

<b>JRPP No.</b>	2010HCC028
<b>DA No.</b>	DA 10/1049
<b>Proposal</b>	Demolition of a dwelling, construction of a place of worship (Mosque) and associated community facilities including a dwelling house and ceremonial funeral room.
<b>Property</b>	Lot 2 DP 209466 and Lot 4 DP 1086854 known as 158a and 164 Croudace Road, Elmore Vale
<b>Recommendation</b>	Refusal
<b>Applicant</b>	DeWitt Consulting
<b>Report By</b>	Future City Group – Newcastle City Council

### **Addendum Assessment Report and Recommendation**

#### **Executive Summary**

##### **Proposed Development**

An application has been received seeking consent to demolish the existing dwelling at 158a and 164 Croudace Road and erect a *place of worship* (Mosque) and associated community facilities including a dwelling house, ceremonial funeral room and boundary adjustment at 158a and 164 Croudace Road, Elmore Vale.

##### **Joint Regional Planning Panel Determination - JRPP (5 May 2011)**

The Joint Regional Planning Panel Determination meeting on 5 May 2011 adopted the following resolution:

*'Determination of the Development Application be deferred to enable:*

- 1) *An independent traffic consultant appointed by the Panel, to undertake appropriate detailed research of similar places of worship (in terms of operation, accessibility and parking availability) to ascertain the appropriate car occupancy rate to be applied to the proposed development and the traffic and parking implications for the area flowing from these findings. Such findings are to consider whether traffic and parking impacts are acceptable or able to be ameliorated by works or conditions.*
- 2) *The applicant to provide additional information regarding noise impacts and issues raised in the independent acoustic consultant report by SLR including:*
  - a) *Addressing cumulative noise impacts, including under non-neutral weather conditions; and*
  - b) *Noise impacts from the eastern ramp to the upper level car park*

*This response shall be reviewed by an independent acoustic consultant appointed by the Panel.*

*When completed, the above work is to be considered by Council Officers in reviewing their assessment report. The reviewed assessment report will be reconsidered by the Panel as soon as is practicable.'*

The required independent traffic review was undertaken by McLaren Traffic Engineering – Review of Proposed Mosque July 2011.

The additional matters to be addressed within the revised acoustic report were completed by the applicant's consultants Spectrum Acoustics 30 May 2011. This report was independently reviewed by SLR Consulting Australia – Acoustic Peer Review 2, 20 July 2011.

## **Section 79C Considerations**

***This assessment under Section 79C(1) of the Environmental Planning and Assessment Act 1979 (NSW) is limited to consideration of those matters arising from the resolution of the JRPP's meeting of 5 May 2011. The original comprehensive assessment report prepared by Council officers and submitted to the JRPP addresses the overall development. This report is to be considered in conjunction with the original report in terms of the complete assessment of the application and this report prevails only where the assessment has been revised and the recommendation.***

### **(a)(iii) any development control plans**

#### Newcastle Development Control Plan 2005

##### **i) Element 4.1 - Parking and Access**

The traffic review by McLaren, and subsequent assessment by Council's Consultant Engineer, has indicated that by independent survey the occupancy rate for the proposal is likely to be 1.5 people per vehicle and, as such, results in unacceptable traffic and parking impacts. It is noted that the proposal would generate, at these occupancy rates, a requirement for approximately 267 spaces during the midday Friday service (ie the largest weekly service) and approximately 300 spaces during the two special events each year (ie *Eidul Fitr and Eidul Adha Prayers*).

The current proposal includes parking areas for 162 vehicles. A detailed discussion of the parking and traffic aspects are undertaken later in this report.

### **(b) the likely impacts of the development**

#### **a) Density, Character, Streetscape, External Appearance, Height, Bulk & Scale, Amenity Impacts (Overshadowing, Privacy, Views and Noise)**

It is noted that the traffic review and associated impacts is based on the assumption that the parking and traffic movements would all occur from the subject site and, therefore a larger car park and associated redesign of the proposed development would be required. This assumption is made to demonstrate the likely ramifications of the revised occupancy rate on traffic and parking impacts within the area.

No assessment of the abovementioned 'potentially' modified proposal in terms of its built form impacts could be made as this redesign is not the current proposal being considered.

#### **b) Traffic, Parking & Access**

The independent traffic review by McLaren has been assessed on behalf of Council by a Consultant Engineer. The McLaren review involved detailed surveys at various sites which ultimately confirmed a car occupancy rate of 1.5 persons per vehicle. The

Consultant Engineer's report below further discusses the McLaren review and the ramifications of this occupancy rate on parking and traffic impacts.

The consultant's detailed assessment is as follows:

*'The traffic review carried out included a scope of works which to me was greater than as discussed at the last planning panel meeting. I was only expecting survey work to be carried out to identify a likely car occupancy rate.*

*The report submitted is more comprehensive than the Mark Waugh report I suspect because McLaren would have had more time to prepare its report. It does however seem to concur with most of the findings made by Mark Waugh particularly in regard to car occupancy and access intersection performance.*

*In reviewing the survey work carried out I would comment that I don't really think the mosque's chosen are all that representative of the Elernmore Vale site. I don't agree with McLaren in that they are similarly serviced by public transport and I think this shows McLaren's lack of local knowledge of the site as well as ignorance of the superior more frequent bus services in the Sydney Metropolitan area. However this does not really matter as the surveys at the mosque sites clearly show that little if any public transport is being used to travel to the mosques even in an area with good public transport access. Therefore I doubt that this will change for this site unless the mosque themselves run a courtesy bus. Therefore I think it is safe to assume that similar car occupancy rates are likely to occur at Elernmore Vale.*

*The one weakness with the survey work is it reasonably limited and represents a small sample therefore you cannot draw any statistically valid results from it. However it is still far better than any data provided by the applicant.*

*On the basis of the data contained within the McLaren report I would concur that car occupancy rates to the Elernmore Vale mosque are likely to be less than 2 and more likely to be closer to 1.5. Therefore it is likely that a total of 267 car parks would be required on site to cater for the likely on-site parking demand if 400 people turned up, the capacity of the complex as detailed in the application. With only in the order of just over 160 car spaces provided on site it is more likely that a spill of over 100 vehicles onto the local road network or adjoining car parks will occur. This I would agree would be unacceptable both to road network efficiency and adjoining residential amenity.*

*The site would be unable to cater for additional parking without providing multi-level car parking which would mean a design change and as I understand a new assessment of the application.*

*McLaren's assessment of the access performance as a result of the additional vehicular movements to and from the site are also not disputed and it is clear the access as proposed with additional on-site parking included, will not operate efficiently over the normal ten year traffic growth period which is used for assessment purposes. I agree the only likely access arrangement that will work will be traffic signals and this would need the concurrence of the RTA. The only criticism of McLaren's access assessment that I would make is again from a lack of local knowledge in that the impacts particularly of traffic signals on the existing traffic problem at Garsdale Avenue has not been considered. Any proposal for traffic signals would apart from seeking RTA approval also have to look at solutions to the Garsdale Avenue intersection as I don't think at this site you could treat either in isolation.*

### **Recommendation**

*Following a review of the additional information submitted in the McLaren Traffic Review Report I would advise the Planning Panel as follows:*

*The proposed mosque is not supported as it is considered the proposal provides inadequate on-site parking to meet the peak parking demand likely to be generated by the development when operating at capacity. The likely peak traffic generation from the site is also likely to result in traffic congestion at the access to the site with much difficulty likely to be experienced by worshippers leaving the site. Modelling of the proposed access, with the additional traffic movements included, indicates long delays and queues which is likely to lead to risks being taken by drivers in leaving the site. Therefore the level of road safety provided by the proposed access is not considered to be satisfactory.*

Relying on the McLaren review, the occupancy rate of 1.5 people per vehicle has significant consequences for the traffic and parking impacts generated by the development. Notwithstanding the areas of contention within the McLaren review, Council's Consultant Engineer agrees that these resultant traffic and parking impacts are considered to be unacceptable.

#### **c) Environmental**

The additional acoustic report by Spectrum Acoustics, and subsequent independent review by SLR Consulting Australia, has been assessed by a Senior Environmental Protection Officer of Council. The review and assessment raises several matters which remain unresolved and would require further clarification.

The officer's detailed assessment is as follows:

*'The Acoustic Peer Review prepared by SLR Consulting Australia Pty Ltd dated 18 April 2011 concluded a number of issues were required to be clarified prior to determination of the proposed development. These issues and the response by the applicant are outlined below:*

1. *Clarify the method used to quantify existing levels of industrial noise in the area*

*The Acoustic Addendum Report prepared by Spectrum Acoustics dated 2 May 2011 notes the local noise environment is dominated by traffic noise and local industrial sources, such as mechanical plant from the nearby shopping centre, were inaudible at the proposed development site. The intrusiveness criteria was utilised to derive the project specific criteria and is lower than the relevant amenity criteria. Therefore, the determination of the project specific noise criteria is appropriately justified in relation to existing industrial noise in the area. Council agrees with SLR this issue has been satisfactorily addressed.*

2. *Provide calculation of potential noise from the courtyard to received at residential dwellings along Croudace Road*

*The Acoustic Peer Review prepared by SLR Consulting Australia Pty Ltd dated 18 April 2011 noted residential dwellings along Croudace Road (156-158 Croudace Road) should be included within the assessment of noise from the proposed courtyard. The Acoustic Addendum Reports prepared by Spectrum Acoustics dated 2 and 30 May*

2011 have undertaken calculations of the potential noise impacts from the courtyard on receiver 1 (158 Croudace Road). However, there are inconsistencies in the distance to the receiver between the two Acoustic Addendum Reports (60m compared to 50m) and received noise levels (41dB compared to 40dB). Council agrees with SLR that the change in distance to the receiver and received noise levels from the courtyard between the two Acoustic Addendum reports is required to be clarified.

3. Provide calculation of potential noise levels from the carpark area under typical evening and night-time operational scenarios.

Council notes this issue was contained within the body of the Acoustic Peer Review prepared by SLR Consulting Australia Pty Ltd dated 18 April 2011, but was not included within the conclusion. Noise from the ground level carpark area have been calculated for five receivers surrounding the proposed development site for the evening period in the Acoustic Addendum Report prepared by Spectrum Acoustics dated 30 May 2011, rather than the report dated 2 May 2011 as noted by the Peer Review 2 prepared by SLR Consulting Australia Pty Ltd dated 20 July 2011. The calculated noise from the carparking area during a typical evening scenario meets the project specific noise criteria at all five receivers. Calculations for a typical night time scenario were not included within the Acoustic Addendum Reports prepared by Spectrum Acoustics. However, Council previously raised this issue for the early morning prayer session (Fajr prayer). Council notes all other activities at the proposed development cease prior to the night period. The Noise Assessment Addendum prepared by Spectrum Acoustics dated 4 February 2011 previously addressed noise from the ground level carpark area during the night period and recommended an exclusion zone near the rear fence of 158 Croudace Road. This exclusion zone was included within the proposed conditions of consent. Council considers the issue of noise from the ground level carparking area during the evening and night time periods has been adequately addressed. The Peer Review 2 prepared by SLR Consulting Australia Pty Ltd dated 20 July 2011 notes the response by the applicant is adequate.

4. Provide calculations of cumulative noise from typical operating scenarios for surrounding residential dwellings.

The Acoustic Addendum Report prepared by Spectrum Acoustics dated 30 May 2011 has calculated a cumulative noise level from the proposed development received at surrounding dwellings by combining the received noise levels from previous reports. The received noise levels are during the Jumaa prayer session and represent a worst-case scenario during the day period. However, noise from the eastern ramp has not been included within the cumulative noise assessment, as noted by SLR. Council agrees with SLR that noise from the ramp should be included within the cumulative noise assessment.

A cumulative noise assessment including noise from the ramp has been conducted in Table 13 of the Acoustic Addendum Report prepared by Spectrum Acoustics dated 30 May 2011. The receiver would be the two-storey dwellings at 166 Croudace Road. However, the noise level of 41dB(A) from the upper level carpark area is inconsistent with the previously calculated level of 47dB(A) from the Noise Assessment Addendum prepared by Spectrum Acoustics dated 21 March 2011. Therefore, Council agrees with SLR that the noise level from the upper level carpark area used in cumulative assessment is required to be clarified.

The Peer Review 2 prepared by SLR Consulting Australia Pty Ltd dated 20 July 2011 notes three-dimensional modelling of the cumulative noise from the proposed development would aid in demonstrating compliance with the project specific noise

criteria at surrounding residential dwellings. Council agrees three-dimensional modelling would be beneficial for assessment purposes.

5. Consideration of meteorological conditions in the assessment of noise

Council notes this issue was contained within the body of the Acoustic Peer Review prepared by SLR Consulting Australia Pty Ltd dated 18 April 2011, but was not included within the conclusion. The Acoustic Addendum Report prepared by Spectrum Acoustics dated 30 May 2011 notes atmospheric conditions make minimal difference to received noise levels within up to two hundred to three hundred metres from the source. The nearest sensitive receivers are located within these distances and have the greatest potential to be impacted upon by noise from the proposed development. Council considers appropriate receivers have been included within the noise assessment and further analysis of the meteorological conditions of the local area is not required. The Peer Review prepared by SLR Consulting Australia Pty Ltd dated 18 April 2011 also notes that due to the proximity of the nearest potentially affected receivers' meteorological conditions would not significantly impact on the predicted noise levels.

6. Clarify the use of peak traffic volume figures on Croudace Road

The Acoustic Addendum Report prepared by Spectrum Acoustics dated 2 May 2011 has clarified the traffic figures and resultant traffic noise levels. The traffic noise levels from the proposed development will not exceed the road traffic noise criteria for residential areas in accordance with the Office of Environment and Heritage's 'Environmental Criteria for Road Traffic Noise'. Council agrees with SLR this issue has been satisfactorily addressed.

7. Noise from ramp

The JRPP also requested further information regarding the potential noise impacts from the ramp to the upper level carparking area. The Acoustic Addendum Report prepared by Spectrum Acoustics dated 30 May 2011 has undertaken an assessment of noise from the ramp on the residential receiver at 166 Croudace Road. The Peer Review 2 prepared by SLR Consulting Australia Pty Ltd dated 20 July 2011 notes further information is required regarding vehicle numbers using the ramp and clarification whether the noise level utilised is for vehicles travelling up or down a ramp. Council agrees with SLR that these issues are required to be clarified

The Peer Review 2 prepared by SLR Consulting Australia Pty Ltd dated 20 July 2011 recommends an additional receiver be included within the assessment, east of receiver 3 (12 Andretta Avenue), due to potential noise impacts from the ramp. This receiver should be included in the cumulative assessment also. Council agrees with SLR that the inclusion of an additional receiver may be beneficial to the assessment of noise from the ramp.'

The SLR review and subsequent assessment by Council's Senior Environmental Protection Officer both agree that while several of the acoustic issues have been resolved there are still matters of concern which would need further clarification (ie points 2 and 4).

Having regard to these outstanding matters, it is considered that the acoustic impacts of the proposal have not been sufficiently addressed and, as such, the proposal would be recommended for refusal.

## **Conclusion**

The proposal, due to the traffic and parking impacts, plus the outstanding acoustic issues, is not considered to be acceptable having regard to the relevant considerations under Section 79C.

The final recommendation, having the benefit of the additional independent reports, results in a different recommendation than that provided in the original report.

## **Recommendation**

That the Joint Regional Planning Panel refuse to grant consent to DA 10/1049 for the following reasons:

1. Insufficient car parking spaces are proposed on site to satisfy the likely demand and, the proposal would therefore give rise to an increased incidence of kerbside parking to the detriment of the local road network efficiency, and the existing amenity of the neighbourhood. (Section 79C(1) (b)(c) & (e)).
2. The likely peak traffic generation from the site will result in traffic congestion at the vehicular access to the site to the detriment of road safety. (Section 79C(1) (b)(c) & (e)).
3. The application has not satisfactorily demonstrated that the likely acoustic impacts of the proposed development will not have an unreasonable impact on the amenity of the neighbourhood. (Section 79C(1) (b)(c) & (e)).
4. Having regard to the abovementioned circumstances of the case, approval of the application would not be in the public interest. (Section 79C(1) (b)(c) & (e)).