Ethel Street during weekday evenings, the absolute peak demand for on-street parking during these ten special events is estimated to be between 30 and 45 per cent of the remaining vacant spaces”*

Traffic Impact Assessment - Objector

108. As part of the assessment of the proposal on behalf of the Georges River Association who made a submission with respect to the application, The Transport Planning Partnership (TPPP) prepared a Traffic and Parking Review of DA2019/0644, dated 6 March 2020.
109. As part of the review TPPP carried out the following tasks:
- An automatic tube count to capture the traffic volumes and speeds on Botany Street, 30m north of Ethel Lane for 24 hours on a typical Friday;
  - An on-street parking survey to capture the existing parking demands within 250m walking distance from the site between 11:00am and 8:00pm on a typical Friday.
  - Inspected the site to appreciate the existing traffic conditions and to identify any operational deficiencies and road safety issues during the traffic survey period.
  - Estimated the parking demand for the proposed development based on Council requirements, surveyed car occupancy rates and the maximum possible praying area in the premises.
  - Identified road safety issues in relation to the patrons accessing the site.
110. It is noted that an on-street car parking vacancy survey was undertaken on Friday 21 February 2020 from 11:00am–8:00pm as part of the TPPP review. This illustrated that during the proposed peak Friday prayer time of 12:00-15:00pm, public on-street vacancies were between 94-102 equivalent car spaces which is not dissimilar to the findings of the TIA report. Thus this data would be supportive of the TIA conclusion that an additional 49 spaces projected for Friday prayer times could be accommodated on-street in this locality. It is also noted that available on-street car parking increases after 4:30pm so that by 8:00pm, 136 on-street spaces are available.
111. The TPPP review contends that the car parking requirement for the proposed POPW should strictly relate to the gross floor area, as per the requirements under DCP1, being a total of 1,040sqm equating to a 104 car spaces requirement.
112. In this instance, where corridors/foyers/car parking are excluded, an area of 566sqm is available for prayer in all rooms of the proposed building. This would generate the need for a minimum of 57 car spaces at 1 per 10sqm under DCP1. TPPP further contends that there remains potential for corridors/foyers/car park areas to be also utilised for prayers and this would increase the useable area to 877m<sup>2</sup> equating 88 car spaces under the DCP1.
113. Based upon an assessment of prayer mat availability, TPPP estimated 583 mats could be accommodated within the building (566sqm) and a further 319 mats could be accommodated in the corridors/foyers/car park areas (311.2sqm), for a total of 902 worshippers potentially accommodated onsite. An assessment of the car parking

requirement based upon prayer mats/seats at the DCP1 rate of 1 per 10 seats would equate to a requirement of between 59–91 car spaces.

114. In practice the likelihood of a small neighbourhood style mosque facility attracting 583–902 worshippers to a prayer event is questionable, particularly noting that no traditional functions or EID celebrations are proposed to occur at the venue apart from normal daily prayer times and Ramadan activities.
115. The TTPP review concludes that the proposed POPW is not suitable for this particular site considering the following:
  - Understatement of Gross Floor Area in DA as parking assessment was based on the prayer room area (190sqm). The total GFA of the building is 1,029sqm;
  - Understatement of possible maximum capacity as prayer area could include prayer rooms, community rooms and storage rooms. These areas could accommodate 583 people, well above the 100 people proposed in the DA.
  - Impracticality of the Plan of Management which is not easily enforced to cap the number of people on site attending prayers or attempting to attend prayers.
  - Insufficient parking provision as the DA proposed GFA is not consistent with the size of the building.
  - The car park cannot accommodate the projected parking demand and hence any overflow parking would impose negative impacts for nearby residents. Parking provision should be self-sufficient and contained within the site.
  - Deficiencies in the car park design including insufficient bay widths for Class 3 users (short term) and a lack of a 300mm clearance to obstructions. This would result in a reduction to the parking supply in the on-site car park with additional overflow parking to occur on the surrounding roads.
  - Estimated future traffic volumes well exceed the environmental capacity resulting in potential traffic congestion and pedestrian safety.
  - Road safety issues due to the high travel speeds, particularly after 10pm, on Botany Street and the narrow widths on Xenia Avenue and Ethel Lane.
  - The increase in traffic volumes in the narrow roads would enhance the safety risks with vehicles travelling in the opposite direction.
  - The lack of pedestrian facilities alongside these narrow roads would force pedestrians onto the roadway which would increase their exposure to traffic conflict.
116. TTPP had not, by the finalising of this report, responded to the modified GTA submission.
117. Nevertheless, this report has been prepared on the premise that TTPP does not support the GTA conclusions, and concludes that:
  - on-street car parking along Botany Street will be adequate to service the needs of the Mosque;
  - that this non-residential activity will have acceptable impacts upon local traffic generation; or
  - that a POM will not be an adequate mechanism to manage/enforce compliance with any conditions of consent that may be imposed.

Traffic Impact Assessment – Council Consultant

118. Council engaged the services of McLaren Traffic Engineering (MTE) to prepare an Independent Review of Traffic and Parking Impact Assessment of Proposed Place of Worship at 88-92 Botany Street, Carlton, which was submitted to Council on 16 April 2020. This review also had regard to the TTPP traffic/car parking review discussed above

(as submitted on behalf of the Georges River Association). The general conclusion of the review by MTE is summarised as follows:

*“(MTE).....does not support the proposed development on the basis of the inadequacies and shortcomings of the lodged documents together particularly related to the failure to accommodate the peak car parking demand fully within the site, contrary to Council’s controls.*

*The lodged TIA report does not address how the employed traffic marshals (that are stated to be employed in Section 5.3 of the lodged PoM) will manage where worshippers park on local streets.*

*Further, the lodged traffic report fails to address the impact of the 30 day duration of Ramadan, in terms of impact of generated traffic on nearby intersections, impact upon kerbside car parking usage and impact of employed traffic marshals that are to manage where worshippers park on local streets.*

119. This MTE Review contended that the documentation as lodged, relating to car parking, traffic and road safety assessment was at the time of preparation of the report generally inadequate and the supporting documentation, being the proposed Plan of Management, inadequately addressed the management of car parking and traffic concerns. The general issues of concern raised were summarised as:
- a) The TIA accompanying the application did not adequately respond to parking traffic matters raised under Hurstville DCP1;
  - b) The TIA does not address compliance with the AS2890.1-2004 or AS2890.2-2002 or AS2890.6-2009 relating to carpark layout requirements. The width of the car parking spaces needs to be either 2.5m or 2.6m wide for visitors, which will be the bulk of the car park users. Only staff and disabled car parking spaces and associated shared space can be 2.4m wide;
  - c) The TIA report failed to provide sufficient detail on public transport levels of service analysis for the start and end times of regular and Ramadan services.
  - d) On-street parking use in the locality was contrary to Design Solution DS1.3 and Table 2 of Hurstville DCP 2016, which requires no reliance upon on-street car parking in the R2 low density land use zone;
  - e) On-street parking use in the locality was contrary to Objectives (d) and (f) of the Draft PoPW guidelines 2017;
  - f) The use of on-street car parking supply within both Ethel Lane and Xenia Avenue, as recommended in the TIA report, would result in localised traffic congestion within Ethel Lane (between Botany Street and Ethel Street), at the intersection of Botany Street and Ethel Lane, at the junction of Ethel Lane with Ethel Street / Xenia Avenue as well as within Xenia Avenue. This is due to the very narrow 5m wide carriageway of Ethel Lane (between Botany Street and Ethel Street), which is extremely tight for opposing car traffic and is further compromised by the turning (swept path) needs of vehicles entering and leaving that road segment from both Botany Street and Ethel Street;
  - g) The use of on-street car parking supply within both Ethel Lane and Xenia Avenue, as recommended in the TIA report, would result in unsafe pedestrian traffic generation along Ethel Lane and the northern end of Xenia Avenue, as these road segments have inadequate and separated footpath provision, such that worshippers would have no option other than to walk along the road carriageway of these road segments, which is hazardous for both the walking worshippers themselves and drivers of approaching traffic;
  - h) The workability of a 100 person limit is questionable as turning patrons away once the limit has been reached actually fails the amenity, traffic congestion and

pedestrian safety tests as those patrons would have already travelled to the site and parked on-street near the site, undermining those controls;

- i) Clarification is required on the 100 patronage limit at any one time as to whether that includes worshippers, clergy, other staff (such as administration, kitchen etc), residents within the on-site residence and traffic controllers / marshals;
- j) A plan of the prayer mat layout should also be provided for the worship number that arises after excluding others that are on-site at the same time, based upon the 100 on-site person limit;
- k) On-street parking surveys, undertaken by GTA's surveyors on a single day, Friday 20 September 2019 from 12noon to 5:00pm at hourly intervals, is too coarse and misses short term parkers that use these areas when collecting children from Sydney Technical High School;
- l) A comparative survey method is required of similar Mosques particularly when strict application of the Council's car parking rate results in shortfall in car parking requirements if the GFA is used or if prayer mat layouts are prepared for the intended and potential prayer areas;
- m) The TIA external traffic impact assessment is inadequate as it fails to consider the following matters:
  - The arrival and departure times of worshippers is less than an hour and the generated traffic impact ought to be assessed as a concentrated load in 30 minutes, not in an hour;
  - The 30-day impact of Ramadan services that occur on weekday and weekend evenings on the shoulder of the typical weekday commuter peak period from 5:00pm to 7:00pm. The TIA report needed to address the impacts in the 30 minute prior and 30 minutes after the start and end times of these services;
  - Impacts should be assessed at the intersection of Ethel Street/Willison Road and Ethel Lane/Lily Street and Xenia Avenue/Durham Street as Willison Road, Lily Street and Durham Street directly links the kerbside parking area within these Streets that the TIA relies upon for spill over car parking demand.

120. On the basis of the above assessment and list of inadequacies of the TIA report McLaren Traffic Engineers had recommended that the proposal be refused.

#### Response to GTA Consultants Modified Report September 2020

121. MTE reviewed the GTA addendum response to issues and additional traffic survey findings of September 2020 and concluded as follows:

- a) *The traffic generation of 70 vehicle trips assumed in the GTA Report is generally acceptable, assuming that the prayer services are longer than one hour in duration.*
- b) *The traffic distribution adopted in the GTA report is reasonable and the road network surrounding the site is not highly sensitive to slight changes in traffic distribution which might require sensitivity testing.*
- c) *Whilst the SIDRA Intersection files have not been provided for detailed review, the results are generally consistent with expectations based on the traffic volumes associated with the proposed development.*
- d) *Whilst no analysis is undertaken for occasional prayers of up to 120 persons, it is not expected that this occasionally larger number of worshippers will cause any noticeable impacts on the local traffic network.*

122. Although MTE generally concurs with the findings of the GTA addendum report relating to the survey methodology and traffic generation/car parking issues for the development, there have been issues raised with the manner in which the operation of the Mosque can

be managed under a Plan of Management. MTE concluded the POM needs strengthening on the following matters:

- a) *“To monitor and limit the capacity of the development to the numbers proposed, it is proposed that a staff member shall stand at the entry door and count entries using a hand-operated counting device.*
- b) *When the capacity is reached, it is proposed that the door be closed and a sign be displayed with contact details for staff and the locations of other mosques in the surrounding area that may have capacity. A-frame signs are proposed to be placed at the vehicular entry to the mosque car park and at prominent locations such that drivers and pedestrians can see that the mosque is at capacity. A staff member will be stationed at the front and rear doors to prevent entry and to communicate with latecomers.*
- c) *It is unclear how a single staff member could undertake all of the above actions without assistance when a capacity of 20 persons is reached without the possibility of additional entries, particularly considering the dual road frontages and multiple car parking locations.*
- d) *Whilst it is feasible that the doors be closed to latecomers, the proposed management is retroactive and it is likely that the traffic and parking impacts of additional arrivals will occur irrespective of the measures proposed. Late-comers will still arrive at the mosque contributing to traffic and parking demands irrespective of whether they are permitted to enter.”*

123. These matters are procedural concerns relating to the effective operation of a POM should the proposal be approved and would rely upon the adequacy of the POM overall.

124. It is concluded that the advice by MTE generally accepts the conclusions of GTA addendum report, where the POM can be suitably structured to provide appropriate guidelines for staff to manage worshipper practices effectively, particularly relating to:

- procedures for car park closure upon attendance capacity being reached;
- notification to worshippers of the progressive attendance capacities for prayer sessions;
- procedures for staff to man doors and car park effectively upon attendance capacity being reached for any prayer sessions.

125. These procedural issues are matters that are proposed to be addressed conditionally as part of any consent and are further addressed in this Report as part of the assessment of the proposed POM.

#### Traffic Impact Assessment – Council Assessment

126. The three traffic and car parking assessments addressed above (GTA, TTPP and MTE) raised uncertainty as to how car parking numbers should be determined for the proposal (ie whether it should be based upon prayer room floor area, total gross floor area or projected seating numbers based on useable floor area).

127. It is noted that under Section 3.1 of Hurstville DCP No.1 the car parking rate for *places of public worship* is specified as:



**Table 4: On-street Car parking Availability 12:00 – 15:00 weekdays**

Section 3.1	Standard	Proposal	Complies
Place of Public Worship 1 space per 10 seats or 1 space per 10sqm GFA (whichever is greater)	GFA for prayer hall = 196sqm (scaled) 1 space per 10sqm GFA = 20 spaces	23 car spaces	Yes – see below

LPP045-21

128. For the purposes of calculating car parking in this planning report the Gross Floor Area (GFA) calculation has been used as the nature of accommodating prayer in the Mosque is one that does not have any formal seating arrangements.
129. The parking requirement has been calculated only on the area used for prayer, being approximately 196sqm, as scaled. This limitation is adopted as the remaining ancillary areas, such as amenities, scripture rooms, entrance foyer, circulation, storage etc., are proposed not to be used during the main prayer times. The GFA of the prayer hall has been used to calculate parking as this is the highest yielding area of use for the building.
130. This assessment is consistent with Council's assessment of other places of public worship where offices, meeting rooms etc, are excluded from the GFA calculations for the purposes of calculating prayer area car parking requirements. This approach is considered appropriate where staff can manage worshippers effectively to ensure that only the prayer room is utilised during prayer sessions under the POM, which will be discussed further in this report.
131. Council has applied this approach in the following development applications:
- 33 Baumans Road, Peakhurst – Alterations and additions to interior and exterior of ground and first floor levels including new meeting rooms, expanded foyer and relocation of administrative offices (12/DA-197);
  - 800 Forest Road Peakhurst – Demolition of structures on site, retention and conservation of existing heritage chapel, construction of a new place of public worship and ancillary buildings with basement car park – JRPP item (DA2014/1169);
  - 1/159 Penshurst Street Beverly Hills – Alterations to an existing industrial unit and use the premises as a place of public worship with associated signage (DA2013/0237);
  - 25-31 Carrington Avenue Hurstville – Demolition of existing structures on 27-31 Carrington Avenue, construction of place of public worship, basement car park, three residential units and refurbishment of existing facilities of existing church hall (09/DA-395);
  - 445-447 Forest Road, Penshurst – Refurbishment of existing Mosque including additional mezzanine level and roof top domes - LPP item (DA2015/0011).
132. The applicant through its TIA report, has relied on only the prayer rooms, whereas the Objector TTPP and MTE (Council's consultant), initially contended that the total floor space of the building could be utilised and thus should be included in the assessment on this basis. It is contended that as Council has previously applied the above assessment methodology that this is also appropriate for the subject application, notwithstanding that there is proposed additional floor space capable of being utilised to accommodate worshippers during prayer times where appropriate and effective management controls can be adequately implemented and enforced.

133. It is not disputed that other areas of the proposed Mosque have the capability of accommodating additional worshippers during prayer times. However, it is the Applicant's contention that there is only demand to accommodate 120 persons as a maximum for this facility and that this would be enforced by the Applicant as part of suitable controls under a proposed Plan of Management (POM). The voracity of using a POM to restrict patronage remains a matter of some conjecture and the POM as submitted has not adequately addressed this. To this end, conditions are proposed to limit the number of patrons, and this will be verified by a requirement that CCTV be installed with recordings to be made available to Council at request to verify patronage.
134. The role of managing and policing the operation of any facility through a POM and/or conditions of consent remains a matter of some doubt where the risk of substantial impact on the amenity of adjoining uses is probable.
135. The applicant contends that the use, via the POM, will be properly enforced and worshippers, staff and volunteers can be suitably instructed on being a good neighbour in order to minimise potential amenity impacts for the residential neighbourhood. This issue is addressed further in this report against similar Land and Environment Court Appeal matters which set down parameters for developing a POM.
136. With regard to the effectiveness of use of a POM to manage worshippers and car parking arrangements the Land and Environment Court determined, by refusal, DA234/2015 (21 November 2016) for a Mosque at 849 King Georges Road, South Hurstville in Appeal No. NSWLEC 1548, *Nasser Hussein –v- Georges River Council*. The subject Mosque proposal was on a site of 914sqm and proposed a two storey domed building with three basement levels providing 31 car spaces. This Mosque was proposed to accommodate a maximum of 76 worshippers during prayer times, 52 male and 24 female. The Court addressed the requirements for management of car parking, particularly during the pre-dawn and evening prayers, and provided the following comments:
122. *Finally, in terms of parking, having volunteer worshippers patrolling the local residential streets every night during Ramadan to ensure worshippers don't park there is not only onerous but is unlikely to make local residents any happier than if worshippers park there. Nor can I envisage how this could work with only 1 or 2 caretakers proposed who are also, as Ms Duggan pointed out, trying to oversee the operation of the car park and the behaviour of arriving attendees.*
123. *The impacts are not about internal noise generated by the use of the mosque but how worshippers get there and back, particularly outside daylight hours. They must either drive (the agreed majority) or walk from home or public transport (and for the Fajr prayer from cars parked in King Georges Road) and that must result in some noise in the streets and around the mosque even if the intent is to be as quiet as possible.*
124. *There would inevitably be occasions of noise disturbance even if not intended and the greater the number of attendees, and the quieter the time of night, the greater the likelihood of sleep disturbance to an otherwise generally quiet neighbourhood albeit I accept there will always be some background traffic noise along King Georges Road. However, there are no other likely noise sources in the immediate vicinity which comprises either low to medium density dwellings, a retirement village or other places of PPWs which may occasionally have night time activities but not dawn ones and not every day and night. The fact remains that, for a least 30 consecutive days of the year, there would likely be 76 people every night*

*leaving up until around 10pm and every morning of the year up to 16 people attending for dawn prayers (including the Imam).*

137. On the basis of these conclusions the Commissioner determined that a practical application of control measures for the morning and evening prayer times through a Plan of Management and actions by staff/volunteers was unlikely to be an effective action in resolving car parking concerns in the circumstances of that case.
  138. The MTE assessment raises various matters of significance relating to the adequacy of supportive documentation for the GTA TIA document and the lack of substance in the final assessment and the effectiveness of controls under any POM. Based upon the extent of work required to enable an adequate document to be relied upon for car parking and traffic assessment it was initially concluded that the GTA TIA documentation is insufficient to support the proposed development from a traffic and car parking perspective.
  139. Traffic and car parking is considered to be a primary issue relating to the safe and complimentary operation of a non-residential land use, such as a POPW, within an R2 Low Density Residential zone. On this basis, due consideration needs to be given to the following objectives under Section 3.1.2 of DCP1:
    - *to provide detailed parking requirements for individual land use categories*
    - *to provide measures to protect the natural environment*
    - *to ensure parking areas relate to site conditions.*
  140. MTE (Council's consultant) has agreed that the later addendum survey assessment undertaken by GTA and the conclusions reached as part of the modified submission are considered inadequate at this time. The primary issue is introducing suitable controls and monitoring procedures, under conditions of consent and/or a POM, to ensure that on-street car parking requirements to service the Mosque demand and behaviour of worshippers attending the Mosque can be properly managed.
  141. It is concluded that based upon the findings of MTE in its' assessment of the GTA TIA documents, that on-street car parking and general carpark management is satisfactory where suitable management controls can be implemented. The adequacy of any management controls will be assessed in this Report against the assessment of the adequacy of the POM.
- Extended Trading Hours*
142. Pursuant to Section 5.1 of DCP1 this provision applies to commercial premises operating beyond 6:00am-12midnight daily. In this instance, although the POPW is not a commercial enterprise, it does propose to commence operations prior to 6am for morning prayers in a predominantly residential locality/zone. Hence it is considered relevant to assess the proposal against these guidelines.
  143. The purpose of this consideration is to achieve the following objectives:
    - *contribute to the vibrancy and economic competitiveness of Hurstville's business areas*
    - *have minimal adverse amenity impacts on residential uses*
    - *protect the safety of the community*

144. The proposal's compliance with these objectives is addressed below. The subject development does not require consideration against the first principle given its lack of relevance to the circumstances of the case but assessment against the latter two remains necessary.
145. It is noted that within a residential precinct operating hours up to midnight rarely occur, or are sanctioned, as restrictions applicable under the *Protection of the Environment Operations Act 1997* take effect outside the core daily hours of 7:00am-10:00pm (see further discussion on this issue as part of the Acoustic Assessment in this report).
146. As part of the assessment under this provision applications are required to include the following POPW relevant information:
- Description of the activity and potential impact on adjoining premises;
  - Potential impact on the amenity of the area;
  - Potential for noise generation;
  - Anticipated patronage numbers;
  - Responsibilities of staff or volunteers;
  - External and internal lighting; and
  - Safety and security measures.
147. By correspondence dated 4 March 2020 the applicant advised the following on the Mosque operational hours:
- *No EID prayers will be conducted on the site. The five daily prayers, Friday prayers, and Ramadan prayers will be held on the site.*
  - *No wedding, funerals or other special events will be held on the site.*
  - *Community-based activities will include counselling provided to all members of the community if they wish to discuss issues facing them. Mentoring programs for the youth concentrating on social and community issues and also leadership programs encompassing essential life skills.*
  - *Community activities proposed are only proposed to accommodate the requirements of the mosque congregation.*
  - *The community activities will be conducted outside prayer time. These activities will be mainly during the day and not on Fridays.*
  - *The start times of each prayer are in accordance to the Islamic jurisprudence and cannot be changed by any individual or group. The typical prayer service takes approximately 15 to 30 minutes, while the Friday Communal service takes 60 minutes.*
148. The current proposed operation of the Mosque, beyond the accepted core hours (7:00am-10:00pm daily), seeks to have pre-dawn services prior to 7:00am, and evening services ending by 10:00pm.
149. These operations are proposed to be managed through a Plan of Management, and controlling opening hours and attendance numbers, to ensure that residential amenity will not be adversely impacted on a regular basis with regards to any noise/traffic occurring outside of the accepted 7:00am – 10:00pm core hours in particular.
150. This provision also raises the prospect of conditionally controlling the operation of a development outside the normal core hours in the following manner:
- Applicant being self-controlling through the submission of quarterly/annual reports on operations to resolve potential problems; and

- Time limited/trial period consents to ensure proper review of operational procedures and overall amenity management.
151. The imposition of conditions of this nature to manage specifically early morning and late evening impacts, on development within a commercial precinct, may be appropriate due to the likely limited impact on residential amenity. However, in this instance, where the development is located within a residential precinct, a small non-compliance can result in significant residential amenity impacts and on-going concerns for residents.
152. The issue of imposing a condition relating to a time limited/trial period consent for the operation of early morning or late night prayer times has been suggested by the applicant. It is noted that late night operations from the Mosque would not be a primary issue as it is advised that all prayers would be completed prior to 10:00pm with the primary concern being worshippers lingering in the street, to which the applicant suggests suitable monitoring by Mosque staff.
153. It is noted that the Court has dealt with a time limited consent arrangement in a recent case, NSWLEC 1224 (2021) *Australian Islamic Cultural Centre (AICC) –v- Cumberland Council*, which was finalised via a Section 34 Conference agreement.
154. The Court confirmed the agreement between the parties to modify the approved Mosque development to condition a 12 month trial period for modification of morning operations and parking arrangements.
155. Although this decision relates to only a Section 34 agreement, it illustrates that development originally modified to remove certain operations of a development can be potentially modified in future to re-introduce the matters that may have been conditionally excluded, subject to appropriate amenity issue considerations.
156. With regard to early morning operations, particularly pre-dawn (prior to 7:00am), concern is that even small noises (eg footsteps, coughing, car doors) in early hours have the potential to create a sleep disturbance issue for nearby residents (see earlier comments relating to LEC Appeal *Nasser Hussein –v- Georges River Council*).
157. It remains unclear, apart from instruction by the Mosque Imam to worshippers to be respectful of neighbour amenity, how such an amenity issue can be satisfactorily addressed and controlled should pre-dawn prayers (prior to 7:00am) at the Mosque be approved.
158. It is thus concluded that a **conditional time-limited approval of pre-Dawn operations** would be an undesirable outcome for the following reasons:
- Insufficient justification has been provided by the applicant and their consultants to guarantee that acoustic, traffic and light impacts can be adequately addressed to minimise amenity concerns;
  - Should complaints relating to noise and sleep deprivation be evident during the trial period it is likely that Council would have no option but to prohibit the early hours of operation upon application for renewal;
  - Any application for renewal or removal of the time-limited condition would warrant public notification and this is likely to generate substantial objections that could lead simply to the refusal of, or extension of, the time-limited consent condition rather than its removal;

- The Mosque operation would have commenced fully and works completed at that time, resulting in substantial cost outlay, which may not be recoverable should the Mosque not be able to practically operate without morning prayers; and
- Concern is raised that any restriction on the morning prayers as well as evening prayers, along with the self-imposed prohibition of EID celebrations and any other mosque activities (apart from daily prayers and Ramadan activities), may render the Mosque ineffective as a place of public worship.

159. Under Appeal No. NSWLEC 1548, *Nasser Hussein –v- Georges River Council* part of that determination by Commissioner Smithson concluded as follows with regard to proposed hours of operation:

*At the request of the Court, advice was provided to confirm likely daily prayer times, given these varied at different times of the year, and attendance numbers. The advice confirmed that the mosque could be opened as early as 3.45am for the Fajr prayer (closing around 4.30am) and close as late as 9.50pm or 10.00pm for the Isha prayer in summer. Shorter hours would apply in winter. Numbers would likely be only a maximum of 15 worshippers for the Fajr prayer and 30 for the Isha prayer. However for every day of the month of Ramadan, up to 76 people could attend the Isha prayer which could go as late as 10.30pm. Ramadan and the Dhuhr prayer at Friday lunchtime would be the busiest prayer times for the mosque where the maximum capacity of 76 worshippers could be expected.*

160. This summary of the hours of operation, as agreed to by the applicant and council in this instance, illustrate that the operation of the *Fajr* (dawn) and *Isha* (evening) prayers are subject to significant change depending upon the season, and could result in worshippers arriving as early as 3:45am in summer (see Table 5 below). This is in contrast to the information provided as part of the hours of operation submitted for the subject application (5:00am – 10:00pm) and raises questions relating to the ability to restrict the Mosque operations to the hours proposed in the application.

161. It is evident from the projected sunrise timetable for Sydney that in 2021, with sunrise at 5:37am in December, that the morning prayers would not be able to be completed prior to sunrise given the opening time of 5:30am for the proposed Mosque.

162. It is also unlikely that a 5:00am opening time would be capable of accommodating arrival/prayer session/departures within the proposed operating hours given the changeable timing of sunrise.

163. The operation of **pre-dawn morning prayers** in this predominantly low density residential location is therefore considered unreasonable and undesirable having regard to :

- the ability of the morning prayer being carried out during summer prior to sunrise where a 5:00am or 5:30am opening is proposed;
- the questionable nature of controlling staff and worshipper behaviour via a POM during early morning hours and the potential noise impacts that could result;
- potential general noise impacts from persons talking, walking down the street, vehicle movements, ventilation system start-ups and general noise from staff unlocking premises/talking/directing visitors; and
- potential light impacts resulting from vehicles entering/leaving the premises via Botany Street.

**Table 5: Sunrise/Sunset Times for Sydney December 2021** (Source: Time + Date.com website)

December 2021 — Sun in Sydney

< November

December

January >

Month: December

Year: 2021

Go

2021	Sunrise/Sunset		Daylength		Astronomical Twilight		Nautical Twilight		Civil Twilight		Solar Noon	
Dec	Sunrise	Sunset	Length	Diff.	Start	End	Start	End	Start	End	Time	Mil. km
1	5:37 am	7:51 pm	14:13:50	+1:02	3:56 am	9:32 pm	4:33 am	8:54 pm	5:08 am	8:19 pm	12:44 pm	147.525
2	5:37 am	7:52 pm	14:14:50	+1:00	3:55 am	9:33 pm	4:33 am	8:55 pm	5:08 am	8:20 pm	12:44 pm	147.502
3	5:37 am	7:52 pm	14:15:48	+0:57	3:55 am	9:34 pm	4:33 am	8:56 pm	5:08 am	8:21 pm	12:44 pm	147.479
4	5:37 am	7:53 pm	14:16:43	+0:54	3:55 am	9:35 pm	4:33 am	8:57 pm	5:08 am	8:22 pm	12:45 pm	147.457
5	5:37 am	7:54 pm	14:17:35	+0:52	3:54 am	9:37 pm	4:33 am	8:58 pm	5:08 am	8:23 pm	12:45 pm	147.435
6	5:37 am	7:55 pm	14:18:24	+0:49	3:54 am	9:38 pm	4:32 am	8:59 pm	5:08 am	8:24 pm	12:46 pm	147.413
7	5:37 am	7:56 pm	14:19:11	+0:46	3:54 am	9:39 pm	4:32 am	9:00 pm	5:08 am	8:25 pm	12:46 pm	147.392
8	5:37 am	7:57 pm	14:19:55	+0:43	3:54 am	9:40 pm	4:32 am	9:01 pm	5:08 am	8:25 pm	12:46 pm	147.371
9	5:37 am	7:57 pm	14:20:36	+0:40	3:54 am	9:41 pm	4:32 am	9:02 pm	5:08 am	8:26 pm	12:47 pm	147.351
10	5:37 am	7:58 pm	14:21:13	+0:37	3:54 am	9:41 pm	4:32 am	9:03 pm	5:08 am	8:27 pm	12:47 pm	147.332
11	5:37 am	7:59 pm	14:21:48	+0:34	3:54 am	9:42 pm	4:32 am	9:03 pm	5:08 am	8:28 pm	12:48 pm	147.313
12	5:37 am	8:00 pm	14:22:20	+0:31	3:54 am	9:43 pm	4:33 am	9:04 pm	5:08 am	8:29 pm	12:48 pm	147.295
13	5:37 am	8:00 pm	14:22:49	+0:28	3:54 am	9:44 pm	4:33 am	9:05 pm	5:08 am	8:29 pm	12:49 pm	147.277
14	5:38 am	8:01 pm	14:23:15	+0:25	3:54 am	9:45 pm	4:33 am	9:06 pm	5:09 am	8:30 pm	12:49 pm	147.261
15	5:38 am	8:02 pm	14:23:37	+0:22	3:54 am	9:46 pm	4:33 am	9:06 pm	5:09 am	8:31 pm	12:50 pm	147.245
16	5:38 am	8:02 pm	14:23:57	+0:19	3:54 am	9:46 pm	4:33 am	9:07 pm	5:09 am	8:31 pm	12:50 pm	147.230
17	5:39 am	8:03 pm	14:24:13	+0:16	3:54 am	9:47 pm	4:34 am	9:08 pm	5:09 am	8:32 pm	12:51 pm	147.216
18	5:39 am	8:03 pm	14:24:26	+0:13	3:55 am	9:48 pm	4:34 am	9:08 pm	5:10 am	8:33 pm	12:51 pm	147.202
19	5:39 am	8:04 pm	14:24:36	+0:09	3:55 am	9:48 pm	4:34 am	9:09 pm	5:10 am	8:33 pm	12:52 pm	147.190
20	5:40 am	8:04 pm	14:24:43	+0:06	3:55 am	9:49 pm	4:35 am	9:10 pm	5:11 am	8:34 pm	12:52 pm	147.179

164. Having regard to the above comments, and the applicants request for consideration of a time limited consent to trial the early morning prayers, it is recommended that early morning prayers on site should not be supported for the reasons expressed above. Further, having regard to recent publicised variations to the EID celebrations due to the extenuating circumstances of the COVID 19 pandemic, it is considered reasonable that worshippers be encouraged to take morning prayers at home, off-site, and if possible to internet livestream the morning prayer for those who would normally attend.
165. With regard to **evening prayer sessions** it is considered reasonable that a 12 month trial period be supported to assess the evening Mosque operations and management as 9.55pm is not unreasonable for cease of operations pursuant to controls under the *Protection of the Environment Operations Act 1997*. A trial period will enable a reasonable and fair opportunity for the Applicant to illustrate that the behaviour of staff/worshippers can be appropriately managed particularly during the Ramadan evening periods which will have greater attendances of up to 100 persons. This trial period approval would enable assessment of the following:
- adequacy of the control/guidelines under the POM and how these are implemented by the staff/volunteers of the Mosque;
  - appropriateness of any conditions of consent providing guidelines on management of the operations on the site;

- potential impacts on local residential noise/light amenity and on-street car parking take-up for the evening prayer sessions.
166. It is noted that this trial period is aimed at ensuring the controls/guidelines of any approved POM are effective in protecting residential amenity and is not intended to result in the prohibition of the evening prayer sessions.
167. On this basis it is recommended that the following conditions be imposed on the subject proposal should it be approved :
- 1) *The Mosque operations are not to include any pre-dawn morning prayers;*
  - 2) *The Mosque operations shall include evening prayers till a 9.55pm daily closure only and the operation of these evening prayers shall be subject to a 12 month trial period of testing to enable monitoring of the effectiveness of the controls/guidelines under any approved Plan of Management;*
  - 3) *Between the hours of 10pm – 7am daily the Mosque shall only be occupied by :*
    - *the Imam, the prayer leader of the Mosque; and/or*
    - *Staff/volunteer for emergency repairs or assistance to the Imam; and/or*
    - *An individual that may require assistance of the Mosque for one evening.*

### **Draft Hurstville Development Control Plan**

#### Places of Public Worship Controls and Guidelines

168. On 1 May, 2017 Georges River Council resolved to prepare guidelines for the development of Places of Public Worship (POPW) having regard to potential amenity concerns, such as noise, traffic, car parking, particularly where the proposal is within residential precincts. Subsequently, a document was developed and publicly exhibited which provided guidelines for design and amenity assessment for POPW's but has not to date been adopted by Council. It is assumed that the Draft Controls and Guidelines were not adopted in order to enable the Draft Georges River Local Environmental Plan 2020 to be made as that document would prohibit POPWs within the R2 Low Density Residential zone.
169. The subject proposal has been assessed against the Draft Controls and Guidelines and the findings are tabulated at Annexure 1 to this report. It is noted that the proposal has various non-compliances with the provisions of the Draft Guidelines and the primary issues of concern are discussed as follows.

#### Assembly Area for Prayers

170. The proposed definition under the Draft Controls and Guidelines for Assembly Area generally includes all areas capable of accommodating worshippers during prayer time, excluding service areas (ie kitchens, toilets and the like) with a maximum area of 400sqm. It also includes any potential outdoor areas capable of accommodating worshippers.
171. On this basis, the potential floor area available for prayers under the submitted layout for this proposal would equate to a minimum of 750sqm, substantially in excess of the 193sqm identified in the Application and in excess of the limit identified under the Draft Controls and Guidelines.
172. The issue of policing and controlling the worshipper's use of the building floor area for prayers is compounded by the availability of large rooms within the building, capable of



being made available for prayers - particularly those adjoining the prayer rooms which are readily accessible.

173. Based upon the Draft Control and Guidelines definition for Assembly Area, the larger floor space available would significantly increase the potential worshipper capacity and subsequent car parking needs.
174. This issue of interpretation of the gross floor area for the purpose of determining car parking requirements has been addressed earlier in the Report. In response to this concern the applicant contends that worshippers will be instructed that prayer services will only be given in the identified prayer room.
175. It is contended that suitable controls can be implemented through the proposed Plan of Management (POM), and conditions of consent, to ensure only the prayer rooms are utilised for worship. It is considered that these controls should include:
- POM to be drafted to specify that only identified prayer rooms can be utilised during prayer sessions;
  - POM to be made available to the general public via a specific website;
  - POM to set down instructions to staff to manage the use of the Mosque during prayer sessions to ensure no double use occurs and worshippers are suitably managed;
  - Security CCTV system should be implemented which monitors the prayer room and public corridors to ensure no further rooms are used during the prayer sessions and that this monitoring is made available via livestreaming online.
176. These requirements are incorporated into the recommended conditions.

#### Traffic Impact Study

177. The Draft Controls and Guidelines require the submission of a Traffic Impact Study (TIS) to accompany any application for a POPW.
178. The applicant submitted a TIA prepared by GTA as part of their application and this has been independently reviewed by McLaren Traffic Engineers (MTE) on behalf of Council.
179. MTE found the TIA to be adequate in its assessment against the requirements set out in the Draft Control and Guidelines (as outlined elsewhere in this report) subject to consideration being given to the management of floor space use during prayer sessions to ensure only the specified prayer areas are used. This issue has been addressed in further detail elsewhere in this report.

#### Building Design and Dimensions

180. Various controls for site coverage, height, setbacks, roof form, facades, are included to control building form.
181. In this instance the proposal simply seeks to demolish the existing dwelling on 92 Botany Street, Carlton to accommodate an on-grade car park and to refurbish the existing residential aged care facility to accommodate the POPW.
182. It is noted that the operation of the POPW does not seek to provide domes or a spire as part of the building refurbishment. On this basis the existing solar access to neighbouring land will not be impacted as a result of the change of use as no additional external building works result.

Car parking Requirements and Traffic Impacts

183. The subject development seeks to provide up to 23 car parking spaces on the site but acknowledges that based upon scenarios where between 1.5 – 2.5 persons arrive per vehicle, that a worshipper attendance of 120 persons (with 90% travelling by vehicle) at the Mosque would result in a requirement for 72 (1.5 persons per vehicle) – 43 (2.5 persons per vehicle) car spaces.
184. Based upon that scenario, proposed to occur on ten occasions annually, an on-site car parking deficiency of between 49 (1.5 persons per vehicle) – 20 (2.5 persons per vehicle) spaces occurs given the 23 that will exist on site. This outcome is inconsistent with the Draft Plan (Section 6 – Access and Parking) which requires that **all** car parking requirements for POPWs are accommodated within the development site.
185. Car parking requirements under the Draft GRDCP2020 are to be assessed at the rate of 1 space per 10 seats or 1 space per 10sqm of Gross Floor Area (GFA), whichever is the greater.
186. Based upon the advice provided earlier in this report, the proposal will not provide sufficient car parking (23 proposed) to satisfy this requirement. The specified standard being between 43-72 car spaces based on car occupancy rates (assuming 1.5-2.5 persons per vehicle).
187. The provision of 23 car spaces as part of the proposed development would only satisfy the Guideline requirements where it related to the proposed limit of 120 persons (1 per 10) or where the GFA calculated is limited to the 193sqm of the floor space (1 per 10sqm) identified as prayer rooms. This approach also relies on adequate controls being applied through conditions of consent and procedures under the Plan of Management to manage and control car parking and worshipper numbers attending the Mosque. This issue has been addressed above as well as the assessment of the adequacy of the POM in this report.

Acoustic Privacy and Management

188. The objectives under the Draft Guidelines that relate to Acoustics are:
- a. To ensure places of public worship do not adversely impact on the residential amenity of adjoining dwellings and the surrounding area.*
  - b. To allow development to install appropriate acoustic privacy measures which are compatible with the prevailing character of residential areas.*
  - c. To ensure the ongoing operation and management of places of public worship maintain residential amenity.*
189. In this instance the primary Objectives are (a) and (c), which relate to the amenity of the residential precinct being not adversely impacted by the activities associated with the POPW.
190. The potential impacts of the operation of the Mosque, particularly with regard to early morning, pre-dawn prayers, is noise from vehicles and persons arriving/departing the site early morning prior to 7am. This issue has been addressed earlier in this report as part of the review of acoustic impacts under the Hurstville DCP No.1.
191. It is noted that the proposal has not been able to provide suitable acoustic treatment measures and management of the worshipper behaviour for early morning sessions. On this basis, the hours of operation should be limited to between 9:00am and 10:00pm

outside the morning period due to the likelihood of impacts on residential amenity and resident sleep behaviour in the early morning period.

192. As part of any consideration of the proposal, it is required that the proposal be accompanied by a management plan proposing measures for responding to and managing noise complaints through a Neighbourhood Liaison Committee. This procedure and a regular acoustic assessment of amenity impacts is proposed as part of the applicant's POM, assessed later in this report.
193. On the basis of the assessment undertaken above it is contended that the subject proposal currently does not comply with the provisions/standards within the Draft Controls and Guidelines. These non-compliances on their own are not a sufficient basis to warrant refusal of the proposal.

### Environmental Assessment

194. Pursuant to Section 4.15 of the Environmental Planning and Assessment Act, 1979 the following matters are required to be considered:

#### Acoustical Noise Assessment

195. In accordance with the Pre-Lodgement advice provided by the Council to the applicant the proposal was required to be accompanied by an Acoustical Assessment Report prepared by a suitably qualified acoustic engineer.
196. In response to this requirement the application was accompanied by a *DA Acoustic Report* prepared by Renzo Tonin and Associates (RTA) dated 20 December 2019 which was subsequently modified and dated 17 March 2020 and 4 September 2020. The original Report was included as part of the document bundle exhibited during the original public notification period and was subject to scrutiny via an objector review of the document.
197. The modified report, dated 4 September 2020 is the subject of this assessment and was part of the bundle of documents included in the second public exhibition.
198. The applicant's report, objector's report and Council's Independent Consultant review are addressed as follows.

#### *DA Acoustic Report – Applicant's Consultant (prepared by Renzo Tonin and Associates)*

199. The Report provided advice based on the following parameters:
  - Operational hours of 5:30am to 10:00pm daily;
  - Five (5) daily prayers with a weekly Friday Communal Prayer;
  - Maximum of 20 - 100 worshippers, plus 120 at 10 events annually;
  - Maximum of 20 worshippers to attend the dawn prayers;
  - Boundary fencing of 1.8m to 2.4m in height along the eastern and southern boundaries;
  - Windows and doors would be closed during prayer events;
  - Acoustic assessment to be undertaken of:
    - onsite vehicle movements and car parking;
    - breakout noise from internal areas (i.e. call to prayer);
    - traffic noise on public roads; and
    - mechanical noise.
  - Noise generated by car park activities were assessed as including vehicle doors closing, vehicle engines starting, vehicles accelerating and vehicles moving.

- The noise assessment has been carried out to be consistent with the NSW EPA *Industrial Noise Policy* (INP) which outlines the following standard time periods over which the background and ambient noise levels are to be determined:
  - Day: 07:00 - 18:00 Monday to Saturday and 08:00 - 18:00 Sundays and Public Holidays;
  - Evening: 18:00 - 22:00 Monday to Sunday and Public Holidays;
  - Night: 22:00 - 07:00 Monday to Saturday and 22:00 - 08:00 Sundays and Public Holidays;
- Noise impacts have been assessed in accordance with the NSW '*Noise Policy for Industry*' (NPfI), 2017. The assessment procedure has two components:
  - Controlling intrusive noise impacts in the short-term for residences; and
  - Maintaining noise level amenity for residences and other land uses.

200. The findings of the report are summarised as follows:

- Some properties will be impacted by sleep disturbances during the 10:00pm to 7:00am night-time period;
- Generally the proposed development will result in minimal noise impacts for the locality which can be ameliorated through the following measures:
  - Windows and doors to be closed at all times and mechanical ventilation provided;
  - Building works to incorporate acoustically absorptive finishes within internal areas;
  - During night time, 10:00pm - 7:00am, only the northern carpark is to be used;
  - Boundary fencing, suitably sound proof treated, to a height of 1.8m provided along eastern and southern boundaries;
  - Where an in-house sound system is installed, it is recommended that the noise level is controlled by an RMS compressor/limiter;
  - If entertainment is to require use of non-in-house sound systems, instrument amplification or acoustic instruments (i.e. personal band amplification, and live drums), a permanent sound 'monitor' device is recommended to be installed;
  - Acoustic assessment of mechanical services equipment should be undertaken during the detailed design phase of the development to ensure that the cumulative noise of all equipment does not exceed the applicable noise criteria;
  - Mechanical plant noise emission can be controlled by appropriate mechanical system design and implementation of common engineering method.

*Applicant's Modified Acoustic Report – September 2020*

201. The findings of the report prepared by RTA are summarised as follows:

- Surveys identified that up to 225 existing noise events occur during the 5am-7am pre-dawn period for this locality;
- The operation of the pre-dawn morning prayer would increase these events by up to 12% only;
- An increase in the height of boundary fencing along the eastern boundary, Ethel Street, would potentially reduce the noise level of the carpark by 5dB(A) and reduce Mosque project significant noise events by 56% from 48 to 21 events;
- Perimeter fencing recommended around the property between 1.8m to 2.4m and to be an acoustically rated fence;
- Mechanical plant noise emission can be controlled by appropriate mechanical system design and implementation of common engineering methods;
- Within the first month and last month of the 12-month trial period, noise monitoring should be undertaken by a qualified acoustic engineer to verify that the Mosque is complying with any noise control criteria; and

- Noise monitoring locations are proposed to be at 1 Ethel Street and 89 Botany Street, Carlton subject to the agreement of the land owners.

202. The findings of this modified report support the hours of operation of the Mosque as per the original application submission on the basis that only minor noise intrusions will occur during the primary pre-dawn prayer sessions.

DA Acoustic Assessment – Objector Consultant

203. As part of the assessment of the proposal on behalf of the submitter (the Georges River Association), Koikas Acoustics Pty Ltd (KA) prepared an *Acoustical Report – Proposed New Place of Worship* dated 17 March 2020.

204. In preparing the Report KA relied on the following documents:

- Document prepared by Renzo Tonin and Associates (RTA) “*DA Acoustic Report*” dated 20 December 2019;
- Plan of Management prepared by Elton Consulting dated 3 December 2019;
- Statement of Environmental Effects prepared by Elton Consulting dated 20 December 2019;
- Traffic Impact Assessment prepared by GTA Consulting dated 20 December 2019.

205. Three (3) noise components were reviewed with respect to noise emission for the POPW, and these are:

- Noise breakout from the prayer halls;
- Noise generated by the car parking areas; and
- Mechanical plant noise generated by the building ventilation systems.

206. The daytime/evening and night (early morning) calculations of car park noise emissions are recommended to consider the following:

- Cars entering/leaving the main car park, including starting engines;
- Car doors opening/closing;
- Worshippers talking in the car park with normal voice effort.

207. KA proposes that a 2dB increase in noise represents a minor amenity impact and is barely perceptible to the average person. Hence, any increase in traffic noise that is generated by the proposal should be limited to 2dB above the “no build” option. The result of the KA car park noise modelling is that some marginal breaches (+1dB to 3dB) of the trigger level of 2dB would occur during evening and night periods.

208. KA noted that generally noise levels exceeding 43dB will result in sleep disturbance and the findings of KA analysis is that this is unlikely to occur.

209. However, KA notes that the acoustic assessment by Renzo Tonin (RTA), on behalf of the Applicant, modelling indicates that sleep disturbance levels may be exceeded by up to 4dB. On the basis of the RTA analysis KA is of the view that the proposal will result in sleep disturbance for neighbouring residential properties.

210. KA concluded that based on the assessment of their modelling and other available documentation, “*there are outstanding noise compliance issues attributed to the proposed development that would make it inappropriate for the local area*”, noting the following:

- Noise breakout from the premises during prayer services will be suitably controlled through appropriate conditions requiring closed windows of suitable thickness and self-closing doors and prohibition of external speakers;
- Noise from the use of the proposed carparks will generally meet acceptable standards during daytime hours;
- The project noise trigger, being 2dB above accepted normal night period levels, is predicted to be exceeded during evening and early morning periods with potential for incidental noise events. The application has provided no noise control measures to mitigate this impact on neighbouring residents;
- Detailed calculations of mechanical noise impact are required to be assessed cumulatively with other development noise. It is noted that the amended RTA report has now addressed mechanical noise impact issues;
- KA analysis has been restricted to the POPW occupancy capacity being restricted to 100 worshippers during day/evening periods and 15 worshippers early morning. Hence, any potential increase in these numbers would potentially have negative impacts on neighbouring amenity.

211. KA further noted its conclusions are limited considering:

*“In the event that the implementation of the POM is unable to control and enforce the proposed patron capacity, and as per the advice of Daintry Associates Pty Ltd and Transport Planning Partnership, patron numbers are far higher, then the resulting impact on noise amenity for the local area would be significantly increased.”*

Objector's Review of Modified Acoustic Report – September 2020 (Day Design Report)

212. At the time of finalising this report a formal consultant review of the applicant's amended RTA Acoustic Report had been submitted by Day Design Pty Ltd, dated 9 August 2021 on behalf of the objectors (the Georges River Association).
213. The review by Day Design (DD) concluded that the *“noise impact from the use of the development site has the potential to adversely affect the acoustic amenity of the nearby residents during the night time period”*, and summarised the key deficiencies of the RTA report as follows:
- *Project intrusive noise levels require revising;*
  - *Project amenity noise levels require revising;*
  - *Project noise trigger levels require revising;*
  - *Predicted noise levels require revising;*
  - *A detailed assessment of the use of the site during the night period is required;*
  - *A detailed assessment of patrons in the external areas of the site is required during the night time period;*
  - *A worst-case scenario assessment is required for noise emissions during the night time period;*
  - *Noise control recommendations may require revising following the implementation of the revisions above; and*
  - *The POM requires revision to ensure noise from the site is managed appropriately.*
214. These conclusions are noted and acknowledged as deficiencies in the RTA report, however, the primary issue relates to noise during the *Night Time* period, 10:00pm to 7:00am. Based on the advice provided by RSA, KK and DD in reviews of the RTA reports it is clear that although noise levels may be only marginally breached during the *Night Time* that there will be amenity impacts that will be difficult to manage.

215. It is also noted that informal objector submissions, made via phone to Council officers have been received regarding the amended RTA report, advising that local residents have expressed concerns relating to the methodology used and the recommendations for mitigating measures to control the level of noise impact. These concerns included:
- The local residents were unaware of the additional monitoring undertaken and query the locations used to record background noise as some were unaware of any approach to install monitoring equipment. If the recorders were not installed at first floor bedrooms then the information should be considered inconclusive;
  - The use of high level fencing, 1.8m - 2.4m along the street frontages is not appropriate within a residential area where the majority of fencing is 1.2m in height and semi-open in form. Fully enclosed fencing is considered to be detrimental to the streetscape and the residential nature of the location.
216. On the basis of the findings of DD and objector submissions, it is concluded that their findings are that the additional survey works and conclusions are flawed and do not effectively reflect the current situation and thus cannot accurately predict the Mosque noise generation impacts.
217. Having regard to the conclusions of DD it is accepted that the RTA report may require further revision overall in order to justify any intrusion of Mosque operations into the *Night Time* period. However, based upon all acoustical documentation and consideration of objectors concerns it is recommended that:
- the pre-dawn prayers, generally accommodating only 5-10 worshippers, should not be permitted to operate on site; and
  - evening prayers operating only to 9:55pm should not result in any *Night Time* impacts and are thus supported subject to review over a 12 month period to ensure that conditions and POM guidelines can be implemented successfully and enforced if necessary.

DA Acoustic Assessment – Council Consultant (RSA)

218. Council engaged the services of Rodney Stevens Acoustics (RSA) to prepare a *Peer Review Report for Place of Public Worship at 88-92 Botany Street, Carlton*, which was submitted to Council on 8 May 2020. The general conclusion of this Report is summarised as follows:

*“The review looks into the methodology and noise control measures in the report and can confirm, the calculations and assumptions fall in line with what is expected from an assessment of this type, however, certain elements must be assessed and included in a revised version of the report (refer to Section 3).”*

219. The first RSA review had regard to the following reports as part of the review:
- Renzo Tonin Acoustics (RTA) report dated 20 December 2019 submitted on behalf of the applicant; and
  - Koikas Acoustics (KA) review as submitted on behalf of the Georges River Association.
220. Although the review acknowledged the adequacy of the report prepared by Renzo Tonin Acoustics in its assessment and modelling, concerns were raised at inadequacies in the assessment relating to the following:
- *Noted that the night time noise criteria calculated by Renzo Tonin takes into account the entire night period (10:00pm to 7:00am). The proposed mosque will begin*

*operations at 5:30am, therefore it would be more appropriate to use the “shoulder period” assessment as per Section A3 of the NPfI;*

- *All noise levels from patrons including the Adhan call have been assumed to be internal, usually the Adhan call is generated by the Mu’azzin using a microphone and a PA system installed outside the mosque. The use of an external PA system must be clarified. If an external PA system is to be used for the Adhan call to prayer, the noise from this active it must be assessed;*
- *Renzo Tonin does not make any mention of the possible noise from patrons congregating outside the mosque and/or around the carpark. Noise from this activities can have an impact on the surrounding sensitive receivers and must be assessed;*
- *Noted that Renzo Tonin identifies receivers, R1, R2 and R4 as 2 storey buildings, clarification is required as to whether the noise level results from the activities of the mosque were calculated at the second levels of these receivers;*
- *Sleep disturbance has been assessed to not comply with the noise criteria, Renzo Tonin has not provided noise mitigations to alleviate the impact of carpark noise at receivers R3 and R4, a recommendation for the night time use of the carpark suggest limiting the number of vehicles to 12 and only using the northern car park. This solution will not reduce the exceedance of 12 dB(A) at R3 and 7 dB(A) at R4;*
- *Koikas report presents the scenario where noise from patrons congregating outside the mosque and/or the carpark will generate unnecessary noise, this has not been addressed by Renzo Tonin, noise from this activities is likely to have a great noise impact on the surrounding residential receivers and must be addressed; and*
- *If the patron numbers were to increase in the future a detailed acoustic noise assessment must be carried out to ensure the feasibility of increasing the number of patrons attending the mosque.*

221. RSA further discussed the following potential conditions and controls that would be necessary to assist in mitigating noise impacts should the application be approved:

- *the use of an outdoor PA system .....will generate excessive noise that will be unfeasible in terms of acoustic mitigation and should be avoided;*
- *All activities carried out in the prayer halls must take place with all windows and doors closed;*
- *Self-closing systems must be fitted to all doors;*
- *A noise compressor/limiter must be used within the prayer halls if in-house systems will be installed;*
- *Recommendations in Section 7.5 of Renzo Tonin’s report must be implemented;*
- *The acoustic performance of the absorptive finishes must be provided in terms of NRC rating, also the total surface area required to be treated should be provided; and*
- *If the patron numbers were to increase in the future a detailed acoustic noise assessment must be carried out to ensure the feasibility of increasing the number of patrons attending the mosque.*

222. The RSA report concluded that the RTA assessment of the proposed POPW operations from this site and potential noise amenity impacts has been prepared in accordance with the NSW EPA’s *Noise Policy for Industry (NPfI)* guidelines. However, the RTA assessment needs to address the matters raised above to be acceptable as a robust assessment of the unique issues associated with the establishment of a POPW within a residential precinct.



Review of Modified Acoustic Report – September 2020 (Second RSA review)

223. The second RSA review assessed the amended RTA Acoustic Report and provided advice on 19 July 2021. RSA concluded as follows:
- RTA responded to issues that were raised by the objectors and Council, through the initial RSA review. The majority of issues have been adequately responded to via the additional survey work and technical responses;
  - Common area usage remains questionable and has not been adequately assessed and should assume that these areas have potential use with occupancies up to 40 persons;
  - RTA has assumed that only one staff person will be required to service pre-dawn prayers for up to 20 persons. This remains questionable considering the likely necessity for one staff to remain in carpark to direct worshippers and one staff to monitor door openings and worshipper behaviour internally. The review should assume and cater for up to 3 staff in attendance;
  - Vacating the site after the prayer sessions, particularly the large sessions of up to 120 attendees is likely to take greater than 10 minutes and should cater for between 15 - 20 minutes. This would have potential noise impact and hours of operation concerns for the Mosque if there are delays in vacating in the evenings prior to 10pm.
224. RSA have indicated that the Acoustic Report accompanying the Application is generally satisfactory and that the POPW development is satisfactory, subject to inclusion of appropriate conditions of consent dealing with noise monitoring procedures, compliance with the NPfl criteria, testing reports on the Mosque operations monthly and suitable complaint handling procedures.

Acoustic Assessment – Council Recommendation

225. The three acoustic assessments addressed above (RTA, KA and RSA) have general consensus on the noise modelling methods and outcomes reached. The Day Design report, submitted on behalf of objectors, generally agreed with the methodology used but considers that noise levels require revisiting to provide adequate information. Notwithstanding this general consensus, the reports also agree that sleep disturbance is likely to occur for local residents and this raises uncertainty as to how vehicular and worshipper related noise associated with early morning prayers, in particular, may be suitably resolved through mitigation measures.
226. The acoustic reports have generally concluded that vehicular, and associated, noises generated by the operation of the proposed POPW will be acceptable against background noise during the daytime and evening periods of assessment. It is also agreed that sleep disturbance will occur as a result of the POPW early morning prayers during the Night Time Period of assessment. This method of assessment is based on the following definition:

**Rating background level (RBL)** - *The overall, single-figure, background level representing each assessment period (day/ evening/night) over the whole monitoring period (as opposed to over each 24-hour period used for the assessment of background level). This is the level used for assessment purposes. It is defined as the median value of:*

- *all the day assessment background levels over the monitoring period for the day (7:00 am to 6:00 pm)*
- *all the evening assessment background levels over the monitoring period for the evening (6:00 pm to 10:00 pm)*

- *all the night assessment background levels over the monitoring period for the night (10:00 pm to 7:00 am).*

227. This method of assessment is also preferred as part of assessment of noise impacts for development adjacent to railways and main roads when considering major traffic generating development under Section 102 of State Environmental Planning Policy (Infrastructure) 2007.
228. On this basis the acknowledged Night Time Period is considered the most sensitive period of assessment particularly where the area of assessment is a residential precinct with potential to result in “*sleep disturbance*” for the local residents. Where “*sleep disturbance*” is likely to result from the proposed POPW development then consideration must be given to whether that disturbance is classified as an “*Offensive Noise*”, defined as follows:

*‘Offensive noise’ is defined in the dictionary of the POEO Act 1997 as 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.*

229. Having regard to the above definition it is likely that the proposal will result in “*offensive noise*” and on that basis consideration should be given to an assessment of the proposal against the principles outlined by the NSW Land and Environment Court in *Meriden v Pedavoli* (2009), Judgement 183 (22 October 2009), where the following Offensive Noise test considerations were adopted:

*Q1: Is the noise loud in an absolute sense? Is it loud relative to other noise in the area? This establishes that the noise is likely to be heard by neighbours.*

230. Comment: Yes, the noise would potentially be louder than normal background levels for the early morning periods. Mitigation measures proposed to minimise these noise impacts would rely on the good will of worshippers to attempt not to disturb local residents.

*Q2: Does the noise include characteristics that make it particularly irritating? The presence of tones, impulses or fluctuations in volume can make people more likely to react to the noise.*

231. Comment: Yes, noises are likely to be spiked and intermittent before and after the early morning prayer sessions as a result of vehicles entering and leaving the carpark, which has a 2m rise towards Xenia Avenue, car doors opening/closing, possible car radio/stereo operating, etc.

*Q3: Does the noise occur at times when people expect to enjoy peace and quiet? People usually expect their surroundings to be quieter during the evening and at night. Noise that regularly disturbs sleep is likely to be considered offensive by complainants.*

232. Comment: Yes, the noise would occur principally between 5am - 7am pre-dawn when local residents would normally be asleep.

*Q4: Is the noise atypical for the area? Where noise from an activity that is causing nuisance is new or unusual for an area, people are more likely to react.*

233. Comment: No, the noises would predominantly be normal daytime type noises, including vehicle noises, engines running/starting, car doors shutting, radios on/off and people talking/coughing or the like and possible walking along the road. These noises would be generally accepted during daytime periods but are not the norm pre-dawn.

*Q5: Does the noise occur often? Noise can be more annoying when it occurs frequently.*

234. Comment: Yes, pre-dawn morning prayers are programmed to occur seven days weekly and would be earlier during daylight saving periods.

*Q6: Are a number of people affected by the noise?*

235. Comment: Yes, it is initially assessed that at least 2 local residents would be directly affected by at least vehicular movement noises and lights in early morning, being properties directly opposite the sole entry/exit to the primary car park.

236. On the basis of the above consideration it is contended that the operation of the proposed POPW will result in “*sleep disturbance*” to a number of local residents that could potentially, should no adequate mitigating measures be implemented as part of the proposal, be classified as being “*offensive noise*” under the *Protection of the Environment Act, 1997*, (POEO Act 1997).

237. Noise impacts which have the potential to be offensive noise resulting in sleep disturbance for neighbouring residences are considered to be a critical issue, particularly considering the requirement for additional follow-up work suggested by RSA above.

238. Various noise mitigation measures are proposed that may be suitable for dwelling to dwelling or dwelling to daytime traffic situations, however, in this instance the activities proposed span a greater period of the day (5:30am-10:00pm) than that normally experienced between residents or between residents and road traffic.

239. Having regard to the additional work required by RSA and the reliance on implementing controls through a Plan of Management (see comments on POM in this Report) in this instance the potential for sleep disturbance impacts on residential properties warrants the refusal of the proposals pre-dawn morning prayers as a function of the Mosque.

240. This restriction on the functions of the Mosque is a significant outcome should the proposal be approved. It was also queried whether a Mosque would function properly where the pre-dawn prayers are prohibited.

241. In order to have clarification on this issue Council sought the advice of Professor Mehmet Ozlap, Director of Centre for Islamic Studies and Civilisation at Charles Sturt University.

242. Professor Ozlap was initially requested to review the Mosque application and to advise on the general operations of the Mosque. Professor Ozlap advised as follows:

- *Although in Islam Muslims can pray in any clean place, Muslims use mosques as their distinctive place of worship for congregational prayer services. Some of these services can only be conducted in a mosque.*
- *The prayer services conducted in a mosque is of two kinds. The first is the regular daily prescribed prayers (salat) which is performed five times a day. Praying these in mosques as part of a congregation is strongly encouraged in Islam even though forming a congregation is considered an optional practice.*
- *The second type is the congregational prayers outside of the five daily prescribed prayers. These are of three categories.*
  1. *Friday prayers that occur at every Friday noon times and generally takes about 45-90 minutes to conduct depending on how long the Friday sermon is held for. Friday prayers have to be performed as part of a congregation in a designated place of worship.*
  2. *Ramadan after dusk prayers. In the fasting month of Ramadan, the daily night prayers are extended with additional congregational prayer sessions to about 1-1:30 hours length depending on how long the imam (person leading the prayer) recites from the Holy Qur'an (Islamic scriptures).*
  3. *Eid (festive) prayers that occur twice a year – one at the end of Ramadan, the other in the annual pilgrimage season. It starts an hour after sunrise and lasts about 30-45 minutes. These prayers are also performed in a mosque, but they can also be performed in large halls or open outdoor spaces.*

.....  
*In Sydney, smaller places of worship in more localities are more popular as most Muslims prefer the convenience of a nearby place of worship than distant large mosques such as the Lakemba Mosque and the Auburn Gallipoli Mosque.*

*In addition to being places of worship, mosques provide important community services and pastoral care to families, elderly and the youth*

.....  
*When Muslims perform a congregational prayer, they form separate rows for men and women with men being in front. This is mainly due to prayer involving tight rows, bowing and prostration. Men and women feel more comfortable and can focus better on their prayers by forming separate rows. The way this separation is achieved changes depending on culture and architectural design. Gallery levels are common for women in large mosques. In the case of the proposed POPW at 88-92 Botany Street, the existing architecture allows for the separation requirement by having men and women on different floors.*

243. These comments assist in the understanding of the functioning of the Mosque and its general requirements. Professor Ozlap generally supported the proposal as was originally lodged as a standard form of Mosque development, although concern was raised that greater than 120 persons could be accommodated within the prayer rooms. The restriction of the attendance capacity and its proper management is acknowledged as an issue and is considered a matter that can be resolved conditionally and through an approved Plan of Management.
244. The primary issue with the operation of a Mosque in this locality is early morning noise impacts resulting in sleep deprivation for local residents. On this basis, and considering the noise mitigation measures proposed, principally erecting fences and relying on good management under the POM, it is considered that the preferred option is to prohibit pre-dawn prayers.

245. Evening prayers, where the Mosque can vacate the premises prior to 10pm are considered to be acceptable. Again, in order to assess that the Mosque can adequately operate should the morning prayers be prohibited Prof Ozlap advice was sought on the appropriateness of such an action. Prof Ozlap advised:

*“Prohibition of the operation of morning prayers due to potential noise/light amenity impacts for residential neighbours would not result in the Mosque operating as a formal Mosque. The facility can still function as a Mosque as the other four daily prayers and the most importantly the Friday prayers can still be held in the facility. The expectation of a Muslim congregation from a mosque is that all five daily prayers should be held at facility. In this case though, the mosque management will not be able to hold morning prayers, not because of the management or the status of the place as a Mosque, but as a result of restriction of the council due to potential noise/light amenity impacts for residential neighbours. In effect, a necessity emerges that prevent morning prayers from being offered. So, this does not harm the status of the facility as a Mosque from an Islamic theological perspective. The management of the mosque has also indicated in the meeting that they were willing to accept this restriction if council deemed it necessary.”*

246. Having regard to the comments provided by Prof Ozlap and the Applicant’s verbal indication of acceptance of the prohibition of the pre-dawn prayer, it is recommended that the Pre-Dawn Prayer be prohibited and that the opening hours be conditionally amended to 9:00am – 9:55pm daily should the application be approved.

#### Draft Plan of Management Assessment

247. The subject application was supported by a *Draft Plan of Management for Place of Public Worship at 88-92 Botany Street, Carlton*, (POM), prepared by Elton Consulting and dated 3 December 2019, subsequently amended 7 September, 14 October 2020, and 14 July 2021 (Version 3.3). Submission of the POM was sought as part of Council’s initial Pre-Lodgement advice to the applicant.

#### Plan of Management Detail – Applicant submission

248. The POM advises that the proposed POPW is a necessity considering:
- *“Hurstville Community Centre is a non-profit organisation that meets the religious needs of ST GEORGE Sydney region. This includes prayers, education, study circles, and attending to community matters.*
  - *Muslims in this area have never had an appropriate permanent place of worship. Previously, Friday and obligatory prayers have been offered in small musallahs, or in community halls.*
  - *The Centre will fill a void in the community’s yearning to come together. A place where Muslims of all ages can unite to partake in various community-based activities, from prayer, to youth activities, to consulting, to counselling, and education.”*
249. The POM (Version 3.3) further clarifies that the open floor plan design, having consideration of the retention of the building external appearance, provides for the particular needs associated with the gender separation for the Mosque operation:

*“The layout of the centre has taken into great consideration the segregation of genders in accordance with the requirements of the faith; with males and females each having their own facilities. This is to provide females with their own privacy, particularly related to the wearing of the veil (hijab).”*

250. To achieve this the design provides for a male prayer area of approximately 104sqm on the ground floor and approximately 89sqm on the first floor for females, in order to provide suitable separation.
251. Other operational procedures outlined for the Mosque include:
- One bedroom short-stay accommodation for visiting clerics including an outdoor terrace at-grade with the car park at 92 Botany Street.
  - Community rooms will not operate during prayer services. During those times, all other uses within the POPW will cease and the focus will be on prayer for all attendees. When the prayer services are on all other activities will cease at least 30 minutes prior.
  - The facility will have a typical capacity of 20 people with a maximum capacity of 100 people during peak periods. Peak periods are only expected on Fridays and during the Ramadan period.
  - The hours of operation are proposed to be between 5:30am and 10:00pm seven days a week. During the period of 5:30am to 7:00am and after 6pm, additional noise mitigation measures (as recommended by the acoustic consultant) will be enforced.
  - At least one staff member or volunteer will be on site during all operating times of the POPW. Two staff members or volunteers will be present when more than 20 worshippers are expected.
  - During special event periods (such as the first and last days of Ramadan, some Friday communal prayers on Public Holidays and Easter Friday) accommodating 120 persons, additional administration staff or volunteers are required to assist with events or running of the premises. During these times up to a maximum of 10 support staff or volunteers will attend the premises compared to the usual requirement of 3-5 staff. This will include traffic marshals to manage parking during peak periods.
  - The typical prayer service takes approximately 15 to 30 minutes, while the Friday Communal services take up to 90 minutes. To minimise any effect on the neighbouring properties staff will be present to ensure noise is kept at a minimum. All prayer times are separated by at least 30 minutes.
  - All prayers shall be undertaken in the designated prayer areas.
  - The call for prayer will be made within the prayer hall without use of any external speakers and will have the same decibel rating as any prayer.
  - The ratio of male to female attendees for the Friday communal prayer is 20 males to 1 female. Under the Islamic jurisprudence, it is not required for women to attend the Friday Communal service, whereas the men are required to attend.
  - Security cameras will be installed in strategic locations with CCTV recordings also made available for checking by local police if required and recordings retained for one year. A security access system is to be installed to restrict out of hours access and deter trespassers.
  - A written record of all public submissions, their response, actions and outcomes are to be maintained and made available to Council upon request.
  - All staff and worshippers attending the Mosque are to be informed of all management controls implemented under the POM in order to minimise potential noise and traffic/car parking impacts for the residential neighbourhood.
  - The POM will be subject to ongoing review and updated to respond to any improvements and changes that may occur at the site and/or the POPW.
252. The applicant contends that the POM will provide a satisfactory mechanism to set down appropriate management measures to control the operations/activities associated with the functioning of the Mosque and the community centre activities. The measures

proposed will include training of staff/volunteers relating to the management of worshippers and recognition of the residential amenity of neighbouring properties.

### 3.2.2 Plan of Management– Objector Submission

253. Daintry Associates has prepared an objection submission on behalf of the Georges River Association which has provided comments on the proposal generally and the proposed POM as an ineffective means to manage activities on the site. The submission concluded as follows:

1. *There is no real prospect that the number of occupants will be maintained by the purported limit of 120 relying upon the Plan of Management.*
2. *The applicant has failed to demonstrate what systems and procedures will ensure that the purported limit of 120 can and will be maintained.*
3. *If the real intent is a maximum population of 120 then a facility of this capacity is not physically required to achieve that outcome.*
4. *The physical capacity over 900 and as proposed contained wholly with the internal spaces excluding the foyers 583, is well in excess of the stated maximum occupancy of 120. The excessive GFA is unnecessary if the statement of present intent is genuine.*
5. *Having constructed a building with the comfortable capacity of 583 worshippers, at a very significant cost, there is no reasonable prospect that the congregation will be limited to 120.*
6. *The real environmental impacts from traffic, parking and noise caused by a greater intensity of use will be imposed upon the local community and in particular the residents of the immediate locality.*
7. *The local road width and capacity are not sufficient to meet the demands setting aside, the statement of present intent, that the limit will be 120, the outcomes will worsen for every person attending beyond the purported self-enforced limit of 120.*
8. *The cumulative impacts of traffic, parking and noise even at a limit of 120 is unacceptable.*

254. The issues raised by the submission relating to how the 120 person capacity would be satisfactorily managed under the POM have substance and will be discussed further below.

255. It is evident through public submissions and professional reports that the primary issues of controlling car parking/traffic and noise amenity are matters requiring serious consideration and if not resolvable then are matters that would warrant refusal of the application. The issues of car parking/traffic and noise have been addressed separately within this report.

256. With regard to the claim that between 583-900 worshippers would attend the Mosque, should it be approved, this remains a matter of dispute. These figures relate to the total floor space available and also to outdoor areas, including the car park in order to determine this capacity calculation. This approach to calculating the potential maximum attendances at the Mosque is based in part upon other Mosque activities at other locations, some of which are unlikely to have had attendance restriction conditions applied at the time of their commencement, as would be the outcome in this instance if the application were to be approved.

257. The submissions indicating that a maximum projection of 900 worshippers would attend the Mosque is considered questionable by Council, having regard to this calculation:

- relying on worshippers praying in the car park, which in this instance could be a matter readily policed by Council through Ranger inspections on the basis that a condition would be proposed to prohibit worshipping outside the building; and
- considering the proposed Mosque is a smaller scale Mosque primarily catering for local community worshippers, and although there is likely to be some level of the wider Sydney Islamic community attending, it will be attended principally by worshippers from within the Georges River Local Government Area and nearby southern area Council residents.

258. Further, it is Council's view that reliance on an alternative maximum of 583 worshippers, should the application be approved without a maximum attendance limit condition, is also unlikely to be achieved for this local Mosque considering its location that is removed from a main distributor road network or primary public transport facility and set within a local low density residential precinct.

*Plan of Management - Assessment against Land and Environment Court principles*

259. On 1 November 2005 the Land and Environment Court determined by approval of DA2004/0454 for a commercial/residential development at 47-67 Mulga Road, Oatley in Appeal No. NSWLEC 315, *Renaldo Plus 3 Pty Ltd –v- Hurstville City Council*.

260. As part of that determination Commissioner Brown introduced Planning Principles for consideration as part of an assessment of the appropriateness and adequacy of a Plan of Management. Consideration of these Planning Principles are assessed against the proposed POM for the subject application as follows:

*a. Do the requirements in the Management Plan relate to the proposed use and complement any conditions of approval?*

261. Comment: Yes, the requirements under the POM relate to the proposed POPW/Mosque use. No conditions of consent currently apply to the proposal as it is still to be determined.

*b. Do the requirements in the Management Plan require people to act in a manner that would be unlikely or unreasonable in the circumstances of the case?*

262. Comment: No, although an expectation that worshippers at pre-dawn and late evening will behaviour regularly in a certain manner to ensure residential amenity is preserved remains questionable.

*c. Can the source of any breaches of the Management Plan be readily identified to allow for any enforcement action?*

263. Comment: No, breaches carried out by worshippers, relating to parking in the northern car park only or minimising external noise emissions, during the pre-dawn or late evening prayers may not be easily reportable or enforceable by the Applicant or Council. This situation may be improved where the POM includes guidelines relating to the use of security cameras livestreaming prayer sessions to illustrate that attendance numbers have been abided by and to monitor the behaviour of worshippers when entering /exiting the Mosque car park areas.

*d. Do the requirements in the Management Plan require absolute compliance to achieve an acceptable outcome?*

264. Comment: Yes, without full compliance with the management procedures there exists the potential for an unreasonable *offensive noise* outcome for local residents leading to an unacceptable *sleep disturbance* outcome.



e. *Can the people the subject of the Management Plan be reasonably expected to know of its requirements?*

265. Comment: Yes, the POM can provide for clear instructions on behaviour and actions for both worshippers and staff in order to manage noise and car parking issues. The concern would be that even though all effort may be made to dutifully inform these persons the final decision on implementing these instructions rests with the individual persons. This continues to raise doubt as to whether the instructions can be enforced and adequately policed, particularly where visitors to the Mosque, rather than regular local worshippers, attend and are unaware of the local residential amenity concerns. This arrangement can again be improved through the use of a Mosque website to post all management controls/guidelines for worshippers attention and also to advise when prayer sessions have reached attendance capacities

f. *Is the Management Plan to be enforced as a condition of consent?*

266. Comment: Yes, should the application be approved it is proposed to require that a revised Plan of Management be required as a condition of consent that would provide further management measures designed to support the protection of the local residents environmental amenity generally.

g. *Does the Management Plan contain complaint management procedures?*

267. Comment: Yes, that draft POM has basic guidelines to be implemented on how complaints should be managed and instructions to the public on how to lodge complaints. This arrangement could also be improved through livestreaming of events and providing guidelines regarding complaints on a Mosque website.

h. *Is there a procedure for updating and changing the Management Plan, including the advertising of any changes?*

268. Comment: Yes, there is an intention to provide for monitoring and updating of the POM. This will also be required conditionally should the Mosque proposal be approved on an annual basis.

269. Based upon the above comments it is evident that the proposed POM would generally satisfy the principles as adopted by the Land and Environment Court which are appropriate and relevant to apply to the subject application. The POM as lodged is inconsistent with the supporting documentation, generally accepted as the proposal is in flux due to its responses to public submission concerns, and should be conditionally amended to reflect the final agreed operational form for the Mosque should it be approved.

270. Various Land and Environment Court cases on similar POPW proposals have relevance and require consideration against the subject application, having regards, where relevant, to the matters that the Court considered essential issues and measures in determining to approve or refuse an application.

271. Under Appeal No. NSWLEC 1548, *Nasser Hussein –v- Georges River Council*, part of that determination by Commissioner Smithson concluded as follows with regard to appropriateness of relying upon the management measures recommended in a Plan of Management and concluded:

- 1) *Mr Clay formed the same view for this application. That is, that absolute compliance with the PoM is not necessary. I cannot come to the same conclusion. In my view, absolute compliance with the PoM in the late evening and early mornings*

*(particularly predawn), as a minimum would be necessary to try to achieve an acceptable noise environment for local residents. Furthermore, any breach, however occasional could have unacceptable impacts for residential neighbours. There may be low risk of breaches but there are high consequences during core night time sleeping hours for surrounding residents.*

- 2) I also cannot see how the proposed PoM can be enforced in practice as it would place an unrealistic operational regime on the mosque further calling into doubt its ongoing and unwaivering implementation.*
- 3) Even with the PoM in place, I cannot accept that, at times, cars and people would not arrive at or leave the mosque in the late evening or early hours of the morning. By doing so their arrival or departure must on occasions be heard. If you are sleeping, as would reasonably be expected at 10pm on a week night or between 4am and 8am any morning, the possible resultant sleep disruption would be unreasonable.*
- 4) With the best of endeavours, including with substantial modifications to their proposed development and method of operation to try and minimise impacts, the Applicant simply cannot control the potential adverse impacts on the neighbourhood in which the PPW is proposed.*
- 5) Allowing the mosque to be built and then run for a trial period would not remove the fact that worshippers need to be able to pray at required times at their PPW which of necessity requires it to be open predawn and, in summer and during Ramadan, into the late evening every day. A site where such hours of operation are necessary is not one immediately adjacent to single and medium density dwellings where people sleep. Such uses simply cannot happily co-exist at least not in the context of this site.*
- 6) Finally, an offer was made by the Applicant to limit the opening of the mosque to 7am if issues arose but by then the adverse impacts have already occurred, and even 7am every morning including Saturdays and Sundays is not, in my view, reasonable in a residential area.*

272. The conclusions reached by Commissioner Smithson in relation to the effectiveness of the operation of a Plan of Management to control amenity concerns for a Mosque within a residential environment remain highly relevant. The subject development, unlike in *Nasser Hussain –v- Georges River Council* which had frontage to a major road, is surrounded by residential land, apart from Sydney Technical High school to the north, and the early and late evening prayer times will create an amenity issue that may be considered “*offensive noise*”, resulting in irregular “*sleep disturbance*” for residents where not properly managed.

273. It is considered that the use of security cameras to livestream prayer sessions and carparks and the creation of a Mosque website to advise of the specific controls applying to the development and advise of attendance capacities, along with progressive updates of attendance numbers, should provide reasonable information to the public and also evidence for prosecution should a non-compliance with POM controls or conditions occurs.

#### Plan of Management - Council Recommendation

274. Having due regard to the Objection submissions on the proposal, previous conclusions from the Land and Environment Court and the Land and Environment Court Planning Principles for Plans Of Management, it is concluded that the POM as lodged with the subject application is not adequate in its current form but could be conditionally modified to provide a feasible and effective control instrument suitable for the management of the Mosque operations. In particular, should approval be granted the POM should be modified to:

- prohibit the operation of pre-dawn prayers;
- further manage amenity issues for late evening prayers,
- further manage traffic/car parking arrangements; through the use of at least two staff in car park area and to install security cameras for livestreaming purposes;
- creation of a Mosque website with to further improve the effectiveness of training/informing staff/volunteers/worshippers of the mitigation measures; and
- improve policing and enforcing proposed mitigation measures.

275. The adequacy of the Plan of Management is an issue of paramount importance for a development that has been identified by the expert reports as potentially resulting in obtrusive noise issues for local residents. Currently the proposal seeks to implement standard forms of controls for noise and car parking/traffic concerns as part of a most unique situation. The proposal has reasonably sought to retain an existing building form so as to not be physically intrusive with a more traditional Mosque building form in a predominantly residential precinct

#### Social Implications and Mosque functionality

276. The Mosque proposal seeks to provide for a community demand, particularly a local demand, within the Georges River Council Local Government Area (LGA). There is a number of large scale Mosques across Sydney, including Arncliffe, Auburn and Lakemba, which serves the Muslim community on a wider scale whilst there are over 50 other Mosque complexes which provide for a more localised demand for these religious facilities.

277. The subject proposal, being located away from a primary transport route, will provide primarily for local needs although it will still accommodate the needs of visiting worshippers from across Sydney who travel for work or are visiting the LGA. This service is not dissimilar to any other religious institution operations, and similarly the Mosque will also serve as a focal local centre for community services, providing advice and assistance to the elderly and the young.

278. The social role of the Mosque for the Muslim community, and as part of the wider community, is clearly identified through the advice provided by Prof Ozlap, as follows:

- *Although in Islam Muslims can pray in any clean place, Muslims use mosques as their distinctive place of worship for congregational prayer services. Some of these services can only be conducted in a mosque.*
- *The prayer services conducted in a mosque is of two kinds. The first is the regular daily prescribed prayers (salat) which is performed five times a day. Praying these in mosques as part of a congregation is strongly encouraged in Islam even though forming a congregation is considered an optional practice.*  
.....
- *There are close to 50 known Islamic places of worship in Sydney. As there are not too many mosques in comparison to Muslim population, urban sprawl and higher rates of religious observance with Muslims, mosques usually get to full capacity at Friday prayer services and Eid prayers.*
- *..... in addition to Muslims who may reside in a locality, places of worship receive transient worshippers who may work or travel in an area.*  
.....
- *If there was a place of worship in east Hurstville as the proposed POPW, this would provide convenience for Muslim residents living in the area. It would also add to total prayer room capacity in the area and, hence, spread and reduce environmental impacts throughout the locality so that they do not concentrate in a few focal areas.*

- *In Sydney, smaller places of worship in more localities are more popular as most Muslims prefer the convenience of a nearby place of worship than distant large mosques such as the Lakemba Mosque and the Auburn Gallipoli Mosque.*
- *In addition to being places of worship, mosques provide important community services and pastoral care to families, elderly and the youth.*
- *Importantly, although mosques are attended by Muslims from a diversity of ethnic backgrounds, mosques are usually initiated by a single ethnic or Islamic group. There is also no central body (similar to a Catholic diocese for example) that initiates or controls mosque building. So, even though there may be a place of worship in one locality various groups may feel the need to establish their own mosque*

279. The favourable consideration of the Mosque proposal has significant social benefits within the Muslim community but has wider community benefits in a similar vein to approval of any religious facility which contributes to the wider community's well-being. Prof Ozlap's advice regarding the establishment of Mosques and the role they have within the Muslim community and the wider community generally illustrates the uniqueness of each Mosque and the specific local community it would seek to service.

## IMPACTS

### Natural Environment

280. The proposal is for demolition of an existing dwelling house and alterations and additions to an existing building including new ground floor works over existing hard surface areas with external building fabric to be retained. The proposal does involve the removal of local vegetation as part of the demolition of the dwelling house and this has been supported by an arborist report and landscaping plan as part of the development.
281. Council's Arborist has assessed the proposal and has raised no objection to the removal of trees as part of the car park development, subject to suitable replacement trees being provided as part of the developments landscape plan.
282. The land is subject to partial inundation during storm events and during PMF flood events and the applicant has proposed building measures to minimise the impacts relating to these flooding events.
283. It is noted that the demolition of the dwelling and clearing for paved areas may assist in minimising flooding impacts. The extent of flooding is minor, less than 500mm, and related to a small portion of the site, generally across the front entry. The proposed activities are not residential in nature (other than temporary first floor overnight accommodation for visiting clerics, and emergency situations as discussed elsewhere in this report) and would be intermittent in operation and thus suitable management procedures could be implemented through the proposed Plan of Management to ensure the safety of users during a flood event situation.
284. Council's Engineer accepts that the inundation is minor in nature and the proposed improvement works to the site and building would assist in minimising any long term impacts.
285. Therefore there appears to be no unacceptable impacts to the natural environment.

### Built Environment

286. The adjoining R2 Low Density Residential zone has a building height limit of 9m and a Floor Space Ratio of 0.6:1, as prescribed by HLEP2012, consistent with the projected

scale of building form for a residential precinct. This locality is predominantly a residential area with a mixture of one and two storey, detached dwellings within the catchment for the neighbouring Sydney Technical High School. The subject land accommodates an existing two storey residential aged care facility and a single storey brick/tile dwelling house which are of a scale commensurate with the development controls.

287. Council's Building Officer advised that the proposed conversion of the existing residential aged care facility for use as a Mosque was acceptable subject to standard conditions, the Commonwealth Disability (Access to Premises - Buildings) Standards 2010 and the Building Code of Australia (National Construction Code).
288. It is acknowledged that the building differs architecturally from the surrounding residential buildings and the immediately neighbouring Sydney Technical High School; however, it is not unreasonable to expect that POPW of differing denominations have their own distinctive architectural style with building elements designed to make them easily identifiable.
289. In this particular instance the proposal does not seek to modify the external appearance of the nursing home building apart from ensuring the structure remains in a sound condition for further occupation.

#### Social Impact

290. The proposed POPW has been publicly exhibited and this generated an intense and wider response from the Sydney community which did not support the proposal specifically as it is located in a residential neighbourhood. This response principally identified that the use is not a complimentary use within a low density residential neighbourhood due to potential traffic, car parking, noise and light impacts that can eventuate. This response is consistent with other similar proposals that have been proposed within the Georges River LGA and also consistent with the Council's position which is to prohibit POPW's within residential zones under the Draft Georges River LEP 2020.
291. The social benefits of any religious institution being established within a local community are not disputed, particularly provisions of services for the elderly, homeless, young, but in this instance the objectors contend that the amenity impacts outweigh the communal benefits for this local residential neighbourhood.
292. In this instance, there is no evidence to suggest that the proposal would have an adverse social impact.

#### Economic Impact

293. No adverse economic impacts have been identified. It is noted that some public submissions on the proposal have raised concerns at potential reduction in land/house prices due to a non-residential development in the locality; however, these claims have not been supported by any relevant information to substantiate such a claim. Impacts upon property prices and/or land value is not a relevant matter for planning consideration under the Environmental Planning and Assessment Act 1979.

#### Suitability of the Site

294. The site has been operating as a residential aged care facility for many years, however, due to rising economic costs associated with operating and maintaining such a facility the owners sold the site to the applicant. The proposal is to retain the original residential aged care facility external building form, although the adjoining dwelling is to be

demolished to accommodate the on-grade car parking to service the POPW, and to complete an internal fitout for use as a Mosque and community centre. This is considered to be a reasonable re-use of an existing semi-commercial/residential facility.

## REFERRALS, SUBMISSIONS AND THE PUBLIC INTEREST

### Council Referrals

#### Senior Traffic Engineer

295. In this particular matter the application was not referred to the Traffic Engineer as Council engaged an independent Traffic Consultant to assess the traffic/car parking issues, and submitted reports from the applicant and the community group. It is noted however, that advice was sought on local traffic management issues for this location, in response to public submissions advising of long term impacts for the local residents and the potential for the proposed Mosque development to further compound those issues.
296. Council's Traffic Engineer advised that an issue of local resident road safety along Ethel Lane between Lily Street and Botany Street has been previously considered by the Local Traffic Committee in 2018. In response to requests the Committee organised a local survey on potential to convert Ethel Lane from two-way to one-way flow to reduce potential for traffic and pedestrian conflict.
297. The survey was delivered to 177 residences and generated a 31% response of which 67% supported a "No Change" outcome and hence a modified traffic management system for this locality was not supported. Ethel Lane remains as a two-way flow as a result.

#### Environmental Health Officer

298. The Environmental Health Officer raised no objection to the proposed conversion of the residential care facility to a POPW development subject to compliance with standard conditions, including suitable acoustic treatment of the building in accordance with the recommendations by RSA.

#### Arborist and Landscaping Officer

299. Council's Consultant Arborist has advised as follows:
- *Two Council street trees are located within Councils verge fronting 90 Botany Street and are Lophostemon confertus and both in good condition and to be retained.*
  - *A large Triadica sebifera (formerly Sapium sebiferum) is located within the front of the property, is in good condition and provides a greening canopy in addition to the street trees.*
  - *Within the single dwelling property of 92 Botany Street (proposed car park), there are approximately four (4) trees that are not significant and shall be removed – Lagerstroemia indica, Syagrus romanzoffiana, Triadica sebifera and a Cupressus Spp.*
  - *Within 90 Botany Street (aged Care dwelling) There are four (4) Cupressus X Leylandii within the north east corner lane way/ driveway at rear, 1 X Schefflera actinophylla located within the front south corner of the building and 1 x Melia azedarach located on the western corner of the building and a Phoenix canariensis located close to the front entrance of the building.*
  - *If any of these trees located within the site 90 Botany Street and within 92 Botany Street and in accordance with Georges River Tree Management Policy, April 2019, are to be removed, the applicant shall be required to replace the trees removed, with 2 to 1 policy. These tree plantings shall be in collaboration with a new landscape plan*



*for new gardens being created along the street frontage of Botany Street. It would be a good opportunity to provide several trees within the car parking area of 92 Botany Street as this area will be a hot uninviting area during the summer months.*

300. This requirement to submit an amended landscape plan which identifies additional tree planting in accordance with Council's Tree Replacement Policy is proposed to be conditioned should the application be approved.

#### Building Surveyor

301. The Council Building Surveyor raised no objection to the proposed conversion of the existing residential aged care facility to a POPW and the demolition of the adjoining dwelling to accommodate car parking subject to standard conditions and due consideration to compliance under the Building Code of Australia (National Construction Code) and the provisions of the Commonwealth Disability (Access to Premises - Buildings) Standards 2010.

### **External Referrals**

#### Ausgrid

302. The proposal was referred to Ausgrid for comment and Ausgrid advised as follows:

*Ausgrid has no objection to this development application; however the design submission must comply with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice for construction works near existing electrical assets. The "as constructed" minimum clearances to Ausgrid's infrastructure must not be encroached by the building development. It also remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.*

303. This information can be required conditionally should the application be approved.

#### NSW Police

304. The subject application was referred to NSW Police for comment. At the time of finalising this Report a response has not been received.

### **Submissions and the Public Interest**

305. The application was advertised/notified to surrounding properties and advertisements were placed in the St George and Sutherland Shire Leader. The development application as originally submitted was notified to neighbours and placed on public exhibition from 29 January 2020 to 26 February 2020. Following community concern about the extent of notification, council extended the public submission period for the proposal to 31 May 2020, being 123 days. During the notification period 177 letters were sent out in total. In response to the notification 3284 responses were received including petitions.
306. In response to public submissions and issues raised by Council the Applicant provided additional information which amended the original operational procedures and this warranted a second public notification for a period of 76 days from 2 December, 2020 to 12 February, 2021. Council received a total of 1026 additional submissions, pro-forma submissions and petitions.
307. Although the balance of submissions received raised objection with respect to the proposal, a number of submissions were also received that were supportive of the proposal.

308. The issues raised in submissions are addressed in Annexure 3 to this report. The primary issues raised by submissions are as follows.

Traffic generation and safety

309. Mosque operations will result in increased traffic generation and worsen existing safety concerns in this locality, particularly during school peak periods.
310. Comment: Many objections have been lodged advising of past accidents along Botany Street associated with conflicts at intersections particularly during school peak periods. These concerns include a recent child's death on Forest Road adjacent to Hurstville Public School due to speed/intoxication and many instances of confrontations by drivers at intersections, including between school buses and vehicles. Photographic examples of the confrontations at intersections are provided as an attachment to this report.
311. The traffic generation impacts associated with the proposed Mosque has been responded to by the applicant's Traffic Impact Assessment report and this has been reviewed by Council's appointed Traffic Consultant and a Traffic Consultant engaged by the Georges River Association who object to the proposal. The findings of these assessments have assisted in the understanding of the Mosque potential impacts on traffic generation for the locality and this has been addressed in detail in the body of the Report.
312. Generally, based upon an assumption that the Mosque attendances will be restricted to 120 attendees at any time, the survey and modelling results indicate that the local street network has adequate capacity to cater for the proposed development. The primary operating periods of the Mosque, being Friday lunchtimes and evening prayers accommodating greater than 20 attendees, are outside the peak traffic periods for the locality, influenced by the nearby schools being 2:30pm-4:00pm weekdays.
313. It is concluded that the existing road network system has adequate capacity to accommodate the demands identified for the Mosque development.

Car parking

314. Inadequate car parking has been proposed to accommodate the needs of the Mosque and this will unduly rely upon street car parking in this residential locality.
315. Comment: Local submissions have raised concerns that the Mosque development does not provide adequate on-site car parking to service the needs of the Mosque and thus there will be unreasonable demand on existing available street car parking.
316. The car parking generation impacts associated with the proposed Mosque has been responded to by the applicant's Transport Impact Assessment report and this has been reviewed by Council's appointed traffic consultant and a traffic consultant engaged by the Georges River Association. The findings of these assessments have assisted in the understanding of the Mosque potential car parking requirements for on-street parking in the locality and this has been addressed in detail in the body of the report.
317. The applicant's modified proposal provides for 23 car spaces, one of which acts as a service/loading bay, on site to service the Mosque primary prayer service periods. The consultants concur that this number of parking spaces is inadequate to service the needs of the prayer services and that there will be a need to accommodate worshippers by parking on-street. Surveys undertaken and photographs taken (see Annexure 4) indicate that there is capacity on street car parking to accommodate demand.

318. The applicant has acknowledged local concerns by proposing restrictions on users with respect to limiting on-street car parking to Botany Street and Ethel Street only as the remaining road network is narrow with potential for increased conflict situations arising.
319. Having regard to the general acceptance that apart from the Friday midday prayers and Ramadan evening prayers, both periods being outside the peak traffic periods for the locality, the demand for car parking can be accommodated within the proposed on-site car park.
320. On this basis it is considered that the majority of the operations of the Mosque can be adequately catered for by the proposal and that the high attendance prayer times can be catered for by the existing on-street capacity.

#### Noise impacts

321. The morning and evening prayers at the Mosque would result in unacceptable noise impacts for residents prior to dawn and during evenings daily.
322. Comment: Objections have particularly addressed the potential for noise impacts, principally by car movements and attendees activities, associated with pre-dawn and late evening prayer sessions with potential disrupted sleep patterns for local residents. The early morning/late evening impacts are further compounded by potential light intrusion impacts also.
323. This potential noise issue is acknowledged and has been responded to through Consultant noise reports from the applicant which have been reviewed by Council's independent acoustic consultant and a consultant engaged by the Georges River Association. The findings of these reports have been addressed in detail in the body of this report.
324. The findings of the applicant's acoustic assessment indicate that relatively minor impacts would eventuate where suitable amelioration measures are implemented to manage noise issues on the site. These measures include closing doors and windows and using suitable building materials to minimise noise penetration. The proposal will have a significant reliance on the implementing of management measures through a Plan of Management to instruct staff and worshippers on good neighbour practices to minimise noise issues and also to address any local resident noise complaints effectively.
325. Based upon the information provided and the noise mitigation measures proposed by the applicant it has been recommended in the body of this Report that the pre-dawn Morning Prayer be prohibited as part of the proposal due to the uncertainty as to whether attendees can be suitably managed to minimise noise impacts. With regard to evening prayers it is considered reasonable that operations can continue until 9:55pm in evenings subject to conditions requiring site being vacated by that time.

#### Number of attendees

326. Mosque application is misleading as the potential attendees at the Mosque will greatly exceed the maximum 120 persons proposed, based upon the overall floor space of the building and car park area.
327. Comment: Objections have been raised to the proposed maximum 120 person capacity for the Mosque when the overall available floor space could accommodate significantly greater numbers. This issue is acknowledged as a potential outcome unless the Mosque

operations can be adequately managed through conditions and guidelines under the proposed Plan of Management.

328. In support of these concerns references have been made to existing Mosques with large attendance numbers during prayer sessions including prayers being held in car parks. These situations are not disputed and reflect the demand for Mosque services. It is considered that such an outcome would be unlikely for a small local Mosque as currently is proposed and considering the controls as proposed:
- Conditionally restricting prayer sessions to identified prayer rooms only;
  - Prohibition of any amplified voice system on site; and
  - Use of CCTV camera system to livestream services and car park usage to ensure attendance numbers are adhered to.
329. These controls will provide reasonable certainty that attendance controls can be suitably managed and enforced by Council if necessary. It is assumed that the Mosque, being a community conscious operator, will be responsive to community concerns and take actions where necessary to ensure compliance, however, it is acknowledged that the Mosque cannot manage all individual worshippers and that potential for conflicts regarding numbers attending remains. On this basis it is recommended that a high level of digital awareness be implemented by creating a Mosque website which provides details on conditions applying to the operation of the Mosque and live updates on capacities to ensure worshippers do not attend when doors are closed for prayers.
330. Implementation of the above controls is considered adequate to ensure that capacity attendance numbers will not be exceeded.

#### Plan of Management

331. Plan of Management is inadequate to ensure that the Mosque is properly managed and to ensure that local residential amenity is maintained.
332. Comment: Local residents rightly have raised concerns at whether the POM is an adequate document to manage the operations of the Mosque and will be able to implement suitable controls to ensure the Mosque operations and worshippers can be managed in order to minimise amenity impacts.
333. The adequacy of the POM is addressed in detail within the body of this report and is considered to be adequate to operate in an amended form as has been conditioned. This acceptance of the POM's general adequacy in an amended form acknowledges it as a preliminary document that will be revised to respond to matters addressed in this report and any proposed conditions should the Mosque development be approved. In particular the POM will be required to specifically address a digital presence for the Mosque which is essential in modern times as a means to keep the general public and worshippers fully informed and livestream updated.
334. Subject to further details being included within the POM, as discussed in this report, regular updating and review of the POM and creation of a supporting Mosque website, it is considered that the POM will be a satisfactory document to manage Mosque operations.

#### Type of development

335. Places of Public Worship developments have been identified by Council as a form of development that is not compatible with a low density residential environment and has

been exhibited as a prohibited use within the Draft Georges River Local Environmental Plan 2020.

336. Comment: This issue has been addressed in detail in the body of the report and it is noted that the prohibition of POPW's within residential zones under the DGRLEP2020, which has been referred to the Department of Planning, Industry and Environment (DPIE) for final gazettal however to date it is pending. As part of that referral to the DPIE the draft instrument also has retained a savings clause provision for development applications lodged prior of the making of the DGRLEP2020.
337. As the DGRLEP2020 has been exhibited and is imminent due consideration has been given to the proposed prohibition of POPWs within the zone and the provisions of the Draft development control plan to accompany that prohibition.

## CONCLUSION

338. The subject proposal seeks approval for a change of use from a residential aged care facility to a Place of Public Worship, being a Mosque, and the demolition of an existing dwelling on the adjoining land to provide for Mosque car parking. The proposal seeks a maximum worshipper attendance on site of 120 persons for 10 events annually with normal daily attendance numbers being between 20–100 persons, and the operating hours proposed as 5:30am – 10:00pm daily. The proposed POPW use is a permissible use within the R2 Residential zone under Hurstville Local Environmental Plan 2012.
339. The proposal has generated significant public interest and objection having regard to the following issues:
- Traffic impacts in an area accommodating three schools and predominantly a residential neighbourhood;
  - Reliance on on-street car parking during high attendance prayer sessions rather than being wholly accommodated on site;
  - The potential of Pre-dawn prayer sessions to significantly impact local resident sleep patterns;
  - The potential noise and light impacts for local residents for Evening prayer sessions up until 10:00pm;
  - The adequacy and ability of a Plan of Management to suitably manage the Mosque operations; and
  - Safety concerns for school children, pedestrians and vehicles due to increased traffic.
340. The issues that have been raised have been addressed by the applicant and with appropriate controls introduced in a Plan of Management and with the imposition of suitable conditions of consent, it is considered that the issues of concern can be appropriately addressed, with mitigating measures able to be implemented.
341. On the basis of the considerations outlined in this report, the proposed conditions of consent recommended and the adoption of a modified Plan of Management to manage the Mosque operations, it is recommended that the proposal be conditionally approved subject to specific conditions.

## DETERMINATION AND STATEMENT OF REASONS

### Statement of Reasons

342. Having considered the assessment undertaken and the conditions proposed prepared in accordance with the provisions of the Environmental Planning and Assessment Act 1979
- Taken into consideration the requirements of the Environmental Planning and Assessment Act 1979;
  - Considered the provisions of all State Environmental Planning Policies;
  - Considered the provisions of all Regional Environmental Planning Policies;
  - Considered all Local Environment Plans, Development Control Plans as applicable to the Georges River Council Local Government Area;
  - Have taken into consideration the submitted plans, documents and reports associated with this application;
  - Considered all submissions; and
  - Reviewed land owners consent as submitted and are satisfied that adequate detail has been provided
343. It is considered, subject to suitable conditions, that the:
- the proposal is acceptable on merit.
  - the proposal meets the objectives and the requirements of the Environmental Planning and Assessment Act 1979 (and associated Regulations),
  - the proposal meets the objectives and the requirements of the applicable Environmental Planning Instruments, Development Controls Plans, Codes & Policies of Council.
  - The proposal is acceptable in terms of its impact on the natural, built, social and economic environments;
  - the proposal in is not likely to significantly affect threatened species or ecological communities, or their habitats does and accordingly does not Trigger the Application of Part 7 of Biodiversity Conservation Act 2016 and Part 7A of Fisheries Management Act 1994; and
  - the proposal is acceptable in terms of the public interest.
344. The reasons for this recommendation are that:
- The proposal is a permissible land use in the zone and is a suitable use that provides community benefit, subject to appropriate management of acoustic and traffic impacts.
  - Conditions removing early morning prayers, strictly governing evening prayers, requiring live streaming of Mosque operations and enforcing a plan of management are proposed to facilitate the management of amenity impacts.
  - Subject to the above, it is considered that the proposal will deliver positive social benefits and accordingly is recommended for approval subject to conditions.

### Determination

345. THAT pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act, 1979, as amended, the Georges River Local Planning Panel grants development consent to Development Application No. DA2019/0644 for the conversion of an existing residential aged care facility and demolition of an adjoining dwelling to accommodate a Mosque and associated on-grade car park and landscaping works subject to the following specific conditions of consent:
1. The following activities are prohibited as part of the Mosque operations:
    - a) Pre-dawn morning prayers of any kind;
    - b) Community activities operating during prayer sessions;

- c) Eid celebrations;
  - d) Function activities, including weddings, funerals or the like.
2. The permitted hours of operation of the mosque is limited to 9:00am to 9:55pm daily. The premises are to be vacated by 9:55pm apart from the Imam and any emergency staff requirements and any permitted occupant of the base accommodation;
  3. A 12 month trial acoustic assessment period for monitoring of the evening operations is required to confirm/address the adequacy of controls relating to the operation of the evening prayer sessions;
  4. The Mosque shall operate a publicly available website which will livestream all prayer sessions/public corridors and carpark usage during the normal operating hours;
  5. The Plan of Management is to be amended to reflect the issues raised above.

## **SPECIFIC DEVELOPMENT CONDITIONS**

### **Development Details**

1. **Approved Plan** - The development must be implemented in accordance with the approved plans and supporting documentation listed below which have been endorsed by Council's approved stamp, except where marked up on the plans and/or amended by conditions of this consent:

Description	Ref. No.	Rev. No	Date	Prepared by
Site Analysis	DA003	01	19/12/2019	FUSE Architecture
Proposed GF	DA106	01	19/12/2019	FUSE Architecture
Proposed UGF	DA107	01	19/12/2019	FUSE Architecture
Proposed Roof	DA108	01	19/12/2019	FUSE Architecture
West + East Elevation	DA201	01	19/12/2019	FUSE Architecture
North + South Elevation	DA202	01	19/12/2019	FUSE Architecture
Section A + Section B	DA301	01	19/12/2019	FUSE Architecture
Stormwater Plans	6213 C01 6213 C02 6213 C03	A	09/12/2019	Global Project
Soil & Water Management Plan	6213 C04	A	09/12/2019	Global Project
Landscape Plans	1B/2 2B/2	----	16/12/2019	Belinda Pekert Landscape Design

2. **Signage** - A separate application shall be submitted to Council prior to the erection of any signage unless the proposed signage is 'exempt development' under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 or any other applicable environmental planning instrument.

### **Separate Approvals Required Under Other Legislation**

3. **Section 138 Roads Act 1993 and Section 68 Local Government Act 1993** - Unless otherwise specified by a condition of this consent, this Development Consent does not give any approval to undertake works on public infrastructure. Separate approval is required under Section 138 of the [Roads Act 1993](#) and/or Section 68 of the [Local](#)



[Government Act 1993](#) for any of the following activities carried out in, on or over a public road (including the footpath) listed below.

An application is required to be lodged and approved prior to the commencement of any of the following works or activities;

- (a) Placing or storing materials or equipment;
- (b) Placing or storing waste containers or skip bins;
- (c) Erecting a structure or carrying out work
- (d) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- (e) Pumping concrete from a public road;
- (f) Pumping water from the site into the public road;
- (g) Constructing a vehicular crossing or footpath;
- (h) Establishing a “works zone”;
- (i) Digging up or disturbing the surface of a public road (e.g. Opening the road for the purpose of connections to utility providers);
- (j) Stormwater & ancillary works in the road reserve; and
- (k) Stormwater & ancillary to public infrastructure on private land
- (l) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council’s roadways/footways.

These separate activity approvals must be obtained and evidence of the approval provided to the Certifying Authority prior to the issue of the Construction Certificate.

The relevant Application Forms for these activities can be downloaded from Council’s website [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au). For further information, please contact Council’s Customer Service Centre on (02) 9330 6400.

4. **Vehicular Crossing - Major Development** – The following vehicular crossing and road frontage works will be required to facilitate access to and from the proposed development site:

- (a) Construct a footpath for the full length of the frontage of the site in Botany Street in accordance with Council’s Specifications applying at the time construction approval is sought.
- (b) The thickness and design of the driveways shall be in accordance with Council’s Specifications applying at the time construction approval is sought.
- (c) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the applicant. The work shall be carried out in accordance with Council’s specification, applying at the time construction approval is sought.

Constructing a vehicular crossing and/or footpath requires separate approval under Section 138 of the [Roads Act 1993](#), prior to the commencement of those works.

5. **Road Opening Permit** - A Road Opening Permit must be obtained from Council, in the case of local or regional roads, or from the RMS, in the case of State roads, for every opening of a public road reserve to access services including sewer, stormwater drains, water mains, gas mains, and telecommunications before the commencement of work in the road.

6. **Building – Hoarding Application** - Prior to demolition of the buildings on the site, or the commencement of work above ground level, a separate application for the erection of an 'A class' (fence type) or a 'B class' (overhead type) hoarding or 'C type' scaffold, in accordance with the requirements of SafeWork NSW, must be erected along that portion of the footways/roadway where the building is within 3 metres of the street boundary.

An application for this work under Section 68 of the [Local Government Act 1993](#) and the Roads Act 1993 must be submitted for approval to Council.

The following information is to be submitted with a Hoarding Application under Section 68 of the [Local Government Act 1993](#) and Section 138 of the [Roads Act 1993](#):

- (a) A site and location plan of the hoarding with detailed elevation, dimensions, setbacks, heights, entry and exit points to/from the site, vehicle access points, location of public utilities, electrical overhead wire protection, site management plan and builders sheds location; and
- (b) Hoarding plan and details that are certified by an appropriately qualified engineer; and
- (c) 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 at [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au)) before the commencement of work; and
- (d) A Public Risk Insurance Policy with a minimum cover of \$20 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.

### **Requirements of concurrence, Integrated & Other Government Authorities**

7. **Sydney Water – Tap in<sup>TM</sup>** - The approved plans must be submitted to a Sydney Water Tap in<sup>TM</sup> to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately endorsed. For details please refer to 'Plumbing, building and developing' section of Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then see 'Building', or telephone 13000 TAP IN (1300 082 746). The Certifying Authority must ensure that a Tap in<sup>TM</sup> agent has appropriately stamped the plans prior to the issue of the Construction Certificate.
8. **Notice of Requirements for a Section 73 Certificate** - A Notice of Requirements of what will eventually be required when issuing 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 'Plumbing, building and developing' section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to 'Providers' under 'Developing' 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 prior to the commencement of work. A Section 73 Compliance Certificate will be required at the completion of development in accordance with further conditions.

9. **Trade Waste Agreements** - A Trade Waste Agreement with Sydney Water may be required. Details of any work required to comply with the agreement must be detailed on the plans lodged with the Construction Certificate. If no trade waste agreement or grease trap is required, a letter from Sydney Water to this effect must be submitted with the application for the Construction Certificate.
10. **Electricity Supply** - An application is required to be made to Ausgrid for a network connection. This may require the network to be extended or its capacity augmented. Evidence of this application being lodged with Ausgrid is required to be provided to the Certifying Authority prior to the issue of a Construction Certificate. For further details, you are advised to contact Ausgrid on 13 13 65 or [www.ausgrid.com.au](http://www.ausgrid.com.au) (Business and Commercial Services).

Connection to the network will be required prior to the release of any Occupation Certificate.

Where works within the road reserve are to be carried out by the developer, a Road Opening Permit must be obtained from Council's Customer Service Centre before commencement of work.

### Prior to the Issue of a Construction Certificate

11. **Fees to be paid** - The fees listed in the table below must be paid in accordance with the conditions of this consent and Council's adopted Fees and Charges applicable at the time of payment (available at [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au)).

Payments must be made prior to the issue of the Construction Certificate or prior to the commencement of work (if there is no associated Construction Certificate).

Please contact council prior to the payment of S94 Contributions to determine whether the amounts have been indexed from that indicated below in this consent and the form of payment that will be accepted by Council.

Council will only accept Bank Cheque or Electronic Funds Transfer (EFT) for transaction values of \$500,000 or over. Council must be contacted prior to payment to determine correct total amount to be paid and bank account details (if applicable).

A summary of the fees to be paid are listed below:

Fee Type	Fee
<b>GENERAL FEES</b>	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See <a href="https://portal.longservice.nsw.gov.au/bci/levy/">https://portal.longservice.nsw.gov.au/bci/levy/</a>	
Builders Damage Deposit	\$171,278.70
Inspection Fee for Refund of Damage Deposit	\$371.00
Georges River Council Section 94A Development	\$9,480.75

## Contributions Plan 2017

The 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.

### Development Contributions

A Section 7.12 contribution has been levied on the subject development pursuant to the GRC Section 94A Contributions Plan.

#### Indexation

The above contributions will be adjusted at the time of payment to reflect changes in the cost of delivering public amenities and public services, in accordance with the indices provided by the relevant Section 94 Development Contributions Plan.

#### Timing of Payment

The contribution must be paid and receipted by Council prior to the release of the Construction Certificate.

#### Further Information

A copy of the *all current Development Contributions Plans* may be inspected or a copy purchased at Council's offices (Civic Centre, MacMahon Street, Hurstville and 2 Belgrave Street, Kogarah) or viewed on Council's website [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au).

12. **Damage Deposit – Minor Works** - In order to insure against damage to Council property the following is required:

- (a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: \$171,278.70.
- (b) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee to enable assessment of any damage and repairs where required: \$371.00.
- (c) Submit to Council, before 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.

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.

13. **Site Management Plan - Minor Development** - A Site Management Plan detailing all weather access control points, sedimentation controls, fencing, builder's site sheds office, amenities, materials storage and unloading arrangements must be submitted with the application for the Construction Certificate.

14. **Required design changes** - The following changes are required to be made and shown on the Construction Certificate plans:

Front Fence Design	No part of the fence along boundaries fronting public roads shall exceed a total height of 1800mm and any such fence shall be solid in nature to a maximum height of 1200mm only with the remaining 600mm to be open fencing, i.e. grill form or similar.
Front fence encroachment	No part of the front fence, including any footings or support work is permitted to encroach on Council's public footway.
Front fence opening	The front fence vehicular access gate must not open onto Council's public footway. The access gate is to open inwards onto private property.

15. **Erosion & Sedimentation Control** - Erosion and sediment controls must be provided to ensure:

- Compliance with the approved Erosion & Sediment Control Plan
- 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)
- All clean water run-off is diverted around cleared or exposed areas
- Silt fences, stabilised entry/exit points or other devices are installed to prevent sediment from entering drainage systems or waterways
- All erosion and sediment controls are fully maintained for the duration of demolition, excavation and/or development works
- Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway
- All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar
- Compliance with [Managing Urban Stormwater – Soils and Construction \(Blue Book\) produced by Landcom 2004](#).

These measures are to be implemented prior to the commencement of work (including demolition and excavation) and must remain until works are completed and all exposed surfaces are landscaped/sealed.

16. **Stormwater System** - The submitted stormwater plans:

- Car park stormwater design drawing No. 6213 C02 Rev' A' dated 9.12.2019 prepared by Global Project Engineering Pty Ltd,
- Car park details drawing No. 6213 C03 Rev' A' dated 9.12.2019 prepared by Global Project Engineering Pty Ltd,
- Cover notes drawing No. 6213 C01 Rev 'A' dated 9.12.2019 prepared by Global Project Engineering Pty Ltd,

have been assessed as a concept plan only. Final detailed plans of the drainage system, prepared by a professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate.

- All stormwater for the proposed car park shall drain by gravity to Council's stormwater kerb inlet pit located in Botany Street in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).
- Stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineer who specialises in Hydraulic Engineering 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.

17. **On Site Detention** - The submitted stormwater plan, car park stormwater design drawing No.6213 C02 Rev "A" dated 9.12.2019 prepared by Global Project Engineering Pty Ltd has been assessed as a concept plan only. Final detailed plans of the drainage system, prepared by a professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate.

An on-site detention (OSD) facility designed by a professional engineer who specialises in Hydraulic Engineering must be designed, approved and installed. The design must include the computations of the inlet and outlet hydrographs and stage/storage relationships of the proposed OSD using the following design parameters:

- (a) peak flow rates from the site are to be restricted to a permissible site discharge (PSD) equivalent to the discharge when assuming the site contained a single dwelling, garage, lawn and garden,
- (b) at Annual Recurrence Intervals of 2 years and 100 years.

Refer to Flow Controls in Council's Draft/Adopted Stormwater Drainage Policy.

The OSD facility shall be designed to meet all legislated safety requirements and childproof safety fencing around the facility must be provided where the OSD facility is open or above ground when the design peak storage depth is greater than 300mm. A durable metal plate or similar sign is to be placed at the OSD facility and must bear the words:

"BEWARE: This is an on-site detention basin/tank for rainwater which could overflow during heavy storms."

Full details shall accompany the application for the Construction Certificate.

18. **Compliance with Flood Study** - The development shall be designed to conform to the recommendations and conclusions of the submitted flooding Advice prepared by Flood impact report – prepared by Tooker and associates, dated May 2020.

This shall include, but not be limited to, any recommendations for the following:

- (a) Minimum floor levels
- (b) Construction of retaining walls
- (c) Flood proof materials
- (d) All electrical wiring are to be half a metre (500mm) above the 100 year flood level
- (e) Car parking and
- (f) Flood emergency Response plan

19. **Stormwater Drainage Plan Details** - Stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineering specialising in hydraulic engineering shall be submitted with the Construction Certificate application. These plans shall be prepared in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (1987) and Council's Stormwater Management Policy.



20. **Driveway Surface Waters** - For driveways on private property sloping to the street and greater than 10m in length, drainage control devices such as humps or grated surface inlet pits shall be installed at the front boundary in order to control excess stormwater flowing across Council's footpath.
21. **Driveway Construction Plan Details** - Detailed engineering plans for the driveway shall be submitted with the Construction Certificate application for approval that show:
- (a) Longitudinal and cross sections, gradients, access onto the proposed lots, type of construction materials designed in accordance with Council's Subdivision standards and AS/NZS2890.1-2004.
  - (b) The full length of the driveway designed with a minimum 150mm thick reinforced concrete and minimum of 2.7m wide pavement/kerb face to kerb face width, and a non-slip surface.
22. **Council Property Shoring** - Prior to the issue of the Construction Certificate, plans and specifications prepared by a professional engineer specialising in practising structural engineering must detail how Council's property shall be supported at all times.

Where any shoring is to be supporting, or located on Council's property, certified structural engineering drawings detailing; the extent of the encroachment, the type of shoring and the method of removal, shall be included on the plans. Where the shoring cannot be removed, the plans must detail that the shoring will be cut to 150mm below footpath level and the gap between the shoring and any building shall be filled with a 5MPa lean concrete mix.

23. **Stormwater Drainage Application** This Development Consent does not give approval to undertake works on public infrastructure. A separate approval of a Stormwater Drainage Application is required under Section 138 of the Roads Act 1993 and/or Section 68 of the Local Government Act 1993 to undertake:
- (a) Stormwater and ancillary works in the road reserve. This includes connections to Council.
  - (b) Stormwater and ancillary to public infrastructure on private land.

The Stormwater Drainage Application approval must be obtained and evidence of the approval provided to the Certifying Authority prior to the issue of the Construction Certificate.

The Application Form for this activity can be downloaded from Council's website [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au). For further information, please contact Council's Customer Service Centre on (02) 9330 6400.

24. **Fire Safety Measures** - Prior to the issue of a construction certificate a list of the essential 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 a PCA. Such list must also specify the minimum standard of performance for each essential fire safety measure included in the list. The Council or PCA will then issue a Fire Safety Schedule for the building.



25. **Structural details** - Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns & other structural members. The details are to be submitted to the Principal Certifying Authority for approval prior to construction of the specified works.

A copy shall be forwarded to Council where Council is not the PCA.

26. **Engineer's Certificate** - A certificate from a professional Engineer specialising in structural engineering certifying the structural adequacy of the existing structure, to support all proposed additional superimposed loads shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate.
27. **Access for Persons with a Disability** - Access for persons with disabilities must be provided to the premises/building in accordance with the requirements of the Premises Standards, the Building Code of Australia, and AS 1428.1. Details must be submitted with the Construction Certificate Application for approval.
28. **Commonwealth Disability (Access to Premises) Standard** - The Commonwealth Disability (Access to Premises - Buildings) Standards 2010 (the Premises Standards) applies to all applications (i.e. Construction Certificate). This requires any new building, part of a building and the affected part of the existing building to comply with the Premises Standards, the Building Code of Australia and AS 1428.
29. **Partial conformity with the BCA – Clause 94 EP&A Regulation 2000** - Pursuant to Clause 94 of the [Environmental Planning and Assessment Regulation 2000](#), the existing building must be brought into partial conformity with the Building Code of Australia as detailed in the NCC Assessment report prepared by Credwell Consulting (C19387-NCC-r1) dated 18 December 2019.
30. **Traffic Management – Compliance with AS2890** - All driveways, access ramps, vehicular crossings and car parking spaces shall be designed and constructed in accordance with the current version of Australian Standards, AS 2890.1 (for car parking facilities) and AS 2890.2 (for commercial vehicle facilities). This design shall include a minimum of two accessible car parking spaces.
31. **Noise Mitigation - Commencement of Operations** - During the first sixty (60) days of operating evening services, the following acoustic measures must be undertaken by a suitably qualified acoustic consultant:
- Measure and verify the noise emanating from the Place of Public Worship (POPW); and
  - If necessary, make recommendations to ensure that the noise emanating from the POPW complies with the noise criteria contained within these conditions of consent and the NSW Environment Protection Authority's NSW Industrial Noise Policy, including sleep disturbance. The noise measurements must be:
  - Undertaken without the knowledge of the applicant, manager or operator of the POPW;
  - Taken on at least three (3) different occasions on three (3) different days of the week (at the most affected residential receivers) for the evening service period, and
  - Submitted to the Council within four (4) weeks of testing. If the acoustic consultant recommends that additional treatment or works be undertaken those recommendations must be:
  - Submitted to Council with the noise measurements;

- g) Implemented and verified to the acoustic consultant's satisfaction before the end of the first sixty (60) days of operating; and
- h) If the acoustic consultant's recommendations are not implemented and verified in accordance with this condition, the POPW must cease operating until such time as the recommendations are implemented and verified.

The noise measurements must include all noise associated with the use of the premises and not limited to, patron noise entering and leaving the site, car park noise, noise from the service taking place and mechanical plant operation.

32. **Noise Mitigation – Special Prayer/Ramadan** - During the first year of operation a minimum of five (5) special prayer events are permitted to be held and each must be assessed by a suitably qualified acoustic consultant. The attended noise compliance must include the following:

- a) Noise from carpark movements before and after the service
- b) Noise from patrons entering and leaving the POPW
- c) Noise from the service taking place
- d) A report must be submitted to Council within four (4) weeks of testing, the report must show compliance with noise criteria outlined in this consent and the NSW Environment Protection Authority's NSW Industrial Noise Policy (including sleep disturbance, if applicable).

33. **Acoustic Requirements - Compliance with submitted Acoustic Report** - The Construction Certificate plans shall demonstrate compliance with the Acoustic Report submitted and approved by Council, titled *DA Acoustic Report for 88-90 Botany Street Carlton (Ref:TL074-01F02 DA Acoustic Assessment (r1)*, prepared by Renzo Tonin and Associates and dated 20 December 2019 as amended by submission dated 4 September 2020.

This means that a review of the in-house sound system and mechanical plant must be undertaken to ensure that acoustic objectives will be met. Written verification from a suitably qualified acoustic consultant must be submitted to Council validating that the acoustic objectives contained within the aforementioned report will be met, must be submitted to Council for approval. The Construction Certificate will not be issued until Council approves this validation.

34. **Acoustic Report - General Operation of Premises** - The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the [Protection of the Environment Operations Act 1997](#) (as amended) and [Regulations](#).

An amended Acoustic Report, including assessments required under Conditions 1.18-1.19 above, shall be prepared by a suitably qualified acoustic consultant demonstrating that the operation of the premises and plant equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background LA90, 15 min noise level, measured in the absence of the noise sources under consideration by more than 5dB. The source noise level shall be assessed as an LAeq, 15 min in accordance with the NSW Environment Protection Authority's [NSW Industrial Noise Policy](#).

35. **Waste Management Plan** - A Waste Management Plan incorporating all requirements in respect of the provision of waste storage facilities, recycling of materials where appropriate, removal of all materials from the site that are the result of site clearing,

extraction, and, or demolition works and the designated Waste Management Facility shall be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

36. **Building Materials and Finishes** - Where building upgrading works, required to ensure compliance with the BCA or new building standards not specified in the submitted/approved plan, will potentially impact on existing external fabric and features, details of the works must be submitted and approved by Council's Manager Development and Building prior to the issue of a Construction Certificate.

The works required above shall be undertaken as follows:

- (a) The proposed works are to be carried out in a manner that minimises demolition, alterations and new penetrations/fixings to the significant fabric of the existing building.
- (b) The new windows and doors on the existing building must match the original material, where ever possible.
- (c) The face brickwork/stone/tiles must not be rendered, painted or coated.
- (d) New materials for making good and repairs, are to match the existing in terms of colours, finishes, sizes, profile and properties.

37. **External General and Security Lighting** - A detailed lighting plan, drawn to scale, by a qualified lighting designer/engineer, must be submitted to Council for approval by Council's Manager – Development and Building prior to the issue of the Construction Certificate. The plan must include:

- (a) Recommendations of the *Light Spill Assessment*, prepared by SLR Consulting Australia Pty Ltd, dated September 2020, accompanying the application;
- (b) Location and height of proposed structures, fittings and services for lighting;
- (c) Methods of shielding light spill from neighbouring properties; and
- (d) Light spill plan illustrating extent, if any, of spill beyond property boundaries.

The plan must ensure that the lighting design will ensure adequate illumination of communal areas of the building, including the car park, to enable natural surveillance subject to the limitations specified in this condition.

38. **Landscape Plan** - A modified detailed landscape plan, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted to Council for approval prior to the issue of the Construction Certificate. The plan must include:

- (a) Location of existing and proposed structures, services and existing trees;
- (b) New trees to replace those proposed for removal which are replaced at the rate of two new trees for each removed;
- (c) Details of earthworks including mounding and retaining walls and planter boxes;
- (d) Location of proposed plants and a plant schedule showing the plant symbol,
- (e) Botanical name/ common name; quantity; pot size/; and mature height x width.
- (f) Details of planting procedure and maintenance;
- (g) Landscape specification;
- (h) Include details relating to positioning and treatment of external lighting for the site for security purposes;
- (i) Details of drainage and watering systems;
- (j) Details of garden edging and turf; and
- (k) Any required fencing, retaining walls and other structures not shown on other approved architectural and engineering plans.

39. **Landscape Plans** - All landscape works shall be carried out in accordance with the approved landscape plans. The landscaping shall be maintained in accordance with the approved plans in perpetuity.
40. **Tree Removal prohibited** - This consent does not approve the removal or pruning (branches or roots) of any trees on Council's public footway, public reserves or on neighbouring properties.
41. **Compliance with submitted Arborist Report** - The recommendations outlined in the Arborist's Report titled Arboricultural Impact Assessment Report prepared by Jacksons Nature Works dated 11 December 2019 must be implemented throughout the relevant stages of construction. Details of tree protection measures to be implemented must be detailed and lodged with the Construction Certificate application for approval and shall be in accordance with Section 4 - Australian Standard AS 4970-2009: Protection of trees on development sites.

The tree/s to be protected are listed in the table below.

Tree Species	Location of Tree / Tree No.	Tree Protection Zone (metres)
<i>Lophostemon confertus</i>	Street Tree – Tree No.2	7.4m
<i>Lophostemon confertus</i>	Street Tree – Tree No.10	6.7m

42. **Tree Protection and Retention** - The following trees shall be retained and protected:

Tree Species	Location of Tree / Tree No.	Tree Protection Zone (metres)
<i>Lophostemon confertus</i>	Street Tree – Tree No.2	7.4m
<i>Lophostemon confertus</i>	Street Tree – Tree No.10	6.7m

Details of the trees to be retained must be included on the Construction Certificate plans.

#### **General Tree Protection Measures**

- All trees to be retained shall be protected and maintained during demolition, excavation and construction of the site.
- The tree protection measures must be undertaken in accordance AS4970 -2009 *Protection of trees on development sites*.
- Details of the tree protection measures to be implemented must be provided with the application for a Construction Certificate by a suitably qualified Arborist (AQF Level 5 or above in Arboriculture).
- The Arborist must be present on-site during the stages of construction when works are being undertaken that could impact on the tree canopy or root zone within the tree protection zone to implement the tree protection measures as required.
- Unless otherwise specified in AS 4970-2009, a protective fence consisting of 1.8 metres high, fully supported chainmesh fence shall be erected around the base of the tree. The distance of the fence from the base of each tree is to be in accordance with the TPZ listed in the table above. A layer of organic mulch 100 millimetres thick

shall be placed over the protected area and no soil or fill should be placed within the protection area.

- (f) No services shall be installed within the TPZ of the tree unless approved by Council. This fence shall be kept in place during demolition, construction and also have a sign displaying 'Tree Protection Zone' attached to the fence and must also include the name and contact details of the Project Arborist.

43. **Tree Removal & Replacement – Tree removal** - Permission is granted for the removal of the following trees as identified on Tree Location Plan accompanying the Arboricultural Impact Assessment Report, prepared by Jacksons Nature Works dated 11 December 2019.

Tree species	Number of trees	Location
<i>Magnolia soulangiana</i>	1	Tree 1
<i>Schefflera actinophylla</i>	1	Tree 3
<i>Cupressocyparis leylandii</i>	5	Trees 4-7 & 15
<i>Phoenix canariensis</i>	1	Tree 8
<i>Triadica sebifera</i>	2	Trees 9 & 16
<i>Lagerstroemia indica</i>	1	Tree 11
<i>Syagrus romanzoffiana</i>	1	Tree 12
<i>Cyathea australis</i>	1	Tree 13
<i>Melia azedarach</i>	1	Tree 17

### General Tree Removal Requirements

- (a) All tree removal shall be carried out by a certified Tree Surgeon/Arborist to ensure that removal is undertaken in a safe manner and complies with the AS 4373-2007 - Pruning of Amenity Trees and Tree Works Industry Code of Practice (Work Cover NSW 1.8.98).
- (b) No trees are to be removed on the site or neighbouring properties without the prior written approval of Council.

### Tree Replacement

The trees approved for removal shall be replaced at a rate of two (2) per tree removed. These replacement trees are to be planted prior to the issue an Occupation Certificate. All replacement trees must be replanted a minimum of 3m away from any driveway crossing, building or structure and shall be identified as part of any modified Landscape Plan lodged for approval by Council.

A copy of the Hurstville City Council's Tree Removal and Pruning Guidelines and Kogarah City Council, Street Tree Management Strategy and Masterplan, can be downloaded from Council's website [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au).

### Prior to the Commencement of Work (Including Demolition & Excavation)

44. **Demolition & Asbestos** - The demolition work shall comply with the provisions of Australian Standard AS2601:2001 – Demolition of Structures, NSW [Work Health & Safety Act 2011](#) and the NSW [Work Health & Safety Regulation 2011](#). The work plans required by AS2601:2001 shall be accompanied by a written statement by a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the safety statement shall be submitted to the PCA prior to the commencement of works.

For demolition work which involves the removal of asbestos, the asbestos removal work must be carried out by a licensed asbestos removalist who is licensed to carry out the work in accordance with the NSW [Work Health & Safety Act 2011](#) and the NSW [Work Health & Safety Regulation 2011](#) unless specified in the Act and/or Regulation that a license is not required.

All demolition work including the removal of asbestos, shall be undertaken in accordance with the [Demolition Code of Practice](#) (NSW Work Cover July 2015)

**Note:** Copies of the Act, Regulation and Code of Practice can be downloaded free of charge from the SafeWork NSW website: [www.SafeWork.nsw.gov.au](http://www.SafeWork.nsw.gov.au).

45. **Dilapidation Report on Public Land** – Prior to the commencement of works (including demolition and excavation), a dilapidation report must be prepared for the Council infrastructure adjoining the development site, including:

- (a) Foot paths , kerb and gutter and roadways
- (b) Stormwater drainage pits and pipes

The report must include the following:

- (a) Photographs showing the existing condition of the road pavement fronting the site,
- (b) Photographs showing the existing condition of the kerb and gutter fronting the site,
- (c) Photographs showing the existing condition of the footpath pavement fronting the site,
- (d) Photographs showing the existing condition of any retaining walls within the footway or road, and
- (e) Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
- (f) The full name and signature of the structural engineer.
- (g) The Dilapidation Report must be prepared by a qualified structural engineer. The report must be provided to the PCA and a copy provided to the Council.

The Dilapidation Report must be prepared by a professional engineer. The report must be provided to the PCA and a copy provided to the Council.

The report is to be supplied in electronic format in Word or PDF. Photographs are to be in colour, digital and date stamped.

**Note:** Council will use this report to determine whether to refund the damage deposit after the completion of works.

46. **Demolition Notification Requirements** - The following notification requirements apply to this consent:

- (a) The developer /builder must notify adjoining residents five (5) working days prior to demolition. Such notification is to be a clearly written note giving the date demolition will commence, contact details of the developer/builder, licensed asbestos demolisher and the appropriate regulatory authority. Notification is to be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately at the rear of the demolition site.



- (b) Five (5) working days prior to demolition, the developer/builder is to provide written notification to Council advising of the demolition date, details of the SafeWork licensed asbestos demolisher and the list of residents advised of the demolition.
- (c) On demolition sites where buildings to be demolished contain asbestos, a standard commercially manufactured sign containing the words “DANGER ASBESTOS REMOVAL IN PROGRESS” measuring not less than 400mm x 300mm is to be erected in a prominent visible position (from street frontage) on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos material has been removed from the site to an approved waste facility.
47. **Demolition work involving asbestos removal** - Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 458 of the [Work Health and Safety Regulation 2011](#).
48. **Dial before your dig** - The applicant shall contact “Dial Before You Dig on 1100” to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from “Dial Before You Dig” shall be forwarded to Council’s Engineers for their records.
49. **Structural Integrity Of Retained Building Elements** - Prior to commencement of demolition, excavation or construction work, a report or certification from a practicing structural engineer experienced in dealing with works involving the retention of existing buildings must be submitted to and approved by the Principal Certifier. The report must explain how the retained building elements, are to be retained, supported and not undermined by the proposed development and give details of any intervention or retrofitting needed.
50. **Utility Arrangements** - 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 applicant’s expense.

### During Construction

51. **Site sign – Soil & Erosion Control Measures** - Prior to the commencement of works (including demolition and excavation), a durable site sign, issued by Council in conjunction with this consent, must be erected in a prominent location on site. The site sign warns of the penalties which apply to pollution, storing materials on road or footpath and breaches of the conditions relating to erosion and sediment controls. The sign must remain in a prominent location on site up until the completion of all site and building works.
52. **Hours of construction for demolition and building work** - Any work activity or activity associated with the development consent that requires the use of any tools (including hand tools) or any power operated plant and machinery that creates noise on or adjacent to the site shall not be performed, or permitted to be performed, except between the hours of 7.00 am to 5.00 pm, Monday to Saturday inclusive. No work or ancillary activity is permitted on Sundays, or Public Holidays.



**Note:** A penalty infringement notice may be issued for any offence.

53. **Ground levels and retaining walls** - The ground levels of the site shall not be excavated, raised or filled, or retaining walls constructed on the allotment boundary, except where indicated on approved plans or approved by Council.
54. **Salvage, Reuse and Recycling of Traditional Building Materials** - Stone, bricks, roof tiles, joinery and decorative architectural elements to be demolished, which include stairs, windows and doors, chimney pieces and ceiling roses must be salvaged and where possible reused on the project.

Salvaged building materials surplus to the project must either be stored on site for future reuse, or transferred to an established second building material dealer for recycling.

55. **Physical connection of Stormwater to site** - No work is permitted to proceed above the ground floor slab level of the building until there is physical connection of the approved stormwater drainage system from the land the subject of this consent to Council's drainage system.
56. **Cost of work to be borne by the applicant** - The applicant shall bear the cost of all works associated with the construction of the development that occurs on Council property. Care must be taken to protect Council's roads, including the made footway, kerbs, etc., and, where plant and vehicles enter the site, the footway shall be protected against damage by deep-sectioned timber members laid crosswise, held together by hoop iron straps and chamfered at their ends. This construction shall be maintained in a state of good repair and condition throughout the course of construction.
57. **Obstruction of Road or Footpath** - The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste or skip bins, or any other matter is not permitted unless separately approved by Council under Section 138 of the [Roads Act 1993](#) and/or under Section 68 of the [Local Government Act 1993](#). Penalty infringement Notices may be issued for any offences and severe penalties apply.
58. **Road Opening Permit** - A Road Opening Permit must be obtained from Council for every opening of a public road reserve to access services including sewer, water mains, gas mains, connecting of stormwater to the kerb and telecommunication. This is for any work that involves excavation through or within a public road, kerb and gutter, and or the public footway between the road and the property boundary. The permit is to be lodged prior to the commencement of works. Additional approval is required from Roads and Maritime Services for works on a State Road.
59. **Building Materials – Flood Prone Land** - All building materials used to construct the proposed renovations must be constructed using flood proof materials up to the RL 47.5m AHD and this must be specified by the manufacturer. All electrical services must also be located above this level. The applicant should refer to the NSW Government Public [Reducing Vulnerability of Buildings to Flood Damage – Guidance on Building in Flood Prone Areas](#), Chapter 4.3'.
60. **Waste Management Facility** - All materials removed from the site as a result of demolition, site clearing, site preparation and, or excavation shall be disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like shall be ignited or burnt.

Copies of all receipts for the disposal, or processing of all such materials shall be submitted to the PCA and Council, where Council is not the Principal Certifying Authority. Tree Removal on Private Land - The trees identified as 'to be removed/pruned' on the approved plans or by conditions of this consent shall be removed in accordance with AS4373 -2007 and the Amenity Tree Industry Code of Practice (SafeWork NSW, August 1998).

61. **Excavation works near tree to be retained** - Excavation around the tree/s to be retained on site or the adjoining properties shall be supervised by the Project Arborist to ensure that the root system will not be adversely affected.

Where the Tree Protection Zone of trees on site or adjoining sites become compromised by any excavation works, the Project Arborist shall be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the Arborist shall be submitted to Council prior to any further demolition or construction works taking place.

62. **Requirement to Notify about New Evidence** - Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, heritage significance, threatened species or other relevant matters must be immediately notified to Council and the Principal Certifier.

#### **Prior to the issue of the Occupation Certificate**

63. **Completion of Landscape Works** - All landscape works must be completed before the issue of the Final Occupation Certificate.
64. **Allocation of car parking spaces** - Car parking associated with the development is to be allocated as follows:
- (a) Visitor parking limited to the main car park only.
  - (b) Staff car parking and service vehicles access/parking limited to spaces 22/23, stacked, off Botany Street and rear carpark off Xenia Avenue
65. **Major Development** - Internal driveways and parking spaces are to be adequately paved with concrete or bitumen, or interlocking pavers to provide a dust-free surface. All car parking spaces are to be line marked in accordance with AS1742, 'Australian Standard Manual of Uniform Traffic Control Devices' and the relevant guidelines published by the RMS.
66. **Maintenance Schedule – On-site Stormwater Management** - A Maintenance Schedule for the proposed on-site stormwater management measures is to be prepared and submitted to Council. The Maintenance Schedule shall outline the required maintenance works, how and when these will be done and who will be carrying out these maintenance works.
67. **Works as Executed and Certification of Stormwater works** - Prior to the issue of an Occupation Certificate, the PCA must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards. A works-as-executed drainage plan and certification must be forwarded to the PCA and Council, from a professional engineer specialising in hydraulic engineering.

This Plan and Certification shall confirm that the design and construction of the stormwater drainage system satisfies the conditions of development consent and the Construction Certificate stormwater design details approved by the PCA.

The works-as-executed drainage plan must be prepared by a professional engineer specialising in hydraulic engineering in conjunction with a Registered Surveyor and must include the following details (as applicable):

- (a) The location of any detention basin/s with finished surface levels;
- (b) Finished site contours at 0.2 metre intervals (if applicable)
- (c) Volume of storage available in any detention areas;
- (d) The location, diameter, gradient and material (i.e. PVC, RC etc.) of all stormwater pipes;
- (e) The orifice size/s (if applicable);
- (f) Details of any infiltration/absorption systems; and (if applicable);
- (g) Details of any pumping systems installed (including wet well volumes) (if applicable).

68. **Requirements prior to the issue of the Occupation Certificate** - The following shall be completed and or submitted to the PCA prior to the issue of the Occupation Certificate:

- (a) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
- (b) The internal driveway construction works, together with the provision for all services (conduits and pipes laid) shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
- (c) Construct any new vehicle crossings required.
- (d) Replace all redundant vehicle crossing laybacks with kerb and guttering, and replace redundant concrete with turf.
- (e) A Section 73 (Sydney Water) Compliance Certificate for the Subdivision shall be issued and submitted to the PCA prior to the issue of the Occupation Certificate.
- (f) Work as Executed Plans prepared by a Chartered Professional Engineer or a Registered Surveyor when all the site engineering works are complete shall be submitted to the PCA prior to the issue of the Occupation Certificate.
- (g) The construction of the proposed pipe connection to the existing Kerb Inlet Pit shall be completed in accordance with the conditions and specifications of the Section 68 Activity Approval.

69. **Vehicular crossing & Frontage work** - The following road frontage works shall be constructed in accordance with the specifications issued under the 'Application for Driveway Crossing and Associated Works on Council Road Reserve' approval issued by Council's Assets and Infrastructure Division:

- (a) Construct a full width – boundary to kerb footpath for the full length of the frontage of the site in Botany Street in accordance with Council's Specifications for footpaths.
- (b) The thickness and design of the driveway shall be in accordance with Council's Specifications applying at the time construction approval is sought.
- (c) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the applicant. The work shall be carried out in accordance with Council's specification, applying at the time construction approval is sought.

A private contractor shall carry out the above work, at the expense of the applicant and in accordance with Council's Specification for Driveway Crossings and Associated Works. The driveway and road frontage works are to be completed before the issue of the Occupation Certificate.

70. **Completion of Major Works** - Prior to the issue of a Final Occupation Certificate, the following works must be completed at the applicant's expense to the satisfaction of Council's Engineering Services section:

- (a) Stormwater pipes, pits and connections to public stormwater systems within the road related area;
- (b) Driveways and vehicular crossings within the road related area;
- (c) Removal of redundant driveways and vehicular crossings;
- (d) New footpaths within the road related area;
- (e) Relocation of existing power/light pole
- (f) Relocation/provision of street signs
- (g) New or replacement street trees;
- (h) New footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street.
- (i) New or reinstated kerb and guttering within the road related area; and
- (j) New or reinstated road surface pavement within the road.

Council's Assets and Infrastructure Section must advise in writing that the works have been completed to their satisfaction prior to the issue of the Occupation Certificate. [Note: The damage deposit paid to Council will not be released until the works have been completed to Council's satisfaction.

71. **Traffic Control Devices** - The internal road work, pedestrian facilities and parking facilities (including visitor parking and employee parking) shall be designated and line marked in accordance with Australian Standard - AS1742, Manual of Uniform Traffic Control Devices.

If an exit from car park utilises a pedestrian footpath, then a warning system such as flashing light and/or 'alarm sound' must be installed on the subject property to alert pedestrians of vehicles exiting the car park. The Alarm System must be designed and installed in accordance with AS2890.1 -2004.

72. **Dilapidation Report on Public Land** - Upon completion of works, a follow up dilapidation report must be prepared for the items of Council infrastructure adjoining the development site including:

- (a) Footpaths, Kerb and gutter
- (b) Drainage Infra-structure

The dilapidation report must be prepared by a professional engineer specialising in structural engineering, and include:

- (a) Photographs showing the condition of the road pavement fronting the site
- (b) Photographs showing the condition of the kerb and gutter fronting the site

- (c) Photographs showing the condition of the footway including footpath pavement fronting the site
- (d) Photographs showing the condition of retaining walls within the footway or road
- (e) Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
- (f) The full name and signature of the professional engineer.

The report must be provided to the PCA and a copy provided to the Council. The reports are to be supplied in electronic format in Word or PDF. Photographs are to be in colour, digital and date stamped.

NOTE: Council will use this report to determine whether or not to refund the damage deposit.

Council's Assets and Infrastructure Division must advise in writing that the works have been completed to their satisfaction prior to the issue of an Occupation Certificate.

73. **Positive Covenant** - Prior to issue of an Occupation Certificate, the applicant must create a Positive Covenant prepared in accordance of the Conveyancing Act 1919, burdening the owner of the allotment with the requirement to indemnify Georges River Council from any claims of any potential flooding that may occur on-site.

The terms of the instruments are to be: *the owner of 88-92 Botany Street, Carlton (or subsequent address following consolidation), unconditionally and irrevocably agree, to indemnify Georges River Council and hold the Council blameless from and against all claims, demands, actions, proceedings, liabilities, damages, costs, charges, losses and expenses of any potential flooding that may occur at 88-92 Botany Street, Carlton (Lots 21,22,23,24 / DP87691) or the legal description and address following consolidation.*

Where a title already exists, the Positive Covenant is to be created via an application to the Land Titles Office using forms 13PC and 13RPA.

Registered title documents showing the covenants and restrictions must be submitted to and approved by the Principal Certifying Authority prior to the issue of an Occupation Certificate.

74. **Consolidation of Site** - The site shall be consolidated into one allotment and by a Plan of Consolidation being prepared by a Registered Surveyor. This Plan shall be registered at the NSW Land and Property Information prior to the issue of a final Occupation Certificate.

75. **Requirements prior to the issue of the Occupation Certificate** - The following shall be completed and or submitted to the PCA prior to the issue of the Occupation Certificate:

- (a) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
- (b) The internal driveway construction works, together with the provision for all services (conduits and pipes laid) shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
- (c) Construct any new vehicle crossings required.
- (d) Work as Executed Plans prepared by a Chartered Professional Engineer or a Registered Surveyor when all the site engineering works are complete shall be

submitted to the PCA prior to the issue of the Occupation Certificate.

76. **Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the [Sydney Water Act 1994](#) must be submitted to the PCA prior to the issue of the Occupation Certificate.
77. **Fire Safety Certificate before Occupation or Use** - In accordance with Clause 153 of the [Environmental Planning and Assessment Regulation 2000](#), on completion of building works and prior to the issue of an Occupation Certificate, the owner must cause the issue of a Final Fire Safety Certificate in accordance with Clause 170 of the aforesaid Regulation. The Fire Safety Certificate must be in the form or to the effect of Clause 174 of the [Environmental Planning and Assessment Regulation, 2000](#). In addition, in relation to each essential fire or other safety measure implemented in the building or on the land on which the building is situated, such a Certificate is to state:

- (a) That the measure has been assessed by a person (chosen by the owner of the building) who is properly qualified to do so.
- (b) That as at the date of the assessment the measure was found to be capable of functioning at a standard not less than that required by the attached Schedule.

A copy of the certificate is to be given by the applicant to the Commissioner of Fire & Rescue NSW and a further copy is to be displayed in a frame and fixed to a wall inside the building's main entrance.

78. **Slip Resistance** - At completion of work an in-situ (on-site) test, in wet and dry conditions, must be carried out on the pedestrian floor surfaces used in the foyers, public corridors/hallways, stairs and ramps as well as the floor surfaces in wet rooms in any commercial/retail/residential units to ascertain the actual slip resistance of such surfaces taking into consideration the effects of grout, the gradients of the surface and changes from one material to another. The in-situ test must be carried out in accordance with AS/NZS 4663:2002. Proof of compliance must be submitted with the application for the Occupation Certificate for approval.
79. **Maximum Capacity for local traffic and amenity** - A sign must be displayed in a prominent position in the building stating that the maximum number of persons that are permitted in the building shall not exceed 120 persons.
80. **Acoustic Certification** - Prior to the issue of any Occupation Certificate, a suitably qualified acoustic consultant shall certify that the operation of the premises and plant equipment shall not give rise to a sound pressure level at any affected premises that exceeds the acoustic criteria established by the Acoustic Report required by a condition of this consent. The development shall at all times comply with these noise levels post occupation.
81. **Acoustic Compliance** - Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified acoustic consultant must be submitted to the PCA certifying that the construction has incorporated the recommendations in the *DA Acoustic Report for 88-90 Botany Street Carlton (Ref:TL074-01F02 DA Acoustic Assessment (r1))*, prepared by Renzo Tonin & Associates and dated 20 December 2019 as amended by submission dated 4 September 2020.

82. **Acoustic Compliance – General Operation of Premises** - The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the [Protection of the Environment Operations Act 1997](#) (as amended) and [Regulations](#).

A suitably qualified person shall certify that the operation of the plant equipment (across the full range of operating times) shall not give rise to sound pressure level at any affected premises that exceeds the background LA90, 15min noise level, measured in the absence of the noise sources under consideration by more than 5dB. The source noise level shall be assessed as an LAeq, 15 min in accordance with the [NSW Environment Protection Authority's "NSW industrial Noise Policy"](#).

Certification must be submitted to the PCA prior to the issue of any Occupation Certificate.

83. **Installation of CCTV** – A CCTV system is to be installed and certified by the installer as being functional and operational and satisfying the requirements specified in this condition prior to the release of an Occupation Certificate. The CCTV system must allow for the recording and storage of clear footage, and must enable live streaming. The CCTV must provide surveillance of:

- The prayer rooms;
- All car parking areas; and
- All communal areas in the building.

### **Operational Conditions (Ongoing)**

84. **Variable Hours of operation** - The hours of operation are approved as follows:
- a) The core hours of operation of the premises shall be limited to **9:00am to 9:55pm daily**. Between the hours of 9:55pm and 9:00am the Mosque may only be attended by:
    - The Imam, the prayer leader of the Mosque; and/or
    - A visiting cleric staying temporarily; and/or
    - Staff/volunteer for emergency repairs or assistance to the Imam; and/or
    - An individual that may require assistance of the Mosque for one evening.
  - b) Friday lunchtime prayer sessions shall be restricted to operation between **11:30am to 2:00pm only**, with all worshippers having vacated the premises by 2:00pm.
  - c) The extended hours of operation may be reviewed by Council at any time, subject to the operator of the premises being given twenty one (21) days written notice that a review of the extended hours of operation will take place. In that time the operator may submit to Council any information they wish to be considered in support of the extended hours of operation.
  - d) The evening prayers operating hours from 8:00pm – 9:55pm daily shall be operating on a 12 month trial basis to enable monitoring of the effectiveness of the controls/guidelines under the Plan of Management. After the 12 month period has expired the operating hours shall revert to **9:00am – 8:00pm** unless a submission has been received by Council illustrating that the evening operations have not resulted in significant amenity impact for the local residents.



- e) Any review of the extended hours of operation in (d) above by Council will be based on, among other things, the performance of the operator in relation to the compliance with the development consent conditions, any substantiated complaints received and any views expressed during public consultation or from other stakeholders including the Police.
- f) Following a review, Council may allow the use to continue to operate for the hours specified in (a) above, require the use to revert to the modified core hours of operation specified in (d) above or otherwise modify the condition as considered appropriate.
- g) The purpose of the reviewable condition is to allow ongoing assessment of the hours of operation in relation to neighbourhood amenity, public safety and operational performance and allow management to demonstrate successful practices in relation to the above.

85. **Variable Maximum Patron Capacity** – The maximum patron capacity is approved as follows:

- (a) The maximum patron capacity within the premises shall be **limited to 120 persons at any time, plus maximum of 10 staff**.
- (b) For all Friday prayer sessions the maximum patron capacity within the premises for each session shall be **limited to 50 persons at any time, plus a maximum of 5 staff**.
- (c) This maximum patron capacity may be reviewed by Council at any time, subject to the operator of the premises being given twenty one (21) days written notice that a review of the maximum patron capacity will take place. In that time the operator may submit to Council any information they wish to be considered in support of the maximum patron capacity.
- (d) Any review of the maximum patron capacity above by Council will be based on, among other things, the performance of the operator in relation to the compliance with the development consent conditions, any substantiated complaints received and any views expressed during public consultation or from other stakeholders including the Police.
- (e) Following a review, Council may allow the use to continue to operate with a maximum patron capacity as specified in (a) and (b) of this condition, require the use to revert to the maximum patron capacity specified above or otherwise modify the condition as considered appropriate.
- (f) The purpose of the reviewable condition is to allow ongoing assessment of the maximum patron capacity in relation to neighbourhood amenity, public safety and operational performance and allow management to demonstrate successful practices in relation to the above.

86. **Maintenance of Landscaping** - All trees and plants forming part of the landscaping must be maintained. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilizing, pest and disease control, replacement of dead or dying plants and any other operations required to maintain healthy trees, plants and turfed areas.

87. **Security Safety Measures** - The Mosque shall be under camera surveillance and live streamed on a public Mosque Website, or similar, as follows:

- during normal operating hours within the prayer room and public corridor areas; and
- 24 hours a day for the carpark area.

These recordings will be retained onsite for a minimum period of 3 months after the date of recording and be made available to Georges River Council on request.

88. **Use of Structure** - The Mosque facility, and associated community activities, is not to be used for human habitation or for any commercial or industrial purpose, apart from casual accommodation for visiting clerics or overnight emergency unpaid accommodation.
89. **Noise Control** - The use of the premises must not give rise to the transmission of offensive noise to any place of different occupancy. Offensive noise is defined in the [Protection of the Environment Operations Act 1997](#) (as amended).
90. **Maintenance of Sound Attenuation** - Sound attenuation must be maintained in accordance with the Acoustic Report submitted by “*DA Acoustic Report for 88-90 Botany Street, Carlton (Ref: TL074-01F02 DA Acoustic Assessment (r1))*” undertaken by Renzo Tonin & Associates dated 20 December 2019 and as amended by submission dated 4 September 2020.
91. **Final Acoustic Report – Verification of Noise report** - Within three months from the issue of an Occupation Certificate, an acoustic assessment is to be carried out by an appropriately qualified acoustic consultant, in accordance with the [EPA's Industrial Noise Policy](#) and submitted to Council for consideration. This report should include but not be limited to, details verifying that the noise control measures as recommended in the acoustic report (submitted by GTA Consultants, titled Transport Impact Assessment and dated 4 September 2020 are effective in attenuating noise to an acceptable noise level and that the use is not calculated to give rise to ‘offensive noise’ as defined under the provision of the [Protection of the Environment Operation Act 1997](#) (as amended).
92. **Prohibition of live bands, amplified music or speakers** - There shall be no live bands, amplified music or speaker systems permitted to operate from the premises at any time.
93. **Outdoor Lighting** - To avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads, outdoor lighting must comply with AS 4282-1997: Control of the obtrusive effects of outdoor lighting.
94. **Lighting – General Nuisance** - Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill or glare.

Flashing, moving or intermittent lights or signs are prohibited.

95. **Amenity of the neighbourhood** - The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or

discharge of noise, fumes, vapour, odour, steam, soot, dust, waste water, waste products, grit, oil or other harmful products.

96. **Activities and storage of goods outside buildings** - There shall be no activities including storing or depositing of any goods or maintenance to any machinery external to the building with the exception of waste receptacles.
97. **Loading & Unloading of vehicles** - All loading and unloading of vehicles in relation to the use of the premises shall take place wholly within a dedicated loading dock/area.
98. **Car Parking Management** - The Mosque shall be operated on the basis that worshippers and staff shall be directed to park vehicles in the designated carpark when visiting the site.

Worshippers/staff/attendees shall be suitably instructed by the Mosque management that:

- (i) No persons are to park vehicles within Xenia Avenue or Ethel Lane;
- (ii) Where the Mosque carpark is fully accommodated then persons are to initially seek car parking within Botany Street.

99. **Entering & Exiting of vehicles** - All vehicles shall enter and exit the premises in a forward direction.
100. **Schedule of Existing Fire Measures to be Maintained** - The following statutory safety measures are existing and shall be fully maintained in accordance with the approved standard and inspected annually:
  - (a) Access panels, door and hoppers to fire resisting shafts - minimum standard AS 1905.1 - 2015.
  - (b) Automatic fail safe devices - minimum standard Part D of BCA.
  - (c) Automatic fire detection and alarm systems - minimum standard AS 1670.2015, and AS1670.3 & 4 – 2004
  - (d) Automatic fire suppression systems - minimum standard AS 2118.1 – 2006.
  - (e) Emergency lighting - minimum standard AS 2293.1 - 2005.
  - (f) Emergency lifts - minimum standard AS 1735.1,2,11, 3, 7, 8, 12, 14, 15, 16 (as currently applicable).
  - (g) Emergency warning and intercommunication systems -minimum standard AS 4428.4 – Fire detection, warning, control and intercom systems.
  - (h) Exit signs - minimum standard AS 2293.1 - 2005.
  - (i) Fire control centres and rooms - minimum standard BCA.
  - (j) Fire dampers - minimum standard AS 1682.1 & AS 1682.2 - 2015.
  - (k) Fire doors - minimum standard AS 1905.2 - 2005.
  - (l) Fire hydrant systems - minimum standard AS 2419.1 -2005.
  - (m) Fire seals protecting openings in fire resisting components of the building - minimum standard Part C of BCA.1
  - (n) Fire shutters - minimum standard AS 1905.2. - 2005.
  - (o) Fire windows - minimum standard AS 1905.1- 2015.
  - (p) Hose reel systems - minimum standard AS 2441 - 2005.
  - (q) Lightweight construction - minimum standard Part C of BCA.
  - (r) Mechanical air handling systems - minimum standard AS 1668.2 - 2012.
  - (s) Perimeter vehicle access for emergency vehicles - minimum standard Part C of BCA.1

- (t) Portable fire extinguishers - minimum standard AS 2444 - 2001.
- (u) Safety curtains in proscenium openings - minimum standard Part H of BCA.
- (v) Smoke and heat vents - minimum standard AS 2665. - 2001.
- (w) Smoke dampers - minimum standard AS 1682.1 and 2 - 2015.
- (x) Smoke detectors and heat detectors - minimum standard AS 3786 - 2014 and AS 1670.1 - 2015.
- (y) Smoke doors - minimum standard AS 1905.1 -2015.
- (z) Solid core doors - minimum standard Part C of BCA.
- (aa) Stand-by power systems - Spec. G. 3.8 of BCA and AS 2665. - 2001.
- (bb) Wall wetting sprinkler and drencher systems - minimum standard AS 2118.2. - 2010.
- (cc) Warning and operations signs - minimum standard is BCA.1

101. **Plan of Management** – The operational Plan of Management shall be modified and lodged with Council for approval by Council's Manager Development and Building within 3 months of the date of this approval, to accommodate the following environmental impact mitigation measures:

- 1) Hours of operation to be amended to 9:00am-9:55pm daily;
- 2) Between the hours of 10:00pm-7:00am the premises may only be occupied by:
  - a) The Imam associated with the Mosque;
  - b) Staff required due to an emergency or to assist the Imam;
  - c) Any person seeking refuge as agreed to by the Imam or any visiting cleric
- 3) EID celebrations/festival, pre-dawn prayers, and any other functions/events (including weddings and funerals) other than Ramadan shall not be undertaken at the Mosque;
- 4) Security CCTV cameras to be installed in prayer rooms, public corridors and in car park to facilitate general surveillance of the Mosque operations and for security purposes;
- 5) Evening prayers shall be staffed by a minimum of 5 staff, inclusive of Imam, one person monitoring parking from Botany Street, one person observing parking activity in Xenia Avenue, one person directing in carpark area and one person assisting within the Mosque;
- 6) Evacuation measures/procedures for flood/inundation events;
- 7) Friday Lunchtime Prayer dual sessions shall be identified as being undertaken between the hours of midday to 2:00pm on the basis of:
  - a) First Session 15 minutes patron arrivals, 30 minute session, 15 minutes departures,
  - b) Second Session 15 minutes arrival, 30 minutes session and 15 minutes departure;
- 8) Formalise regular acoustic assessment procedures including undertaking of regular acoustic monitoring and requiring compliance with any recommendations by a suitably qualified acoustical engineer;
- 9) An active live streaming Mosque website is to be established to provide a social media update of:
  - a) Capacity numbers for each prayer session;
  - b) Advice on live carpark capacities;
  - c) Instructions to visitors on where to park vehicles when carpark is at capacity;
  - d) Instructions to be neighbour sensitive and not park in resident driveways.
  - e) Advise visitors that the carpark and prayer rooms are under camera surveillance and are being live streamed to the website during opening hours.

The use must operate at all times in accordance with the requirements of this Plan of Management.

102. **Annual Fire Safety Statement** - The owner of the building premises must ensure the Council is given an annual fire safety statement in relation to each essential fire safety measure implemented in the building. The annual fire safety statement must be given:
- (a) Within 12 months after the date on which the fire safety certificate was received.
  - (b) Subsequent annual fire safety statements are to be given within 12 months after the last such statement was given.
  - (c) An annual fire safety statement is to be given in or to the effect of Clause 181 of the [Environmental Planning and Assessment Regulation 2000](#).
  - (d) A copy of the statement is to be given to the Commissioner of Fire & Rescue NSW, and a further copy is to be prominently displayed in the building.

### Operational Requirements Under the Environmental Planning & Assessment Act 1979

103. **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued.
104. **Appointment of a PCA** - The erection of a building must not commence until the applicant has:
- (a) appointed a PCA for the building work; and
  - (b) if relevant, advised the PCA that the work will be undertaken as an Owner -Builder.

If the work is not going to be undertaken by an Owner - Builder, the applicant must:

- (c) appoint a Principal Contractor to undertake the building work. If residential building work (within the meaning of the [Home Building Act 1989](#)) is to be undertaken, the Principal Contractor must be a holder of a contractor licence; and
- (d) notify the PCA of the details of any such appointment; and
- (e) notify the Principal Contractor of any critical stage inspections or other inspections that are required to be carried out in respect of the building work.

An Information Pack is attached for your convenience should you wish to appoint Georges River Council as the PCA for your development.

105. **Notification of Critical Stage Inspections** - No later than two days before the building work commences, the PCA must notify:
- (a) the consent authority and the Council (if not the consent authority) of his or her appointment; and
  - (b) the applicant of the critical stage inspections and other inspections that are to be carried out with respect to the building work.
106. **Notice of Commencement** - The applicant must give at least two days notice to the Council and the PCA of their intention to commence the erection of a building. A Notice of Commencement Form is attached for your convenience.

107. **Critical Stage Inspections** - The last critical stage inspection must be undertaken by the PCA. The critical stage inspections required to be carried out vary according to Building Class under the Building Code of Australia and are listed in Clause 162A of the [Environmental Planning and Assessment Regulation 2000](#).

108. **Notice to be given prior to critical stage inspections** - The principal contractor for a building site, or the owner-builder, must notify the PCA at least 48 hours before each required inspection needs to be carried out.

Where Georges River Council has been appointed as the PCA, 48 hours notice in writing, or alternatively 24 hours notice by facsimile or telephone, must be given when specified work requiring inspection has been completed.

109. **Occupation Certificate** - A person must not commence occupation or use of the whole or any part of a new building unless an Occupation Certificate has been issued in relation to the building or part.

Only the PCA appointed for the building work can issue the Occupation Certificate.

An Occupation Certificate Application Form is attached for your convenience.

## **Prescribed Conditions**

110. **Clause 98 – Building Code of Australia & Home Building Act 1989** - Requires all building work to be carried out in accordance with the Building Code of Australia. In the case of residential building work to which the [Home Building Act 1989](#) relates, there is a requirement for a contract of insurance to be in force before any work commences.

111. **Clause 98A – Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the PCA and the Principal Contractor.

## **END CONDITIONS**

## **Notes/Advices**

112. **Review of Determination** - Division 8.2 of the Environmental Planning and Assessment Act confers on an applicant who is dissatisfied with the determination of the application the right to lodge an application with Council for a review of such determination. Any such review must however be submitted, reviewed and completed within 6 months from its determination. Should a review be contemplated sufficient time should be allowed for Council to undertake public notification and other processes involved in the review of the determination.

113. **Appeal Rights** - Part 8 (Reviews and appeals) of the Environmental Planning and Assessment Act 1979 confers on an applicant who is dissatisfied with the determination of the application a right of appeal to the Land and Environment Court of New South Wales within 12 months of the date of this determination notice.

114. **Lapsing of Consent** - This consent will lapse unless the development is physically commenced within 7 years from the Date of Operation of this consent, in accordance with Section 4.53 of the Environmental Planning and Assessment Act 1979.

115. **Access for persons with disabilities** -. Should the Council be appointed as the PCA, an Access report prepared by an Accredited Access Consultant may be required to be submitted with the Construction Certificate Application, detailing the existing level of compliance in the building with the above requirements, and to provide details of proposed upgrading work necessary to bring the building into conformity with the Premises Standards and the BCA. All recommendations of the accredited access consultant must be incorporated in the plans to be submitted with the Construction Certificate application.
116. **Stormwater & Ancillary Works – Applications under Section 138 Roads Act and/or Section 68 Local Government Act 1993** - To apply for approval under Section 138 of the [Roads Act 1993](#) and/or Section 68 [Local Government Act 1993](#):
- (a) Complete the 'Stormwater Drainage Application Form' which can be downloaded from Georges River Council's website at [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au).
  - (b) In the Application Form, quote the Development Consent No. (e.g.. DA2018/\*\*\*\*) and reference this condition number (e.g. Condition 23)
  - (c) Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Council's adopted Fees and Charges for the administrative and inspection charges associated with stormwater applications.

The developer must meet all costs of the extension, relocation or reconstruction of any part of Council's drainage system (including design drawings and easements) required to carry out the approved development.

The preparation of all engineering drawings (site layout plans, cross sections, longitudinal sections, elevation views together with a hydraulic grade analysis) and specifications for the new storm water drainage system to be arranged by the applicant. The design plans must be lodged and approved by Council prior to the issue of a Construction Certificate.

**NOTE:** A minimum of four weeks should be allowed for assessment.

117. **Council as PCA – Compliance with the BCA** - Should the Council be appointed as the PCA, 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 BCA:
- (a) Mechanical air handling
  - (b) Essential fire services and equipment including hydrant systems, hose reels, sprinklers, automatic fire detection and alarm system, mechanical air handling system, portable fire extinguishers.
  - (c) Smoke hazard management system and associated alarm system,
  - (d) Emergency lighting, exit signs and warning systems.



## ANNEXURE 1: Considerations under Draft Hurstville Development Control Plan - POPW

Draft Hurstville DCP controls for Places of Public Worship

Section	Standard	Proposal	Assessment Under Draft HDGP – POPW controls
Objectives	<p>a) To have development controls that regulate the effective and orderly development of places of public worship in the Georges River Council area.</p> <p>b) To encourage places of public worship to be located in areas with good access and public transport.</p> <p>c) To have places of public worship minimise the physical and visual impact on the amenity of established suburbs.</p> <p>d) To protect the amenity of development in the vicinity of places of public worship, and in particular residential areas.</p> <p>e) To ensure places of public worship do not adversely</p>	<p>Accepted</p> <p>Site is on a bus route with good access from three (3) roads.</p> <p>Proposal retains existing residential aged care facility building so existing appearance unchanged, apart from carpark Mitigation measures are proposed as part of the Mosque design</p> <p>Traffic assessment report contends</p>	<p>The broad principle objectives relating to this form of development can be generally complied with by the subject development as it seeks to utilise an existing building with minimal external changes, apart from demolition of small dwelling and construction of carpark.</p> <p>The principal of these objectives, however, is to provide guidelines/controls for POPWs that are not within the Residential Zones. On this basis it is accepted that the Objectives need to be considered in light of the development being located within a low residential area.</p> <p>It is accepted that the potential for amenity impacts when a development of this form is located within a residential zone will be higher than in other zoned lands.</p>

	<p>impact on the safety and efficiency of the surrounding road system.</p> <p>f) To ensure the long term operation of places of public worship maintain the amenity of surrounding residents and employment areas.</p> <p>g) To ensure the bulk, scale, height and character of places of public worship are compatible with the predominant characteristics of existing development in the surrounding area.</p> <p>h) To ensure the development assessment process for a proposed place of public worship is consistent, fair and accessible to all religious groups.</p>	<p>that the existing road capacity is adequate for the use.</p> <p>Plan of Management submitted to provide for long term amenity control.</p> <p>Proposal seeks to maintain the same building form and convert for Mosque use. This building form has been on the land for over two decades.</p> <p>Proposal has provided sufficient professional advice/plans to enable and informed decision.</p>	
Site Analysis	<p>a) The overall strategic vision for the site and how the selection of the site supports the urban structure of Georges River.</p> <p>b) Staging of the development of the place of public worship.</p> <p>c) The patterns of land ownership, the patterns of land subdivision or</p>	<p>The site is within a residential zone and the proposal will exclude the site from residential use</p> <p>No staging is proposed</p> <p>Subdivision pattern in this locality is predominantly</p>	<p>The proposal is located within a low density residential zone and in general would not be consistent with the intent of these controls.</p> <p>The design, by retaining the existing built form for use as a Mosque, effectively minimises potential built form amenity impacts for the residential neighbourhood.</p> <p>The retained built form is two storey in scale and thus is not of significant bulk and of scale that is comparable to other buildings in locality.</p>

	<p>consolidation and the relationship of the site to adjoining sites.</p> <p>d) Design principles drawn from the site analysis and the local context</p> <p>e) Traffic, access and parking:</p> <p>f) Built form and aesthetics</p> <p>g) Outcomes of social impact assessments and any relevant feasibility studies.</p> <p>h) Protection of any heritage items or archaeological sites.</p> <p>i) Staging of special events including:</p> <p>j) Location of other places of public worship within the vicinity of the site – radii of 500m</p>	<p>small low density housing allotments.</p> <p>Design reflects residential housing location assessment</p> <p>TIA report lodged</p> <p>Design limited by existing building. DA not supported by Social impact assessments.</p> <p>Not applicable</p> <p>Not Applicable</p> <p>Nearest POPW Mosque is located at Penshurst &gt;500m distant.</p>	
Location and Traffic Management	<p><b>Objectives</b></p> <p>a) To maintain the amenity and character of residential areas.</p> <p>b) To ensure the size of site is suitable to accommodate a place of public worship.</p> <p>c) To ensure the most suitable location is achieved, by consideration of the physical constraints of the site.</p> <p>d) To encourage intensive trip generating places</p>	<p>Proposal removes the existing dwelling and provides a car park on corner opposite school grounds. The site accommodates a two storey structure with sufficient floor space capacity to accommodate the proposed Mosque. Site gently slopes away from Botany Street and has no other physical issues.</p> <p>The proposal seeks to accommodate</p>	<p>The subject proposal has generated significant objections and dispute with regard to adequacy of car parking and the potential impact on street car parking numbers and traffic generation issues. It has been contended that the total floor space of the building should be included in calculations of car parking requirements at a rate of 1 per 10sqm. This would result in a significant deficiency in car parking required. The Applicant contends that only the prayer rooms should be calculated for the purpose of determining car parking numbers. The arrangement suggested by the applicant is the method that Council has applied to car parking numbers for POPWs in the past and is thus reasonable to apply in this instance where suitable enforceable conditions can be imposed to ensure that the patronage numbers at the Mosque remain capped at</p>

	<p>of public worship in locations most accessible to rail transport.</p> <p>e) To ensure the location and size of places of public worship maintain the existing environmental capacity and service levels of streets.</p> <p>f) To avoid places of public worship locating within close proximity to another existing or approved place of public worship unless it can be demonstrated that the cumulative impacts relating to traffic generation and on-street parking are within acceptable limits for the area.</p> <p>g) To limit the size of places of public worship in and in the vicinity of established residential areas to ensure this type of trip generating activity does not adversely impact on the existing residential amenity</p>	<p>only a maximum of 120 persons on site.</p> <p>The proposed Mosque is aimed at servicing predominantly the local Muslim needs and does not require high profile position.</p> <p>The nearest Mosque is located at Penshurst which services a wider community as it is located on Forest Road, a main distributor road. Botany Street has a variable on-street car parking demand.</p> <p>The Mosque size is limited by the size of the original Nursing Home Building area. The applicants purpose of developing a Mosque is to serve the local Muslim demand.</p>	<p>100-120 persons at any time. This issue has been discussed in greater detail in the body of the report.</p> <p>Subject to appropriate conditions being imposed, including prohibition on pre-dawn prayers, policing closing time management and utilising site car parking prior to use of Botany Street car parking for worshippers, it is possible to minimise any significant environmental amenity impacts. Any development can result in some adverse impacts for local residents, including where local neighbour disputes are evident.</p>
	<p><b>Location</b></p> <ul style="list-style-type: none"> <li>The proposed development must maintain the general amenity of the area.</li> <li>The proposed development must optimise the use of surrounding and potential</li> </ul>	<p>Predominantly the appearance will be maintained, apart from new car park.</p> <p>The Mosque aims to cater for local Muslims and this can result in use of local bus services, walking,</p>	<p>The subject proposal does not comply with the Location criteria as the site is bounded by narrow roads and is located within a residential zone</p>

	<p>infrastructure, with a particular emphasis on public transport.</p> <ul style="list-style-type: none"> <li>• Large scale places of public worship should be located a minimum of 250 metres away from any other existing or approved large scale place of public worship.</li> <li>• Large scale places of public worship should be located on land zoned for B2 – Local Centre, B3 – Commercial Core, B4 – Mixed Use, &amp; IN2 – Light Industrial.</li> <li>• Places of public worship must not be located on lots with a frontage to a road with a carriageway width less than 10 metres.</li> <li>• Places of public worship must not be located on lots where access is via a cul-de-sac.</li> </ul>	<p>bicycling and the like in preference to driving vehicles.</p> <p>The Mosque is not considered to be a large scale POPW and is more than 250m distant from another POPW.</p> <p>Subject land is zoned R2 Residential and proposal cannot comply.</p> <p>The subject land fronts Ethel Lane and Xenia Lane which are less than 10m width.</p> <p>The subject site does not front a cul-de-sac.</p>	
	<p><b>General restrictions on development</b></p> <ul style="list-style-type: none"> <li>• A place of public worship may not be within reasonable view of a sex services premises ('reasonable view' shall be determined taking into account factors such as topography, vegetation, signage,</li> </ul>	<p>The Mosque will comply with this requirement.</p>	<p>The Mosque is not locate within proximity of a known sex services premises</p>

	<p>intervening development and similar factors).</p> <ul style="list-style-type: none"> <li>The boundary of a place of public worship should not be within a 100 metre radius of a sex services premises.</li> </ul>	The Mosque will comply with this requirement.	
	<p><b>Traffic management–environmental capacity</b></p> <p>Development for the purpose of places of public worship must not result in a street in the vicinity of the development site to exceed the environmental capacity maximum. If the environmental capacity maximum is already exceeded, the development must maintain the existing level of absolute delay of that street.</p>	The Traffic Impact Assessment report indicates that the local street capacity will remain adequate.	The TIA report prepared by the Applicant has been reviewed by Councils consultant and an Objectors consultant. Various questions were raised relating to adequacy of methodology, suitability of the land, traffic generation projections, etc. These matters have been addressed in more detail within the body of this report.
	<p><b>Traffic management–level of service</b></p> <p>Development for the purpose of places of public worship must not result in a street intersection in the vicinity of the development site to have a level of service below Level B. If the existing level of service is below Level B, the development must maintain the existing level of absolute delay of that street intersection.</p>	The Traffic Impact Assessment report indicates that the local street capacity will remain adequate.	The TIA report prepared by the Applicant has been reviewed by Councils consultant and an Objectors consultant. Various questions were raised relating to adequacy of methodology, suitability of the land, traffic generation projections, etc. These matters have been addressed in more detail within the body of this report.
	<b>Traffic impact</b>	The applicant	The TIA report prepared by the

	<p><b>studies</b></p> <ul style="list-style-type: none"> <li>• Development applications must submit a Traffic Impact Study based on the RTA Guide to Traffic Generating Developments to determine:</li> <li>• a) Existing volumes and environmental capacity of streets adjacent to the development.</li> <li>• b) Existing volumes and level of service of street intersections in the vicinity of the development.</li> <li>• c) Existing public transport services in the vicinity of the development.</li> <li>• d) Existing clearway and peak period parking restrictions that apply to streets adjacent to the development.</li> <li>• e) Existing proposals for improvements to the adjacent road system. Proposed conditions</li> <li>• f) The proposed amount of traffic generation and trip distribution of the development.</li> <li>• g) The proposed parking provision of the development.</li> <li>• h) The proposed number of buses likely to service</li> </ul>	<p>submitted a Traffic Impact Assessment Report. Subsequently modified, which addressed standard traffic generating requirements and provided survey analysis of street car parking usage and local traffic flows. This report generally supported the proposal.</p>	<p>Applicant has been reviewed by Council's consultant and an objector's consultant. Various questions were raised relating to adequacy of methodology, suitability of the land, traffic generation projections, etc. These matters have been addressed in more detail within the body of this report.</p> <p>The principal issue in the suitable management of the on-street car parking and the traffic generating impacts are reliant upon whether the restricted patronage of the Mosque can be adhered to or enforced. A number of specific conditions relating to hours of operation and enforcing patronage are proposed to provide some assurance that these issues can be enforced.</p>
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	<p>the development.</p> <ul style="list-style-type: none"> <li>• i) The proposed safety and efficiency of access between the development and the adjacent road network.</li> <li>• j) The proposed safety and efficiency of the internal road layout including the set-down and pick-up areas, bus bays, service areas and car parks.</li> <li>• k) The impact of the proposed generated traffic on the environmental capacity of streets adjacent to the development.</li> <li>• l) The impact of the proposed generated traffic on the level of service of street intersections in the vicinity of the development.</li> <li>• m) The impact of the proposed generated traffic on road safety and traffic noise.</li> <li>• n) The impact of the proposed generated traffic on other major traffic generating development in close proximity.</li> <li>• o) Whether the development must take certain measures to reduce the impact of the proposed</li> </ul>	<p>Originally services were to be well spaced, however, due to concerns raised relating to the Friday lunchtime</p>	
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	<p>generated traffic to an acceptable level. Measures may include a reduction in the size of assembly areas or the installation of public traffic management devices at the applicant's expense.</p> <ul style="list-style-type: none"> <li>• p) Where there are celebration events or other large events attracting larger than average numbers of vehicles, the Traffic Impact Study must assess the traffic and parking impact of these events on surrounding streets, and the measures proposed to minimise any potential impact.</li> <li>• To ensure adequate traffic flow, worship services shall not commence until thirty minutes have elapsed following the completion of any preceding service. This requirement may be imposed as a condition of development consent.</li> </ul>	<p>prayer services it was recommended that two services be held over a 2 hour period with 15 minute turn overs for a minimum 30 minutes between service.</p>	
Lot Sizes and Building Envelopes	<p><b>Allotment size</b></p> <ul style="list-style-type: none"> <li>• The minimum allotment width, measured at the front building line, is 15m for a corner</li> </ul>	<p>The subject land complies with frontage to Botany Street of 49m and total site area of</p>	<p>The proposal complies with this requirement.</p>

	<p>allotment, and 20m for all other allotments.</p> <ul style="list-style-type: none"> <li>The minimum allotment size for a place of public worship is 800sqm.</li> </ul>	1,988sqm.	
	<p><b>Assembly area</b> The maximum area of the assembly area in a place of public worship is 400sqm.</p>	The identified Assembly Area, prayer room, totals 193sqm.	The proposal complies with this requirement.
	<p><b>Site Coverage</b> Places of public worship located within residential zones shall have a maximum site coverage of 50%</p>	Inclusive of hard standing areas the POPW will exceed 50% site coverage area. However, the POPW building footprint is less than 50%.	The proposal generally complies with this requirement.
	<p><b>Height</b></p> <ul style="list-style-type: none"> <li>The maximum height of a place of public worship (including any spire, tower or similar structure) shall be in accordance with the relevant Height of Buildings Map contained in the relevant LEP applying to the land.</li> <li>Any spire, tower or similar structure must be considered on the basis of the form/bulk, scale and height of the structure and its relationship with the prevailing character of the locality.</li> <li>Council may refer certain</li> </ul>	<p>Maximum height permissible in this location is 9m and the existing building, to be retained, complies with this standard.</p> <p>The proposed development does not seek a spire or turret structure as part of the Mosque.</p>	The proposal complies with this requirement.

	development applications to the airport authority for consideration.		
	<b>Setbacks</b> <ul style="list-style-type: none"> <li>The minimum setback from the principal street frontage in residential zones is 6m. Note: An increased setback may be required depending on the proposed location of parking and access to the site or where located on classified roads.</li> <li>Setbacks from side boundaries in residential zones are to be a minimum of at least 3m.</li> <li>The minimum setbacks from rear boundaries in residential zones shall be at least 6m.</li> </ul>	The subject proposal seeks to accommodate the Mosque within the existing residential aged care facility and will not seek to expand the building footprint.	The proposal is considered to comply with the intent of this requirement considering it seeks to utilise the existing building footprint and will not encroach into the existing setbacks.
	<b>Access to sunlight</b> <ul style="list-style-type: none"> <li>At least one living area of a dwelling on an adjoining allotment must receive a minimum 3 hours of sunlight between 8.00am and 4.00pm at the mid–winter solstice. Where this requirement cannot be met, the development must not result with additional overshadowing on the affected living areas of the dwelling.</li> </ul>	The proposal does not seek to increase the existing building footprint and thus will not increase any existing setbacks or create any additional overshadowing of neighbouring properties or public places. On this basis the proposal will not adversely impact the existing solar amenity of the neighbouring	The proposal complies with the intent of this requirement.

	<ul style="list-style-type: none"> <li>• A minimum 50% of the required private open space for each dwelling on an adjoining allotment must receive at least 3 hours of sunlight between 9.00am and 5.00pm at the equinox. Where this standard cannot be met for a dwelling on an adjoining allotment, the development must not result with additional overshadowing on the affected private open space.</li> <li>• Development should avoid overshadowing any existing solar hot water system, photovoltaic panel, or other solar collector on an allotment and neighbouring properties.</li> </ul>	residential property.	
Energy Efficiency and Urban Design	<p><b>Building form and character</b></p> <p>Any Development Application for a place of public worship (church, mosque, synagogue, temple etc) must consider the amenity of the surrounding locality, especially sites within or near residential localities. Any place of public worship within or near a residential</p>	<p>The proposal does not seek to increase the existing building footprint and thus will not increase any existing encroachment into setbacks. The proposal will result in an overall improvement in the appearance of these lands due to their physical upgrade.</p>	<p>The proposal does not seek to increase the existing building footprint and thus will generally conform with the intent of this requirement.</p>

	neighbourhood must be well designed and incorporate high quality external materials and finishes as well as suitable landscape treatment around the perimeter of the site.		
	<p><b>Energy efficiency</b></p> <p>Places of public worship must make efficient use of natural resources and optimise amenity in the design, construction and occupation of buildings and facilities, such as:</p> <ul style="list-style-type: none"> <li>a. good orientation and natural light to rooms;</li> <li>b. achieving appropriate separation distances between buildings to provide natural light to rooms;</li> <li>c. limiting building depth to provide natural cross-ventilation and natural light;</li> <li>d. minimal use of mechanical ventilation;</li> <li>e. use of sun shading devices;</li> <li>f. preventing UV factor to open areas;</li> <li>g. reducing stormwater run-off and promoting the use of recycled water; and</li> <li>h. ensuring the development adapts to the existing topography by</li> </ul>	<p>The proposal makes principal use of the existing building and the amenity that it provided to it's past aged occupants. By maintaining the existing building form and the majority of openings, apart from the southern windows adjacent to the neighbouring residence, a reasonable amenity will be maintained.</p>	<p>The proposal aims to achieve a reasonable outcome through the use of an existing building which had provided reasonable amenity for its past occupants for over 20 years. The proposal is considered to be designed within the intent of this requirement.</p>

	avoiding excessive cut and fill.		
	<p><b>Facade designs</b></p> <ul style="list-style-type: none"> <li>Development must articulate the facades to achieve a unique and contemporary architectural appearance that:               <ol style="list-style-type: none"> <li>unites the facades with the whole building form;</li> <li>composes the facades with an appropriate scale and proportion that responds to the use of the building and the desired contextual character;</li> <li>combines high quality materials and finishes;</li> <li>considers any other architectural elements to Council's satisfaction.</li> </ol> </li> <li>Development must provide an active frontage to the street.</li> </ul>	<p>The proposal makes principal use of the existing building and the amenity that it provided to its past aged occupants. By maintaining the existing building form and the majority of openings the proposal will maintain the existing building form on this site and as accepted in this locality.</p>	<p>The proposal is considered to be consistent with the intent of this requirement.</p>
	<p><b>Roof designs</b></p> <p>Development must incorporate an innovative roof design that:</p> <ol style="list-style-type: none"> <li>achieves a unique and contemporary architectural appearance; and</li> <li>combines high quality materials and finishes</li> </ol>	<p>The proposal makes principal use of the existing building and the amenity that it provided to its past aged occupants. By maintaining the existing building form and the majority of openings the proposal will maintain the existing building form on this site</p>	<p>The proposal is considered to be consistent with the intent of this requirement.</p>



		and as accepted in this locality.	
	<b>Front fences</b> <ul style="list-style-type: none"> <li>The maximum fence height for a front fence is 1.8m.</li> <li>The external appearance of a front fence along the front boundary of an allotment or facing an arterial road must ensure:               <ol style="list-style-type: none"> <li>the section of the front fence that comprises solid construction must not exceed a fence height of 1 metre above natural ground level; and</li> <li>the remaining height of the front fence must comprise open style construction such as spaced timber pickets or wrought iron that enhance and unify the building design.</li> </ol> </li> <li>Council does not allow the following types of front fences along an arterial road:               <ol style="list-style-type: none"> <li>chain wire, metal sheeting, brushwood, and electric fences;</li> <li>noise attenuation wall</li> </ol> </li> </ul>	<p>The proposal seeks to provide acoustic barrier fences of 1.8m-2.4m height, around the site perimeter to minimise noise impacts for residential neighbours. These fences would be solid in nature and located on the street frontages. Having regard to these details the proposal will not comply with the standard.</p>	<p>The proposal is considered to be inconsistent with the intent of this requirement.</p> <p>The use of solid fencing along the street frontage is detrimental to the overall residential streetscape of this location and is not supported. Should the application be approved it is recommended that a restriction be placed on all boundary fencing to a maximum height of 1.8m with a solid element not exceeding 1.2m in height.</p>
	<b>Temporary structures</b> <ul style="list-style-type: none"> <li>Development must comply with the relevant clause of the relevant LEP.</li> </ul>	<p>The proposal does not propose and temporary structures.</p>	<p>Not applicable</p>
Access and	1 car space per 10 seats or 1 space per	Car parking has been determined	The TIA report prepared on behalf of the applicant has been reviewed

Parking	10sqm (GFA whichever is the greater). Some places of public worship operate with no formal seating arrangement (for eg Mosques) and as such the use of the word “seat” relate to patronage level (i.e. prayer mats). GFA is defined in the Hurstville LEP 2012.	on the basis of 1 space per 10sqm of prayer room floor space, requiring a minimum of 20 spaces. This method of calculation has been disputed as inappropriate. An assessment of the TIA report has been undertaken in the body of the report.	by Council’s consultant and an objectors consultant. Various questions were raised relating to adequacy of methodology, suitability of the land, traffic generation projections, etc. These matters have been addressed in more detail within the body of this report.
	<ul style="list-style-type: none"> <li>• All required parking must be provided on site, through at grade or basement parking.</li> <li>• All vehicles shall be able to enter and leave the site in a forward direction.</li> <li>• A clear distinction must be made between vehicle and pedestrian movements, both on site and off site. Measures should be implemented to separate these two movements and reduce potential conflict.</li> <li>• The car park / manoeuvring areas and the set down and pick up areas must locate separately behind the front building line.</li> </ul>	See TIA report for compliance. This issue is a primary matter of dispute regarding the actual number of car spaces required to service the user demand.	The TIA report prepared by the applicant has been reviewed by Council’s consultant and an objector’s consultant. Various questions were raised relating to adequacy of methodology, suitability of the land, traffic generation projections, etc. These matters have been addressed in more detail within the body of this report.
Acoustic Privacy and Managem	<b>Acoustic privacy</b> <ul style="list-style-type: none"> <li>• Air conditioning, mechanical ventilation or any</li> </ul>	The application was supported by an Acoustical Report,	The applicant Acoustic Report has been reviewed by Council’s consultant and an Objectors consultant. Questions have been

ent	<p>other continuous noise source must not exceed the ambient level at any specified boundary by more than 5dB(A).</p> <ul style="list-style-type: none"> <li>• The location and design of places of public worship must consider the projection of noise from various activities to avoid any adverse impacts on the residential amenity of adjoining land.</li> <li>• For the purpose of this clause, Council requires development applications to submit an Acoustic Report prepared by a suitably qualified acoustic consultant to determine:               <ul style="list-style-type: none"> <li>(a) existing noise levels at the identified sensitive receiver locations;</li> <li>(b) likely noise levels to emanate from the place of public worship at the identified sensitive receiver locations;</li> <li>(c) whether the development must apply measures to ensure noise does not exceed 5dB(A) above the background noise level;</li> <li>(d) whether the location and setbacks of the development are</li> </ul> </li> </ul>	<p>subsequently supplemented by further survey work, and this indicated that the noise can be adequately mitigated through suitable management controls. Mitigation measures proposed include the use of fencing up to 2.4m in height contrary to this standard recommendation.</p>	<p>raised relating to adequacy of methodology, suitability of mitigation measures and effectiveness of a Plan of Management. These matters have been addressed in more detail within the body of this report.</p>
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	<p>sufficient to protect the acoustic privacy of adjacent dwellings;</p> <p>(e) whether the location of the outdoor areas should avoid living areas and bedrooms of adjacent dwellings; and</p> <p>(f) whether the development must install certain noise attenuation measures to protect the acoustic privacy of adjacent dwellings.</p> <ul style="list-style-type: none"><li>• The Acoustic Report must measure the noise readings over a 15 minute period and must provide details of all modelling assumptions including Page 18 source noise data, noise monitoring positions, receiver heights and locations, prevailing meteorological conditions during the monitoring, confirmation of the methodology adopted along with a copy of the model input and output data.</li><li>• The maximum height for noise attenuation walls and fences along the boundary of an allotment is 2m.</li></ul>		
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	<b>Visual Privacy</b> <ul style="list-style-type: none"> <li>The location of windows, doors or balconies within a place of public worship must be located to avoid overlooking the private open space of adjoining residential uses.</li> <li>Landscaping must be used to reduce the impact of overlooking where it cannot be avoided.</li> </ul>	<p>The development retains the existing building footprint for the Mosque and generally will retain the existing openings, apart from the southern facade windows. No changes will result in amenity impacts due to his building retention.</p> <p>The landscaping plan is to be modified.</p>	<p>The proposed development will generally comply with the intent of this standard.</p>
	<b>Hours of operation</b> Council may limit the hours of operation of places of public worship, public access to places of public worship, and special occasions or events.	<p>Proposal is for operating hours from 5:30am – 9:55pm.</p>	<p>Concerns are raised at pre-dawn and late evening opening hours within a residential environment and conditional changes are proposed to hours of operation should the proposal be approved to remove early morning and limit evening operations.</p> <p>This issue is discussed in more detail in the body of the report.</p>
	<b>Management plans</b> <ul style="list-style-type: none"> <li>Council requires development applications to submit a Management Plan to determine: (a) hours of operation and days of operation; (b) special events: a detailed calendar of any festivals and special events must be supplied with the application, together with details of the</li> </ul>	<p>A draft Plan of Management has been submitted with the application. This POM addresses the necessary requirement as outlined in this requirement.</p>	<p>It is noted that due to various issues of amenity concern with primary matters, such as the hours of operation and the general activities, there may be restrictions on general operations conditionally as part of any development approval.</p> <p>At this time the POM is considered to be inadequate as an enforceable management document unless it is amended to provide more specific controls and methods of enforcing those controls.</p> <p>Particularly the operation of a pre-dawn prayer session in this residential locality has the potential to create noise nuisance for local</p>

	<p>arrangements for parking during these times; (c) number of persons attending at any one time, including non-worship and ancillary activities, and proposed measures to minimise impacts on the surrounding amenity; (d) expected 'catchment area' from which the congregation will travel; and (e) any proposed street parades and road closures.</p> <ul style="list-style-type: none"> <li>• Council must require the operator of a place of public worship in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone R4 High Density Residential to organise and chair a Neighbourhood Liaison Committee.</li> <li>• The purpose of the Committee is for the operator and neighbours to resolve any issues, such as traffic and noise, arising from the operation of the place of public worship. The operation of the Committee must ensure:</li> </ul>		<p>residents, even with less than 20 worshippers attending.</p> <p>This is a primary issue with the development as to whether the POM can be effectively used as management tool by the Mosque to control staff and worshippers behaviour in order to minimise amenity impacts.</p> <p>Due to this uncertainty it is recommended that should the application be approved that pre-dawn prayers be prohibited and that strict enforceable conditions be imposed and supported through the POM. On this basis it is recommended that the POM be updated conditionally to reflect the proposed change to the operational procedures for the Mosque as outlined in the report.</p>
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	<p>(a) The membership of the Neighbourhood Liaison Committee must include residents who live next to and opposite the place of public worship.</p> <p>(b) The Neighbourhood Liaison Committee must meet at least four times during the first 24 months of the place of public worship.</p> <p>(c) The operator of the place of public worship must forward the meeting minutes to Committee members.</p> <p>(d) The operator of the place of public worship may forward the meeting minutes to Council for information purposes</p> <p>(e) The operator of the place of public worship may terminate the Committee once it meets at least four times during the first 24 months of the place of public worship operating, or may choose to extend the function of the Committee over a longer period of time.</p> <ul style="list-style-type: none"> <li>• Council may require the operator of a place of public worship</li> </ul>		
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	in zones other than the residential zones to organise and chair a Neighbourhood Liaison Committee		
Landscape Plans	<p><b>Landscaping</b></p> <ul style="list-style-type: none"> <li>For all new developments and significant modifications to existing developments, a Landscape Plan prepared by a suitably qualified landscape designer who is eligible for membership of the Australian Institute of Landscape Architects (AILA) or Australian Institute of Landscape Designers and Managers (AILDM) is to form part of the submission requirements.</li> <li>The landscape plan is required to accurately show all existing landscape features such as trees, bushland and natural rock formations, contour lines and relevant spot heights. Trees, landscape features and buildings located within 3 metres of the boundary in adjacent sites are also to be</li> </ul>	<p>As required by this provision the application was supported by a Landscape Plan and an Arborist Report on the existing trees on site and in the road reserve. This Plan provided for perimeter landscaping around the carpark and across the Botany Street frontage. This is generally in accordance with this requirement.</p>	<p>A Landscape Plan has been lodged and is considered an adequate response to this requirement. However, the proposal seeks removal of 14 trees from the land to accommodate the new proposal and the carpark which under Council policy requires 2 replacement trees for each one removed, being 28 required. Hence, should the application be approved it is recommended that the Landscape Plan be amended to reflect the need for the replacement trees as part of the site landscaping.</p>

	<p>accurately shown.</p> <ul style="list-style-type: none"> <li>• The landscape plan must clearly show the layout of proposed buildings, features, car parking areas, and numbers, species and layout of proposed planting.</li> <li>• New car parking areas are to be furnished with canopy trees. For every ten parallel spaces in a row parking arrangement a canopy tree must be provided. Planting hole dimension is 2m x 2m minimum area. Protective furnishing must be provided to the tree surround.</li> <li>• Screen planting shall be provided in the required setback areas between the road and car park areas, and between adjoining residential buildings and car parking areas</li> <li>• A maintenance plan for the ongoing horticultural care of planting material must be provided as part of the landscape plan</li> </ul>		
	<p><b>Deep soil zones</b></p> <ul style="list-style-type: none"> <li>• Development for the purpose of places of public worship must</li> </ul>	Deep landscaping is proposed around the perimeter of the site	As noted above, the Landscape Plan is to be re-visited conditionally should the application approved and will be required to comply with the minimum standards.

	<p>provide deep soil zones that have the following minimum widths around the boundary of the allotment of land:</p> <ul style="list-style-type: none"> <li>• The deep soil zones must be landscaped by way of deep soil plantings and canopy trees.</li> <li>• Council will determine the minimum width for deep soil zones for places of public worship in the business zones based on the setbacks of the street and the surrounding buildings.</li> </ul>	consistent with the existing building form being retained as part of the subject development.	
Site Facilities and Services	<p><b>Site facilities</b></p> <p>A development must ensure the following facilities are not visible to the street and any nearby public open spaces:</p> <ul style="list-style-type: none"> <li>a) waste storage area;</li> <li>b) storage of goods and materials;</li> <li>c) any clothes drying area.</li> </ul>	The site is suitably catered for essential services having previously operated as a residential care facility. Adequate areas are available to accommodate waste storage, general storage and simple clothes drying.	On site waste storage and internal general storage rooms are clearly identified on the proposed plan of development. This adequately responds to the intent of this requirement.
	<p><b>Food premises</b></p> <p>The design, construction and operation of a food premises must comply with: (a) Food Act 2003; (b) Food Regulation 2010; (c) FSANZ Food Standards Code; and (d) AS 4674:2004 Design,</p>	The Mosque development is not a Food Premises by definition but will have basic service kitchenette facility available at the upper ground floor.	Not applicable.

	Construction and Fitout of Food Premises		
	<b>Waste storage areas</b> The design, location, and screening of waste and recyclable receptacle areas must be to the satisfaction of Council.	Waste storage area is proposed to be retained at the rear of the premises in a similar manner to the original residential aged care facility.	The proposal complies with the intent of this requirement.
Safety and Security	<b>Entrances, fences and natural surveillance</b> <ul style="list-style-type: none"> <li>• The front door to a building should face the street.</li> <li>• An external entry path and the foyer to a building should be direct to avoid potential hiding places.</li> <li>• Windows on the upper floors of a building should, where possible, overlook the street.</li> <li>• For a fence located forward of the front building line, the solid construction of the fence must not exceed a height of 1 metre above natural ground level. The remaining height of the fence must comprise an open style construction such as spaced timber pickets, wrought iron, or lattice. Metal sheet, chain wire, brushwood or unframed lattice is</li> </ul>	The prime entry to the premises is as existing fronting Botany Street, whilst alternative accesses are available into the building via the carpark. Fences are proposed that will be 1.8m – 2.4m in height and will be in contravention of this requirement.	The non-compliance with fence height can be resolved conditionally should the application be approved as earlier discussed.  The proposal complies with the entry/foyer requirements.

	not permitted along the primary frontage of an allotment.		
	<p><b>Security devices</b></p> <ul style="list-style-type: none"> <li>• A security alarm system should be installed in a building.</li> <li>• All windows and doors on the ground floor should ordinarily be made of toughened glass to reduce the opportunities for 'smash and grab' and 'break and enter' offences, with the exception of special features such as stained glass windows. Where possible, such special features should be above ground floor level.</li> <li>• Access to a basement car park must only be available to the public during operating hours and via a security door or gate with an intercom, code, or card lock system.</li> <li>• Unless impractical, access to an outdoor car park should be closed to the public outside of operating hours via a lockable gate.</li> <li>• Lighting must be provided to the following areas of</li> </ul>	<p>No details have been provided on any security alarm system or camera surveillance. General lighting is proposed to provide for generally safe access. The Mosque carpark will be secured after hours and not available for public use.</p>	<p>This requirement will be conditionally impose should the application be approved. Provision of a suitable camera surveillance system is recommended conditionally for the safety of the occupants/visitors as well as to provide Council and the general public comfort that the premises operates in accordance with conditions by providing a livestream online.</p>

	<p>a building to promote safety and security at night: a. an external entry path, foyer, driveway, and car park to a building; and b. the main entrance. This may be in the form of motion sensitive lighting or timer lighting.</p> <ul style="list-style-type: none"> <li>• A pedestrian entry path and driveway to a car park that are intended for night use must be well lit using a vandal resistant, high mounted light fixture.</li> <li>• The lighting in a car park must conform to Australian Standards 1158.1, 1680, and 2890.1</li> </ul>		
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## ANNEXURE 2: Relevant Considerations under Hurstville Development Control Plan No.1

Hurstville DCP No.1

Clause	Standard	Proposal	Assessment Under HDGP No.1
3.1.3 Vehicular access and parking requirements	<p>PC.1 – DS1.1 Council uses prescriptive controls but may consider expert report local assessments</p> <p>The car parking is required to be sufficient, safe, accessible, and convenient.</p>	<p>The Applicant has provided a Traffic Report which assesses proposal against the controls as well as providing argument based on expert local analysis</p>	<p>The applicant's amended Traffic Impact Assessment Report (TIA), prepared by GTA Consultants, has been reviewed by an independent traffic expert, McLaren Traffic Engineering (MTE), on behalf of Council. This review has concluded that the Traffic Report adequately justified the proposed POPW development within the R2 zone due to :</p> <ul style="list-style-type: none"> <li>• Adequate car parking is provided on site for most Mosque activities apart from 100-120 person prayer sessions, and</li> <li>• adequate available on- street parking where required.</li> </ul>

	<p>PC.1 – DS1.2</p> <p>In calculating the number of car spaces required, Council takes into consideration:</p> <ul style="list-style-type: none"> <li>a. the type of development (or land use) proposed</li> <li>b. the size and scale of the development</li> <li>c. the intensity of the development</li> <li>d. street hierarchy and existing traffic situation</li> </ul>	<p>The proposal provides 20 visitor spaces on site, which the applicant contends cater adequately for its normal weekly functions including prayer and community uses, aside from Friday noon prayer.</p>	<p>The applicant's TIA identified that the 100-120 person events, being combined Friday prayer sessions and Ramadan festival, could not be catered for by the proposed on-site car parking.</p> <p>It is acknowledged that for a 120 person event with car parking occupancy rate of 1.5 persons some 80 cars spaces would be required, leaving a site deficiency of 60 spaces.</p> <p>The TIA contended that any deficiency could be adequately catered for within the adjoining streets for these less regular larger events.</p> <p>With regard to the Friday Lunchtime prayer session the Applicant has offered to hold these in 2 x 50 person sessions to reduce car parking demand and still be finalised prior to School pick-up times. Appropriate conditions will be imposed to reflect this arrangement.</p> <p>Over numerous site visitors it has become evident that between 11:30am-2:00pm that there is a large number of available street car parking to accommodate any overflow, see pictures in the attachment to this report.</p>
	<p>PC.1 – DS1.3</p> <p>Table 1 and Table 2 provide on-site parking requirements for each specific land use. Where parking calculations produce a fraction, the requirement is rounded up eg 3.2 spaces = 4 spaces.</p> <p>Note: Parking requirements may also be contained in area specific DCPs.</p> <p>Table 1 control:</p>	<p>The TIA has argued that a car parking argument based upon the Prayer Room only being considered in determining GFA car parking is most appropriate. Further that for 100-120 person events that the local street car parking is adequate for</p>	<p>Council has noted that an objector's review of the TIA relies on the calculation of GFA as the whole of the building and the carpark areas to determine maximum patronage numbers.</p> <p>This issue has been addressed in the body of the report and it should be noted that past interpretation of the GFA requirement by Council has been to only use the prayer room floor space to determine car parking requirements.</p> <p>Further, the majority of use of the</p>

	1 space per 10 seats or 1 space per 10sqm GFA (whichever is greater) with a Transport and Parking Assessment Study	these irregular events.	Mosque will be adequately catered for by the proposed visitor car parking, apart from Friday Lunchtimes (requiring 33 car spaces for 50 persons at 1.5 per vehicle) or for the Ramadan festival period.
	PC.1-DS1.5 Refer to AS 2890.1 2004 and AS2890.2 Part 2 for the design and layout of parking facilities	The TIA indicates that the carpark layout conforms with the Australian Standard (AS).	Some issues were raised with the original carpark layout through the objectors Traffic Consultant report relating to the design non-compliance with the AS. Some minor non-compliances were evident relating to space widths and this can be resolved conditionally and achieve a complying design carpark.
2	PC.1-DS1.6 Council does not encourage, but may consider stacked parking for parking spaces in a controlled parking situation which: a. allows no more than two cars in the stacked parking arrangement; b. is likely to maintain a very low turnover; or c. is able to function easily within the management of the site's future operation	The proposal seeks to include two stacked car spaces accessed directly off Botany Street adjoining the southern boundary.  The basis for this request is that these spaces are existing spaces that form part of the original residential aged care facility.	No objection is raised to the retention of an existing car parking arrangement. It is understood that these two spaces will be allocated for staff use in order to ensure safe use as they both reverse onto Botany Street.
	PS1 – DC 1.16 Parking complies with AS 1428 Design for access and mobility and AS/NZS 2890.6.	The TIA indicates that the carpark layout conforms with the Australian Standard (AS).	Some issues were raised with the original carpark layout through the objectors Traffic Consultant report relating to the design and non-compliance with the AS and availability of disability car parking.  Some minor non-compliances were evident relating to space widths and this can be resolved conditionally and achieve a complying design carpark.
	PC2- DA2.1 Proposals for parking areas are to be accompanied by a landscape plan, prepared by a qualified	The proposal is accompanied by a Landscape Plan.	The landscape plan has been designed in accordance with the guidelines under the DCP by providing perimeter boundary landscaping. The final design of the landscaped area will be



	landscape architect or designer, illustrating means to soften the visual impact of parked cars and any associated structures, as per these landscaping controls		required to be re-visited in order to include 2 new trees for each tree removed from the site in accordance with Council's Consultant Arborist requirements.
	PC2 – DS2.2 Significant environmental features within the land such as rock outcrops, benches and trees are to be retained as a landscaped feature of the parking area.	Applicant has not indicated there are any specific features of the land of environmental concern.	It is agreed that there are no specific environmental features evident on the land.
	PC2 – DS 2.3 Council considers that landscaping needs to be included in every car parking design, within and on the perimeters of the car parking area. Accordingly, the following is required: a. planting beds fronting a street or public place are to have a minimum width of 1 metre b. shade trees are to be provided in open parking areas at the ratio of 1 shade tree for every 6 spaces c. plants to avoid are those which have a short life, drop branches, gum or fruit or those which interfere with underground pipes	The proposal is accompanied by a Landscape Plan	The Landscape Plan accompanying the application is considered to be generally consistent with these guidelines. A re-visited Landscape Plan will be requested conditionally in order to incorporate new tree plantings, 2 for each tree removed, within the design.
	PC2 – DS2.4 Parking areas are to incorporate a 150mm concrete kerb or edge treatment to reduce the likelihood of vehicles damaging adjoining landscaped	The Landscape Plan design indicates that the carpark will include retaining walls and kerbing around the car space layout.	The car park design complies with this requirement.

	areas. The use of bollards should also be considered		
	<p>PC2 – DS2.5</p> <p>All parking areas are to have adequate drainage for runoff and seepage. Council requires that minimum gradients be provided in car parks</p>	<p>The Landscape Plan and Stormwater Plans accompanying the application illustrate that the car park is designed to drain to the proposed stormwater system.</p>	<p>The Stormwater Plan and Car park layout plan appear to provide a design for drainage of the carpark surface to connect to the proposed drainage system in accordance with this requirement.</p>
	<p>PC2 – DS2.6</p> <p>A detention tank or pipe with reduced outlet should be offered, preferably integrated with a pollution trap. Parking areas may provide for temporary detention of water to a maximum depth of 150mm to reduce the velocity of stormwater run-off. Such parking areas are to be designed to provide pollution traps around the perimeter so as to reduce the impact of pollutants on the water quality of downstream watercourses. See Council's Drainage Code for further information.</p>	<p>The Landscape Plan and Stormwater Plans accompanying the application illustrate that the car park is designed to drain to the proposed stormwater system and utilises an On-Site Detention Basin.</p>	<p>The Stormwater Plan and Car park layout plan appear to provide a design for drainage of the carpark surface to connect to the proposed drainage system via an On-Site Detention basin in accordance with this requirement.</p>
	<p>PC3 – DS3.1</p> <p>On-site parking spaces are to be located in areas visible from nearby habitable windows, entrances, public spaces etc.</p>	<p>Car park has been designed to be highly visible.</p>	<p>The proposed car park is open and visible from both the Mosque and from three streets and on this basis is considered to be in compliance.</p>
	<p>PC3 – DS3.2</p> <p>On-site driveways are to provide an unobstructed view of passing pedestrians and vehicles</p>	<p>The proposal seeks solid fencing to height of 1.8m which will obstruct view lines to street.</p>	<p>Any approval of the proposal will include a condition requiring modified fence height of 1.8m with maximum solid height of 1.2m, which will provide for reasonable sight lines to street through the</p>

			proposed plantings.
	<p>PC3 – DS3.5</p> <p>Visitor parking shall be provided in open unrestricted areas. If visitor parking is provided within a secure parking area (basement or otherwise) suitable access provisions shall be made such as a security intercom.</p>	<p>The design of the car park is in an open above ground form in response to this issue.</p>	<p>The car park design is considered to be in compliance with this control as an open above ground car park with acceptable unobstructed access to all car spaces.</p>
	<p>PC3 – DS3.7</p> <p>The intensity of lighting in the entranceway to covered or underground car parks is to be graded from the most bright (at the entrance proper), to minimum levels of accepted illumination (away from entrances), to allow for the gradual adjustment of driver/pedestrian “light” vision.</p>	<p>The car park design has not provided details on the proposed lighting system.</p>	<p>The proposal does not involve any covered or underground car parking and final details on lighting will be required conditionally prior to Construction Certificate having regard to the required amended landscape plan. This matter can be resolved prior to occupation and is best to be designed with reference to the final landscape plan design.</p>
3.3 Access & Mobility	<p>PC1 – DS1.1</p> <p>Development is to comply with Table 1 – Assessment Criteria</p> <ul style="list-style-type: none"> <li>• Access for all persons through the principal entrance and access to appropriate sanitary facilities in accordance with the BCA and relevant Australian Standards.</li> <li>• One space per 20 spaces or part thereof, where parking areas have more than 20 spaces but less than 50 spaces. 2% of all parking spaces are to be set aside for accessible parking where 50 or more</li> </ul>	<p>The application was accompanied by an Access Report, prepared by Vista Access Report, and ramp access provided directly to the Mosque from the carpark with one accessible car space provided.</p>	<p>The proposed carpark layout is designed to provide ramp access to the Mosque. The accessible carpark proposed is space 18 at the rear of the premises but no details have been provided on accessibility into the Mosque from this position. Should car space 18 be unsuitable then options within the main carpark include Car space 1 and 13 which would be able to accommodate suitable clearances to be utilised as accessible car spaces. On this basis it is considered that the carpark can provide two accessible car spaces conditionally.</p>

	parking spaces are provided, to be designed in accordance with AS 2890		
3.4 Crime Prevention through Environmental Design	PC1 – DS1.2 Avoid blank walls fronting the street	The proposal utilises the existing residential aged care facility building and is not designed to present a blank wall to the street frontages.	The proposal is considered to be generally compliant with this requirement, apart from the existing wall to the Community Room fronting Xenia Avenue. However, this is considered acceptable as it is an existing situation and represents a blank wall length of less than 33% of the eastern boundary. It is noted that the southern wall is proposed to have the windows replaced and sealed and this is considered acceptable as to retain these windows would create potential for the prayer room attendees to overlook neighbouring properties.
	PC1 – DS1.3 Offset windows, doorways and balconies to allow for natural observation while protecting privacy.	Proposal has no new windows along the southern boundary connecting to the neighbouring property.	The proposal is considered to be acceptable as windows in the southern façade are as existing and were previously windows for existing aged care rooms. These windows are proposed to be replaced and sealed to ensure overlooking does not occur from the Prayer Room.
	PC1 – DS1.5 Pathways within and to the development should be direct and all barriers along the pathways should be permeable including landscaping and fencing.	Proposed design that direct paths are available to the Mosque from both Botany Street and the car park.	The application is consistent with the intent of this requirement.
	PC1 – DS1.6 Consider the installation of mirrors, glass or stainless steel panels to allow users to see ahead and around corners in corridors and stairwells	The subject application has not proposed material treatments of this nature.	The proposed development is not consistent with this requirement but is a matter that can be addressed conditionally prior to issue of a Construction Certificate.
	PC1 – DS1.8 Communal areas and utilities e.g. garbage	Communal areas will be adequately lit.	The proposal is able to comply with this requirement.

	bays should be easily seen and lit.		
	PC1 – DS1.9 Where elevators or stairwells are provided, open style or transparent materials are encouraged on doors and/or walls of elevators/stairwells	The subject application has not proposed material treatments of this nature.	The proposed development is not consistent with this requirement but is a matter that can be addressed conditionally prior to issue of a Construction Certificate.
	PC1 – DS1.10 Waiting areas and entries to elevators/stairwells should be close to areas of active uses, and should be visible from the building entry	Proposed design has provided offices and meeting rooms and the prayer room within direct eyesight from the building entry.	The proposed development has retained the existing building form and generally the existing internal layout. In general the main entries to the building provide reasonable sight lines to the meeting rooms, offices and prayer room.
	PC1 – DS1.11 Seating should be located in areas of active uses	Active community meeting room and offices have been identified as providing suitable seating.	The proposal is able to comply with this requirement.
	PC1 – DS1.25 Avoid large expanses of car parks. Where large expanses of car parks are proposed, surveillance such as security cameras should be provided.	Proposal includes a large external car park on the consolidated allotment.	The proposal does not provide details on how security is designed for the car park area. The requirement for the carpark area to be under camera surveillance is proposed conditionally as part of any development consent.
	PC1 – DS1.26 Where possible, locate entry/exit points in close proximity and close to the car park operator or shops, cafes etc.	The entry/exits to the building are as per the existing building layout. This provides direct access to the car park.	The proposal complies with this requirement.
	PC1 – DS 1.27 Minimise the number of entry and exit points to car parks	The main carpark of 18 vehicles has one combined entry/exit to Botany Street.	The proposal complies with this requirement.
	PC1 – DS 1.30 Locate car parks in areas that can be observed by adjoining uses.	The car park is located on a three way street frontage that is highly visible to the general	The proposal complies with this requirement.

		public.	
	PC4 – DS4.1 Fencing Front fences are to be predominantly open in design to allow sight through the fences eg picket fences, wrought iron.	In response to local amenity concerns proposed street front fencing is between 1.8m to 2.4m high and fully enclosed.	The proposed development will not comply with this requirement, notwithstanding that the design seeks to improve local amenity by reducing noise and light impacts. It is recommended that the fencing be conditionally modified to be a maximum 1.8m in height and only 1.2m in height as fully enclosed. The applicant's proposal is considered unreasonable as this will create a poor street frontage in a residential precinct and also a poor visual line for vehicles at the intersections.
3.5 Landscaping	PC1 – DS7.1 Where a street or neighbourhood has an existing desirable landscape character, similar species are planted on site, except where the species are identified as being undesirable in accordance with Appendix 1 – Recommended species for landscaping.	The applicant has lodged a Landscape Plan and this is proposed to be modified to include replacement trees in the design.	The required modified Landscape Plan will provide opportunity to implement the intent of this requirement.
	PC7 – DS7.1 Landscaping is to be provided within and around the perimeter of car parking areas that accommodate over 6 vehicles	Proposed landscape design has provided perimeter landscaping.	The proposal complies with this requirement.
	PC7 – DS7.2 Shade trees are provided at a ratio of at least 1 for every 6 car parking spaces	Proposal provides for some shade plantings only.	The required modified Landscape Plan will provide opportunity to implement the intent of this requirement as the review is required to ensure additional tree planting is introduced at a rate of 2 trees for each removed, totalling 28 replacement trees.
	PC7 – DS7.3 Raised or sunken planting beds having a minimum width of 1m are provided around the entire perimeter of	Landscape Plans do not appear to include landscape beds of less than one metre width.	The proposal appears to comply with this requirement.

	carparks		
	PC7 – DS7.4 Landscaped areas and trees are to be protected with a 150mm concrete kerb or edge treatment to protect them from damage by vehicles.	Due to the fall of the land the perimeter landscaping will involve retaining walls that provide protection to the plantings.	The required modified Landscape Plan will provide opportunity to implement the intent of this requirement as the review is required to ensure additional tree planting is introduced at a rate of 2 trees for each removed, totalling 28 replacement trees and this will require adequate protection from vehicular damage.

### ANNEXURE 3: Consideration of Public Submission Issues

#### Summary of Public Submission Issues

Submission Issue	Consideration and Assessment	Recommend
Traffic generation impact on surrounding road network.	<p>Local residents have raised concerns, and this has been supported by traffic analysis by The Transport Planning Partnership (TPPP), that the analysis of traffic generation and car parking requirements associated with the Mosque proposal has been inadequate.</p> <p>In particular the analysis has assessed the impacts based on a significantly lower potential patronage than is capable on the subject land. The reused building has a useable floor space of approximately 566sqm which could generate mat areas for 566 persons compared to the proposed maximum of 120 persons. This 566 potential maximum would generate a significantly greater traffic and car parking issues for the locality.</p> <p>This issue relies on the belief that the Mosque development cannot or will not be properly managed to limit patronage and the behaviour of staff and worshippers.</p> <p>This objection position, although factually correct in area and numbers, would rely on Council's inability to manage/enforce the proposed 120 maximum patronage proposed by the Applicant. In this instance and with digital surveillance methods using CCTV cameras in the prayer rooms and carpark, it is possible to monitor the Mosque activities 24 hours daily and to have camera recordings to investigate any claimed non-compliances relating to hours of operation, floor area usage or patronage numbers.</p>	<p>The adequacy of the TIA report for the Applicant has been addressed during the processing of the application. This resulted in additional survey work by GTA consultants to support the Applicants stance that car parking and traffic generation analysis is reflective of the proposals patronage projections.</p> <p>It is concluded that where the patronage of the Mosque can be restricted to a maximum of 100 – 120 persons at any time, as proposed, then the available on-site parking along with available street parking will be adequate to service the development whilst providing an acceptable level of traffic generation.</p> <p>The restricting of patronage is proposed to be achieved by appropriate conditions of consent and</p>

	<p>Any approval of the proposed Mosque development will be supported by appropriate conditions of consent that ensure Council's ability to enforce management conditions and the guidelines under an adopted POM. The premise that all floor space and external carpark areas would be used to accommodate an unrestricted patronage of the Mosque is reliant on Council not being able to enforce any conditions imposed restricting the uses intensity.</p> <p>This issue is addressed in further detail in the body of the Panel report.</p>	management under the POM.
On-site car parking adequacy and compliance with car parking requirement under the Hurstville DCP No.1 (HDCP1)	<p>This issue related to whether the provision of car parking to service the Mosque development is consistent with the car parking generation standard applicable under Hurstville DCP No.1 which requires 1 car space per 10sqm of gross floor space.</p> <p>In this instance the total useable floor space of the development is approximately 566sqm, requiring 566 car spaces on site, whereas the proposal relies on calculating the car parking requirement on the prayer rooms only, totalling 193sqm and generating a 20 car space requirement.</p> <p>This illustrates a significant variation between the car parking projections and technically by interpretation the calculation would be for the larger floor space area.</p> <p>The application has been assessed on the basis that previous similar developments have been assessed for car parking based upon the prayer room areas on the basis that the religious facility would act appropriately and manage patronage in accordance with any approvals by Council. Generally religious institutions are local neighbourhood aware and act responsibly however there can be situations where staff or patrons overlook conditional controls and have resulted in Council pursuing action to enforce the conditions.</p> <p>It is considered that, having regard to the previous use being a residential aged care facility which also had visitors and staff movements, the perceived non-compliance is reliant upon whether any patronage limiting and carpark usage conditions can be enforced should non-compliances eventuate. It is</p>	<p>It is concluded that where the patronage of the Mosque can be restricted to a maximum of 100 – 120 persons at any time, as proposed, then the available on-site parking along with available street parking will be adequate to service the development whilst providing an acceptable level of on site car parking.</p> <p>The restricting of patronage is proposed to be achieved by appropriate conditions of consent and management under the POM.</p>



	<p>possible to now impose suitable conditions which would require live streaming of the operations of the Mosque to ensure that operations comply with conditions of consent and that would be evidence in any enforced legal actions by Council.</p> <p>It is noted that the great majority of the Mosque activities on a daily basis will be adequately catered for by the proposed 23 car spaces on site. The only times that there would be car parking/traffic impacts beyond the available car parking would be potentially during the Friday Lunchtime prayer sessions (projected as 10-20 additional car spaces required) and the annual Ramadan festival period.</p> <p>This issue is addressed in further detail in the body of the Panel report.</p>	
<p>Adequacy of Acoustical Impact analysis by Renzo Tonin &amp; Associates (RTA)</p>	<p>The acoustic impact assessment by RTA that accompanied the application has been reviewed by an Objector consultant, Koikas Consulting. This review concluded that the RTA report methodology was not accurate and did not have due regard to patron noise arriving and leaving the premises, particularly in the early hours. It was generally agreed by both consultants that there would be some level of amenity impact during pre-dawn early morning/late evening operations. RTA contended that the impacts were relatively minor and that this could be controlled by suitable mitigation measures.</p> <p>Controlling the noise impact potential of the staff and worshippers attending the morning/evening prayer sessions is paramount to maintaining the amenity of the local residents. It is acknowledged that even a small variation to background noise has the potential to adversely impact the sleep of local residents, particularly light sleepers or residents directly opposite the Mosque. It is not unreasonable for residents to have concerns regarding impacts from the operation of these prayer sessions.</p> <p>It is contended that Mosque operations that occur within the core hours of 7:00am to 10:00pm are considered reasonable where they are not unreasonably intrusive as this is the accepted core hour where amplified music and other noise generating activities can occur. Intermittent noise concerns from noisy neighbours, mowing lawns, drilling walls, playing</p>	<p>The voracity of the acoustical impact assessment or the application has been dispute and this has generated additional surveys and assessment by RTA to support the subject proposal. Generally, the modified assessment is considered an acceptable document and that the recommendations should be implemented as part of a consent should the application be approved.</p> <p>Based upon these acoustic assessments by the applicant, objectors and Council consultant it is acknowledged that morning prayers will have some level of noise impact and therefore it is recommended that pre-dawn prayer sessions be prohibited as part for any approved Mosque</p>

	<p>music, are not as consistent as the proposed operations of the Mosque on a daily basis.</p> <p>On this basis it is acknowledged that the morning prayers, in particular, have potential to unreasonably impact sleep for local residents and that there is some doubt that control of the actions of the worshippers when arriving/departing the site in early morning would be most difficult for the Mosque staff to manage successfully 365 days a year. Hence, it is recommended that worshipper attendance at the morning prayers should not be permitted as part of the Mosque functions. This would not stop the Imam from potentially holding on-line prayer sessions with worshippers in similar fashion to the sessions held for EID in Sydney during the recent COVID 19 lockdown.</p> <p>With regard to the evening prayer sessions it is considered that where Mosque operations cease, apart from a 30 minute extension during the summer daylight saving period, prior to 10:00pm that this is a reasonable hours of operation.</p> <p>This issue is addressed in further detail in the body of the Panel Report.</p>	<p>proposal in this locality. Further, suitable camera surveillance systems should be implemented to observe Mosque functions internally and the car park area usage externally.</p>
<p>Adequacy of Operational Plan of Management (POM) as an acceptable management tool</p>	<p>Concerns have been raised at the adequacy of the proposed POM having regard to principles outlined by the Land and Environment Court as part of recent court decisions, including POPW proposals in the Georges River Council area.</p> <p>An assessment of the POM against these principles has been undertaken in the body of the report and concludes that the POM is generally consistent where appropriate conditions of consent and revised management controls can be included as part of any approval determination.</p> <p>The success of the POM in adequately managing the Mosque operations relies on the strength of the document for staff and/or Council to act where non-compliances may occur. The current draft POM is a broad principle instrument which sets down guidelines for management of the Mosque. Should the Mosque proposal be approved relevant conditions relating to patronage, car parking use, camera surveillance, hours of operation will be applied that would then need to be reflected</p>	<p>The POM document is considered to be a reasonable document which has regard to principles for an effective POM. The proposal is recommended for approval in a modified form, having regard to protection of residential amenity, and thus the POM will be required conditionally to be modified to have regard to these conditional modifications of the Mosque development.</p> <p>It is believed that an appropriate and effectual POM document will result from the modifications proposed.</p>

	<p>in the POM document. These specific conditions and actions would ensure that the POM has substance and provide a basis for enforcement by Council, where necessary.</p> <p>This issue has been further discussed in the body of the Panel Report.</p>	
<p>Adequacy of Operational Plan of Management as an enforceable management measure for a Place of Public Worship (POPW)</p>	<p>Objections have been raised that the POM is inadequate having regard to the Land and Environment Court principles and due to uncertainties with hours of operation and overall patronage and staffing to manage the site.</p> <p>The POM has been reviewed against the Land and Environment Court principles and its overall ability to manage the Mosque operations. The draft POM simply aims to reflect the basic Mosque operations as submitted with the application and should the application be approved conditionally the POM would need to be modified accordingly. The principles outlined in the Draft POM are responsive to issues raised and provides guidelines for how staff and worshippers will be instructed on the management of the Mosque.</p> <p>The POM in its current form is not adequate to ensure that conditions and operations of the Mosque can be satisfactorily implemented and enforced. However, suitable conditions requiring additional measures, including use of CCTV camera to record attendances and provide safety on site will assist in ensuring that the Mosque can operate in accordance with controls. This is proposed to be accompanied by live streaming of the prayer services through a Mosque website.</p>	<p>The POM is considered adequate in its intent but inadequate in its final ability to manage the Mosque activities.</p> <p>Should the application be approved in a modified form, relating to hours of operation and patronage, the POM will be required to be modified. These recommended modifications will assist in the management of the Mosque and the worshippers attending. The modified proposal, where it includes camera live streaming, would provide some certainty to objectors that the operation of the Mosque can be properly managed and enforced if necessary.</p>
<p>Places of Public Worship are proposed to be to be prohibited and should not be permitted</p>	<p>Draft Georges River Local Environmental Plan 2020 was publicly exhibited in 2020 after the subject application had been lodged with Council. Savings provisions are within the instrument to preserve the application notwithstanding that Places of Public Worship will be made prohibited uses within the Residential Zones should the instrument be made unchanged.</p> <p>Residents consider that great weight should be given to the proposed prohibition of POPWs under the Draft LEP. In accordance with the provisions under the Act due consideration has been given to the provisions of the Draft LEP</p>	<p>No further action should be taken on this issue apart from the consideration of the matter as outlined in the body of the Panel report.</p> <p>The savings provisions within the Draft Plan enable consideration of the proposal as a permissible use within the zone.</p>

	and the likelihood of the plan being made in its exhibited form. Consideration has been given to this issue in the body of the Panel Report and as part of the assessment of the proposal against the provisions of the Draft DCP for POPWs.	
Consideration of provisions under Draft Georges River Local Environmental Plan 2020 (GRLEP2020)	<p>Objections raised issue that the provisions of the Draft LEP should be given weight in any consideration of the proposal particularly with regard to the proposed prohibition of POPWs in residential zones and due consideration of the objectives within the residential zones.</p> <p>It is noted that due consideration has been given to the status and provisions of the Draft LPEP in the body of the Panel Report. Although the Draft LEP may be imminent as it has been lodged with the Department of Planning, Industry and Environment for gazettal, the subject proposal would continue to have saving applying to the development as it was lodged before gazettal.</p>	<p>No further action should be taken on this issue apart from the consideration of the matter as outlined in the body of the Panel Report.</p> <p>The savings provisions within the Draft Plan enable consideration of the proposal as a permissible use within the zone.</p>
Consideration of proposed provisions under Draft Georges River Development Control Plan for Places of Public Worship (DCP-POPW)	<p>Objections raised issue that the provisions of the Draft LEP should be given weight in any consideration of the proposal particularly with regard to the proposed prohibition of POPWs in residential zones and due consideration of the objectives within the residential zones. Further, in support of the Draft LEP Council has adopted a Draft DCP to set down guidelines for assessment of POPWs and the objectors consider it appropriate to assess the current proposal against the Draft DCP.</p> <p>It is noted that due consideration has been given to the status and provisions of the Draft LPEP and the Draft DCP provisions, see Annexure 1, in the body of the Panel report. Although the Draft LEP may be imminent as it has been lodged with the Department of Planning, Industry and Environment for gazettal, the subject proposal would continue to have saving applying to the development as it was lodged before gazettal. The Draft DCP provisions will not come into effect until the Draft LEP is gazetted.</p> <p>It is noted that an assessment against the Draft DCP provisions has been undertaken and generally the proposal would satisfy the standards but not the intent of the Draft DCP. The Draft DCP provisions aim at providing guidelines in zones that are not residential in</p>	<p>No further action should be taken on this issue apart from the consideration of the matter as outlined in the body of the Panel Report.</p> <p>The savings provisions within the Draft Plan enable consideration of the proposal as a permissible use within the zone and only due regard provided for assessment under the Draft DCP.</p>

	nature and thus more flexible.	
Adequacy of Transport Impact Assessment Report (TIA) prepared by GTA Consultants	<p>This issue has been raised by Objectors and supported by submissions from their engaged consultant, The Traffic Planning Partnership. The principal arguments relating to adequacy relate to the manner in which survey data was taken/recorded, the appropriateness of the 120 patronage numbers and the projected car occupancy which determines the adequacy of the on-site car parking to service the Mosque needs.</p> <p>This issue has been dealt with in detail in the body of this report where it has been determined that the TIA is an adequate document to determine the traffic impacts and adequacy of the proposed car parking for the subject development.</p>	It is concluded that where the patronage of the Mosque can be restricted to a maximum of 100 – 120 persons at any time, as proposed, then the available on-site parking along with available street parking will be adequate to service the development whilst providing an acceptable level of on site car parking.
Vehicular and pedestrian safety impacts due to increased traffic generation	<p>Potential vehicle and pedestrian safety issues have been raised by local residents and from local schools. These concerns are driven in particular by the death of a Hurstville Public School child in recent years from a car accident along Forest Road. Forest Road is a primary distributor road for the LGA and the accident was due to speed and loss of control rather than being associated with an adjoining land use. Local Residents have provided advice of the past decade of conflicts at the Ethel Lane/Botany Street intersection, including photographs of congestion issues.</p> <p>The site is located opposite the southern boundary to the Sydney Boys Technical School and is therefore in a road system that provides for drop off/pick up of students by parents from approximately 2:00pm during week days. The subject proposal seeks to operate Lunchtime prayer sessions from 12:00pm to 2:00pm daily and therefore is considered to not conflict with the drop-off/pick-up periods for the school. The site has been visited on a number of Fridays during the past year when COVID 19 lockdown was not in operation to make a visual assessment of these concerns. It was evident that through to 2:00pm on the times the site was visited that there was limited traffic and ample street car parking available.</p> <p>The potential for traffic conflict in this location is not disputed, however, it is contended based on site visit observations that during the period</p>	A conditional consent which sets down hours of operation that requires vacating the premises by no later than 9:55pm in evenings and by 2:00pm for Friday lunchtime prayers will assist in reducing the potential for traffic/pedestrian conflicts associated directly with the operation of the Mosque.

	<p>sought to hold midday prayers, and particularly where a dual prayer session is held with maximum attendance of 50 persons only, that there would be adequate on street car parking available should the car park be fully accommodated. Should the worshippers be vacated from the premises before 2:00pm then potential traffic conflicts with other vehicles, pedestrians and students is likely to be minimal.</p> <p>This issue is addressed in further detail within the body of the Panel report.</p>	
<p>Mosque proposal is uncharacteristic form of development within a residential precinct</p>	<p>Objections raised that the use is not a characteristic form of development within the residential zone on the basis it is not a residential activity. It is, however, noted that until the gazettal of the Draft GRC LEP 2020 the use remains a permissible form of development. Generally POPWs and schools have been permissible and considered compatible forms of development in residential areas as they provide a community service.</p> <p>In this instance the building form retained, being an original two story residential aged care facility design, is considered to be generally low key in nature and compatible with the built form scale of this locality. The proposed development does not seek any unique identifying structures synonymous with Mosque style developments.</p>	<p>No action is required in response to this concern as discussed.</p>
<p>Lack of justification to identify there is demand for Mosque by local Muslim community</p>	<p>Objectors contend that the need for a Mosque to accommodate people of the Islamic religion has not been justified by the Applicant and therefore there is no evident demand or need for the Mosque.</p> <p>Relatively limited information has been provided by the applicant with regards to demand for the Mosque facility. However, it is not a relevant consideration for Council as to whether a pre-determined demand exists for a given use. The applicant, being Muslims, have applied for the development as part of their own recognition for the need.</p> <p>This position has been supported by Professor Ozlap from Sturt University who provided advice to Council on the function of a Mosque, including that many small mosques may be sought to provide for specific ethnic groups that follow the Islamic faith.</p>	<p>No action is required in response to this concern as discussed.</p>

	<p>It is also noted that within the Georges River Council LGA in 2016 had 5,636 residents that followed the Islamic faith and they were accommodated in four mosques across the LGA. On this basis it is evident that the proposed Mosque could cater for at least 120 worshippers within the local community.</p>	
<p>Hours of operation are inappropriate for POPW within a residential precinct</p>	<p>Objections are raised to the proposed operation of the Mosque from 5:30am to 10:00pm daily and the potential for amenity impacts associated with these hours of operation.</p> <p>This issue has been addressed in some detail in the body of the Panel Report where it is recommended that should the application be approved that early morning prayer session openings should be prohibited due to the potential amenity impact for residents, primarily being the loss of sleep through noise disturbance. With regard to the evening opening hours until 9:55pm this is considered reasonable as other general use activities can be carried out until 10:00pm as permitted by statute.</p> <p>It is concluded that the broad range of operating hours of the Mosque is a unique situation for a residential locality and where effective management controls cannot be guaranteed to preserve local amenity then the argument is justified. On this basis it has been recommended that should the Mosque be approved that opening hours be restricted to 9:00am to 9:55pm daily.</p>	<p>Based upon these acoustic assessments by the applicant, Objectors and Council consultant it is acknowledged that morning prayers will have some level of noise impact and therefore it is recommended that pre-dawn prayer sessions be prohibited as part for any approved Mosque proposal in this locality. Further, suitable camera surveillance systems should be implemented to observe Mosque functions internally and the carpark area usage externally.</p>
<p>Projected patronage of the POPW is questionable as total floor space is significantly larger than that used for proposed prayers assessment</p>	<p>The Application seeks a maximum of between 100-120 persons attending the premises at any time. Objectors contend that the building floor space at 566sqm is sufficient to accommodate significantly more people which will result in greater associated impacts.</p> <p>This contention is not disputed in fact but it relies on the belief that the Applicant will not comply with any specific conditions that limit the patron capacity. Any approval of the Mosque proposal will include conditional restrictions on patronage as well as methods by which attendances can be monitored and consequently enforced should conditions be breached.</p> <p>The issue of patronage number and hours of</p>	<p>No action is required in response to this concern as discussed opposite</p>

	operation have been addressed in the body of the Panel report.	
Uncertainty of the likely car parking demand by worshippers depending upon whether the total patronage can be properly managed	<p>Objectors have raised concerns that the Mosque POM management guidelines are unlikely to be able to properly manage the number of persons attending the Mosque. Should this occur, a greater traffic and car parking concern will arise associated with any increased attendance numbers.</p> <p>Should the Mosque proposal be approved the POM will be required to be modified to reflect any conditional changes to the development and to clarify the monitoring role of the POM through CCTV camera coverage and the use of social media for notifications of Mosque capacity status. These inclusions will enable real time live streaming coverage of attendances and car park use to ensure that the Mosque activity is conducted in accordance with conditions of consent, including restriction on patron numbers.</p>	No action is required in response to this concern as discussed opposite
Inability to manage behaviour of attending worshippers and staff at Mosque	<p>Objectors concern is that the POM will not be effective in controlling individual behaviour of worshippers and staff. This behaviour concern relates how people attend the Mosque with regards to noise they create when arriving/leaving.</p> <p>The purpose of the POM is to set down guidelines that can be implemented to instruct people about good behaviour and also operation of the Mosque, including car parking availability and attendance numbers so that the visitors informed before arriving.</p> <p>In a progressively modern society that has become more social media conscious, it is not unreasonable to presume that visitors can be very well informed through websites and live streaming of events. Should the Mosque operation not comply with proposed conditions or POM guidelines then this would be evident in the social media system and be more readily enforceable by Council, if necessary.</p> <p>It is noted that the recommendation to remove early morning prayer, and tightly police evening prayer will remove the elements of the use that the POM would most likely have struggled to manage.</p>	No action is required in response to this concern as discussed opposite
Evident traffic	As earlier discussed it is evident through	No action is required in



congestion and accidents in locality notwithstanding the findings of the TIA report	<p>accident registers and photographic evidence lodged that there are at times conflict situations eventuating, particularly during school peak periods. It appears there have been 5-6 relatively serious incidents over the past 7 years in this particularly locality as well as a students' death adjacent to Hurstville Public School on Forest Road</p> <p>This situation is acknowledged as existing and not disputed. It is agreed that traffic generating development, such as a Mosque, has the potential to worsen existing situations. The Mosque proposal however, predominantly will have the major traffic generating services, being lunchtime Fridays and evenings during Ramadan, occurring outside of the peak periods for traffic generation, being school morning/afternoon pick-up/drop-off, in this locality.</p>	response to this concern as discussed opposite
Adequacy of narrow streets to accommodate street car parking by attending worshippers for the Mosque	<p>Objectors concerns relating to the narrow width of Xenia Avenue and Ethel Lane and the amenity impacts should visitors to the Mosque or staff from the Mosque park in these streets. It is contended that the narrow width is not sufficient to enable parking on both sides and a travel aisle.</p> <p>Additionally it is likely that parking around the Ethel Lane/Botany Street intersection would create more conflict situations by increasing traffic activity.</p>	The Applicant has committed as part of the development application and as detailed in the Plan of Management that staff and worshippers will be instructed not to park in the narrow lanes at any time.
Conflict of uses where the Mosque Friday lunchtime prayer time overlaps into peak School periods.	<p>This issue is raised by Objectors with regard to potential for the lunchtime prayers overlapping into the pick-up period after school and potentially creating greater traffic conflicts. This issue has been partly addressed above.</p> <p>The adoption of an effective POM with suitable management controls, including the CCTV camera observation system will ensure that worshippers vacate the premises prior to 2:00pm weekdays and minimise the potential for conflict between car parking/traffic requirements for the Mosque and parents attending the school.</p>	No action is required in response to this concern as discussed opposite
Unacceptable pre-dawn morning prayer impacts proposed to be held in a	The issue of pre-dawn morning prayer in a residential environment is a significant amenity concern for the proposal and has been a matter of on-going discussions with the Applicant and consultants. Prof Ozlap provided advice that the prohibition of the pre-dawn prayers would not in	Should the Mosque application be approved it is recommended that the pre-dawn morning prayers be prohibited as part of the Mosque

residential precinct	<p>itself undermine the value of the Mosque operations and this was confirmed recently during the COVID19 lockdowns in Sydney where EID celebrations were encouraged to be celebrated in homes rather than at Mosques.</p> <p>The Applicant has confirmed that the expectation is that 5 persons would attend pre-dawn prayers as most people do these prayers in their homes.</p> <p>On the basis of the above advice it is recommended that the pre-dawn prayers should be conditionally prohibited.</p>	functions and that hours of operation therefore be amended to 9:00am to 9:55pm
Unacceptable late evening prayer impacts proposed to be held in a residential precinct	Proposed operating hours of the Mosque are 5:30am to 10:00pm. Objectors have particular concern with late night prayers being held until 10:00pm in the evening and the potential for late leavers from the carpark should management not enforce the closing time strictly. It is considered that the 10:00pm closure – with the condition requiring 9:55pm to enable worshipers to exit, is reasonable and consistent with accepted noise control provisions under the Protection of the Environment Operations Act 1997 and the EPA Noise Policy for Industry. Further, should the proposal be approved suitable conditions would be imposed to ensure that the hours of operation are enforced through live stream observance.	No action is required in response to this concern as discussed opposite
Potential property value impacts due to establishment of a POPW in this residential precinct.	<p>Objectors have claimed that the proposed development, being a non-residential land use in a residential suburb, will have a detrimental impact on land values. No documentation was provided to justify this claim.</p> <p>The impact of a proposal on land values is difficult if not impossible to quantify with any precision, and it is not necessarily the case that the proposal would adversely impact property values.</p>	No action is required in response to this concern as discussed opposite
Light penetration impacts into residential premises due to early morning and late evening Mosque operations	<p>Local residents have raised concerns that the early morning start and late evening finishes to the Mosque days will also create amenity impacts as a result of vehicle light penetration into neighbouring housing. Council advised the Applicant that an assessment of potential impact of lighting intrusion.</p> <p>The Applicant engaged SLR Consulting Australia to prepare a Light Spill Assessment, dated 4 September 2020 and the conclusions</p>	The SLR conclusions are noted, however, the use of solid fencing to reduce lighting impacts is not supportable due to streetscape impacts. It is agreed that the evening prayers finishing by 10:00pm is an acceptable outcome with minimal potential

	<p>were that:</p> <ul style="list-style-type: none"> <li>considering the 4m slope of the land, from Xenia Avenue to Botany Street, and the proposal for solid boundary fencing that the morning prayers would not result in an unreasonable amenity light concern; and</li> <li>as the evening prayers were finalised by 10:00pm in the evening that there was limited impact for neighbours due to lighting impacts.</li> </ul> <p>The Objectors remain concerned that lighting associated with the Mosque operations and worshippers will adversely impact the local amenity.</p>	<p>impacts on neighbours. With regard to pre-dawn prayers it is considered that lighting impacts would eventuate, along with potential noise issues and on this basis it is recommended to be prohibited.</p>
Unacceptable proposed 1.8m to 2.4m solid fencing along the street frontages of the Mosque development	<p>As noted above the Applicant seeks to include 1.8m-2.4m high fencing to assist to control light spillage from the site into neighbouring households. This arrangement is considered unacceptable for the reasons outlined above. The proposed fencing is unlikely to resolve light spillage concerns and is an undesirable design outcome in a residential street environment.</p>	<p>It is recommended that the proposed fencing be restricted conditionally to 1.8m in height along the street front boundaries and that this have only a 1.2m solid component.</p>
Use of Xenia Avenue and Ethel Lane to service the Mosque development is inappropriate and would promote greater traffic conflict	<p>These two streets are narrow and if used extensively for car parking purposes will result in congestion and conflicts with residents due to the tight parking availability.</p> <p>This issue is considered to be of merit and car parking in these lanes would not be supported should the Mosque be approved.</p>	<p>Applicant has recommended that no staff/worshippers park in these lanes and they be all so advised. This arrangement can be included conditionally or within the POM.</p>
Adequacy of the development application documentation supporting the Mosque proposal	<p>General claims were made by Objectors that the application documentation was not adequate or factually correct. This led to the lodgement of additional information from the Applicant in response to these claims and the documents were subsequently placed on public exhibition from 2 December 2020 to 12 February 2021. Submissions on the second exhibition have continued to raise concerns with the adequacy of the documents.</p> <p>The consultants supporting documents have been assessed and determined to be adequate for the purpose of assessment of the developments potential impacts on the residential environment. The traffic, acoustic, light spill, landscaping and stormwater documents have been reviewed by Council and/or consultants engaged by Council</p>	<p>The documentation in support of the application is considered to be adequate for the purpose of assessing the application, subject to imposition of suitable conditions addressing issues through the POM should the proposal be approved.</p>
Subject land is	Objectors contend that POPW developments	No action is required in

not an appropriate location for a Mosque due to lack of visibility to wider community	<p>are preferably located in high visibility locations with main road frontages rather than positioned in a local residential suburb.</p> <p>The Applicant contends that the proposed Mosque is intended to serve a local demand for such a service and thus has not been planned in order to accommodate passing traffic/worshippers</p>	response to this concern as discussed opposite
Lack of public transport to promote use for worshippers at Mosque	<p>Concern is raised that the POPW is not located near a major public transport route as this would potentially reduce the demand for private vehicle use and hence traffic and street car parking impacts.</p> <p>It is noted that there is a bus route servicing Botany Street through to Forest Road. Such a service provides opportunity for worshippers to use public transport to visit the Mosque, however, this is not likely to be a preferred mode of transport to attend pre-dawn or late evening services. It is noted that the application indicates predominant reliance on private vehicles and transport, and this is reflected in the provided reports and this assessment.</p>	No action is required in response to this concern as discussed opposite
Recent Land and Environment Court judgements do not support POPWs within residential precincts due to amenity issues	Objectors have made reference to various Land and Environment Court decisions with regard to Mosque developments and developments dealing with POMs as references for consideration of the suitability of the POM and whether Mosque operations can be suitably managed and conditions enforced. These Decisions have been addressed in the body of the Panel Report.	No action is required in response to this concern as discussed opposite
Impractical use of staff to manage worshippers, particularly non-local or passing worshippers	<p>Concerns were raised that reliance on staff to properly manage visitors to the Mosque is a questionable arrangement as it relies on suitable management policies and instructions to staff to be successful. The POM adequacy has been disputed and if inadequate then the management of the worshippers will also be questionable.</p> <p>This concern is valid and the successful management of the Mosque operations is a key to a successful and neighbour friendly development operating. Should the proposal be approved it will be supported by appropriate conditions dealing with a modified POM as well as modifying the general Mosque operations in response to amenity concerns that have been</p>	Should the Mosque application be approved it is recommended that appropriate conditions be imposed to ensure the POM is updated to address modified Mosque operations and to introduce social media/website live streaming to overcome concerns of whether the operations can be enforced.

	raised. These modification conditions will assist in the creation of a suitable POM to manage the Mosque operations	
This residential precinct is predominantly of Christian community culture and potential for conflict of beliefs.	These comments are noted and are not unique to this location. Australia is a multi-cultural society and has operated for many decades with a wide range of religious beliefs/followings together in many local communities. It is unclear why there would be an issue of clash of beliefs in this particular instance.	No action is required in response to this concern as discussed opposite
Potential for the radicalisation of school children in this locality.	A very small minority of submissions raised concern of this nature and was not representative of the majority of public submissions. There is no evidence provided to support this claim.	No action is required in response to this concern as discussed opposite
Comparison of existing POPW operations in Sydney and also around the world indicate that there will be far greater demand by worshippers than projected and result in questionable ability to manage patronage.	<p>A variety of examples of Mosques operating across Sydney were referred to as examples where the attendance numbers are significant, particularly during Ramadan and EID celebrations. It is claimed they are examples of what will occur should this proposal be approved. It was also noted that the manner in which the attendance numbers based on floor area is calculated under the HDCP No.1 is not the best when compared to other Sydney Council assessment methods and indeed the Abu Dhabi DCP for POPWs.</p> <p>Review of these DCP documents indicate that each has its own peculiarities, whether in how floor space is determined or car parking calculated or how mat areas are calculated (including separation distances). On this basis it is considered that the controls currently used in Georges River Council to determine floor space and car parking requirements is adequate.</p>	No action is required in response to this concern as discussed opposite