

ITEM	131 - 135 Eldridge Road, CONDELL PARK
	Demolition of Existing Site Structures and the Construction of a Place of Public Worship with a maximum capacity of 417 patrons, associated ancillary uses and car parking for 127 vehicles
	Canterbury-Bankstown Council is the Consent Authority and the Sydney South Planning Panel has the function of determining the application.
FILE	DA-241/2016 - 2016SYW079
ZONING	IN2 Light Industrial
DATE OF LODGEMENT	24 March 2016
APPLICANT	Alliance Project Group
OWNERS	Islamic Education Institute Incorporated
CAPITAL INVESTMENT VALUE	\$7,306,032
AUTHOR	Development Services

SUMMARY REPORT

This matter is reported to the Sydney South Planning Panel under clause 6(b) of Schedule 4A of the *Environmental Planning and Assessment Act, 1979*, being development for the purposes of a place of public worship where the capital investment value exceeds \$5million.

Development Application No. DA-241/2016 proposes the demolition of existing structures on site and the construction of a place of public worship with a maximum capacity of 417 patrons, associated ancillary uses and car parking for 127 vehicles.

DA-241/2016 has been assessed against the relevant provisions of the Environmental Planning and Assessment Act, 1979, the Environmental Planning and Assessment Regulations 2000, State Environmental Planning Policy No. 55 – Remediation of Land, State Environmental Planning Policy (State and Regional Development) 2011, the Bankstown Local Environmental Plan 2015 and the Bankstown Development Control Plan 2015 (particularly Part B5 – Parking and Part B8 – Places of Public Worship). A detailed assessment of the proposal against these provisions is contained within this report, and has determined that there are no variations to consider.

The application was advertised and notified for three (3) separate periods of twenty-one (21) days. The first period, notifying of the development proposal which sought approval for a place of public worship for a maximum of 699 patrons, ancillary uses and parking for 125 vehicles, was from 13 April to 3 May 2016 following which 15 submissions were received. Two of these submissions were accompanied by petitions, one containing 87 signatures, and the other containing 335 names and/or signatures.

The second period, notifying of modifications to the original proposal reducing the amount of assembly area to accommodate a maximum of 470 patrons, and providing 2 additional parking spaces, was from 9 to 29 November 2016, following which another 11 submissions were received, including a petition containing 299 signatures.

The third and final period, notifying of modifications to the proposal further reducing assembly area and the maximum number of patrons to 417 (reflecting the development as currently proposed and reported for determination), was from 15 March to 4 April 2017, following which another 6 submissions were received. During the third period of advertising Council also received 108 copies of a pro-forma letter, each signed by a different person, representing 54 separate households or business premises. The submission of pro-forma letters signed by different persons is considered the same as a petition, and represents one (1) collective submission. Following this period, two (2) submissions in support of the proposal were also received by Council.

In total, Council has received 32 separate submissions from 16 separate households or business premises. Some of these submissions represent a second or third submission from the same household/business premises, received following each advertising and assessment period. A total of three (3) petitions were received, the first two containing, respectively, 335 and 87 names and/or signatures, and the third containing 299 names and/or signatures. Council has also received a total of 108 copies of a pro-forma letter, each signed by a different person, representing 54 separate households or business premises and is considered the same as a petition containing 108 signatures, and a total of two (2) submissions in support of the proposal.

Collectively, the submissions received following all of the advertising periods raise concerns relating to parking and traffic impacts, acoustics, amenity of residential properties, consistency with zoning objectives and permissible uses, and that the proposed intends to operate a school. These issues are addressed in detail within this report.

POLICY IMPACT

The matter being reported has no direct policy implications.

FINANCIAL IMPACT

The matter being reported has no direct financial implications.

RECOMMENDATION

Based on the assessment of the application detailed in this report, it is recommended that the application be approved subject to the attached conditions.

ATTACHMENTS

- A - Section 79C Assessment Report
- B - Conditions of Consent
- C - Site Plan
- D - Ground Floor Plan 1/2
- E - Ground Floor Plan 2/2
- F - First Floor Plan
- G - Second Floor Plan
- H - Roof Plan
- I - North & South Elevations
- J - East & West Elevations
- K - Sections
- L - Sections
- M - Fence Detail
- N - Landscape Plan – Ground Level
- O - Landscape Plan – 1st Level & 2nd Level
- P - Plan of Management - Revision N

ATTACHMENT A

DA-241/2016 - SECTION 79C ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

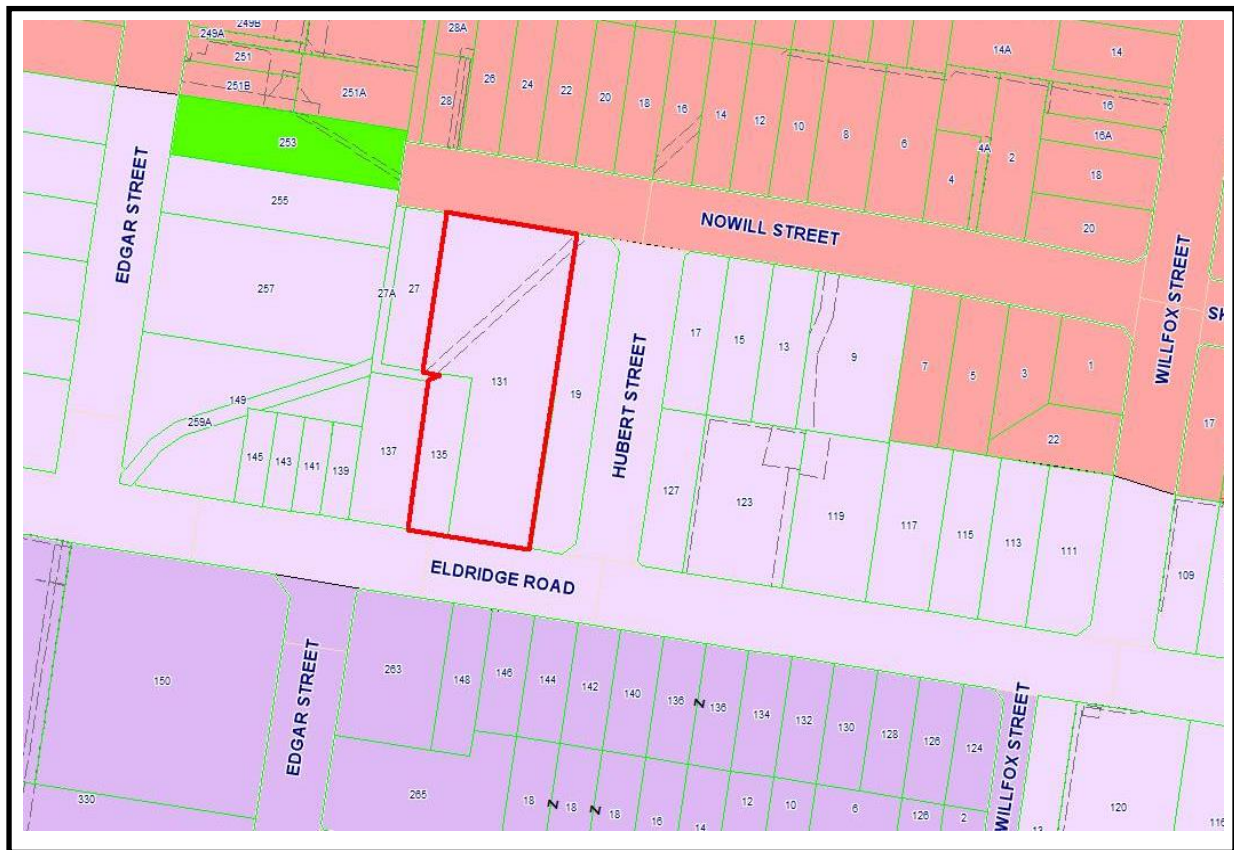
The subject site is known as 131 - 135 Eldridge Road, Condell Park. The site is a regular allotment that is currently zoned IN2 Light Industrial. The site has an area of 3913.65m², with a frontage of 39.59m to Eldridge Rd, and a frontage of 40.903m to Nowill St. The site contains a number of existing industrial factory/warehouse-style buildings or varying age and condition, which are currently vacant. The site also contains a 900mm diameter stormwater pipe/council drain which traverses the northern half of the site from the north-east corner to a point mid-way along the western boundary.

An aerial photo showing the site in the context of the surrounding locality is provided below:



The surrounding development consists of similar industrial buildings to the east, west and south on Eldridge Road, and residential dwellings on the opposite side of Nowill Street to the north, where the land is zoned R2 Low Density Residential.

An excerpt of Council's zoning map from the Bankstown Local Environmental Plan 2015, showing the site, its zoning and the zoning of surrounding land, follows over the page:



Land Zoning

- B1 Neighbourhood Centre
- B2 Local Centre
- B4 Mixed Use
- B5 Business Development
- B6 Enterprise Corridor
- B7 Business Park
- E1 National Parks and Nature Reserves
- E3 Environmental Management
- IN1 General Industrial
- IN2 Light Industrial
- R2 Low Density Residential
- R3 Medium Density Residential
- R4 High Density Residential
- RE1 Public Recreation

PROPOSED DEVELOPMENT

The Development Application proposes the demolition of existing structures on site and the construction of a place of public worship with a maximum capacity of 417 patrons, associated ancillary uses and car parking for 127 vehicles.

The application seeks approval for the use of the proposed development as a mosque with associated ancillary uses that include general and focused religious study circles, a Library, and arbitration services, comprising 2000m² of gross floor area.

The proposed 3-level building is setback 10m from the Eldridge Rd frontage and 45m from the Nowill St frontage of the site. The proposal addresses the Eldridge Rd frontage, with pedestrian entrance to the mosque proposed from Eldridge Rd. The car parking is proposed at ground floor level, with two vehicular access points proposed, one in Eldridge Rd and one in Nowill St. The main prayer hall is provided at first floor level, along with administration spaces, the Library, Imam's room and a courtyard and terrace area. At the second floor level, above the main prayer hall, is the proposed religious instruction rooms, female prayer area and arbitration rooms.

The application seeks approval for these uses in accordance with the following specific timetables identifying the times of operation of each use and the maximum number of patrons, as provided in the detailed operational plan of management submitted with the application:

Winter Operations (22 Mar – 21 Sept)

Use	Time	Max no. of patrons	Eldridge Rd access	Nowill St access
Morning Prayer (Mon-Sun)	5.30am-6.00am	30	Open	Closed
Focused Study Circle (Mon-Thu)	7.00am-2.00pm	64	Open	Closed
Focused Study Circle (Fri)	7.00am-12.00pm	64	Open	Closed
Midday Prayer (Mon-Thurs, Sat-Sun)	12.30pm-1pm	30	Open	Closed
Midday Prayer (Fri)	12.30pm-1.30pm	417	Open	Open
Afternoon Prayer (Mon-Sun)	4.00pm-4.30pm	30	Open	Closed
General Study Circle (Mon-Fri)	6-8pm	15	Open	Closed
General Study Circle (Sat)	9.00am-12.30pm	80	Open	Closed
Sunset Prayer (Mon-Sun)	6.00pm-6.30pm	40	Open	Closed
Evening Prayer (Mon-Sun)	7.30pm-8pm	60	Open	Closed
Library (Mon-Sun) [except Fri]	9am-5pm [closed 12-2pm]	N/A 0	Open	Closed
Arbitration (Mon-Thu)	3pm-8pm	10	Open	Closed
Arbitration (Sat)	10am-3pm	10	Open	Closed

Summer Operations (22 Sept – 21 Mar)

Use	Time	Max no. of patrons	Eldridge Rd access	Nowill St access
Morning Prayer (Mon-Sun)	5.00am-5.30am	30	Open	Closed
Focused Study Circle (Mon-Thu)	7.00am-2.00pm	64	Open	Closed
Focused Study Circle (Fri)	7.00am-12.00pm	64	Open	Closed
Focused Study Circle (Sat)	9.00am-12.30pm	80	Open	Closed
Midday Prayer (Mon-Thurs, Sat-Sun)	1.30pm-2pm	30	Open	Closed
Midday Prayer (Fri)	1.30pm-2.30pm	417	Open	Open
Afternoon Prayer (Mon-Sun)	5.00pm-5.30pm	30	Open	Closed
General Study Circle (Mon-Fri)	6-8pm	15	Open	Closed
Sunset Prayer (Mon-Sun)	7.30pm-8pm	40	Open	Closed
Evening Prayer (Mon-Sun)	9pm-9.30pm	60	Open	Closed
Library (Mon-Sun) [except Fri]	9am-5pm [closed 1-3pm]	N/A 0	Open	Closed
Arbitration (Mon-Thu)	3pm-8pm	10	Open	Closed
Arbitration (Sat)	10am-3pm	10	Open	Closed

Ramadan Operations (30 days per calendar year)

Use	Time	Max no. of patrons	Eldridge Rd access	Nowill St access
Taraweeh Prayer (Daily)	7.30pm-8.30pm	300	Open	Closed

Subject to the assessment of the proposed development in the report that follows, it is recommended that should consent be granted, conditions would be imposed to limit the spread of hours that the site is to be used to reflect those hours indicated in the above tables. As such, the use of the premises would be limited to the above uses only, via a condition that would stipulate a maximum spread of hours of operation (i.e. 5.30am-8pm in winter and 5am-9.30pm in summer). No persons shall be permitted on the site outside of these times.

Furthermore, a condition of consent would also state the following: “During Ramadan, no consent is provided for the operation of any other ancillary service at the site during the hours of 7pm-9pm. Services such as the General Study Circle, Arbitration, etc. that would normally be permitted to operate during these times in the tables above are to be suspended”.

SECTION 79C ASSESSMENT

The proposed development has been assessed pursuant to section 79C of the *Environmental Planning and Assessment Act, 1979*.

Environmental planning instruments [section 79C(1)(a)(i)]

State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)

In accordance with Clause 6(b) of Schedule 4A of the *Environmental Planning and Assessment Act, 1979*, development for the purposes of a place of public worship with a capital investment value in excess of \$5million is classified as regional development under Clause 20 of the SRD SEPP. In accordance with Clause 21(1)(a) of the SRD SEPP the consent authority function is to be exercised by the Regional Planning Panel. The subject application has a capital investment value of \$7,306,032 and, as such, the subject application is required to be determined by the Sydney South Planning Panel.

Panel Briefing

The Sydney West Regional Planning Panel was briefed on 11 May 2016 regarding the subject application. On 12 May 2016, the NSW State Government proclaimed the amalgamation of Canterbury and Bankstown City Councils, which ultimately led to the newly-amalgamated Council becoming part of the Sydney South region of the Greater Sydney Commission. As such, the application was re-briefed, this time to the Sydney South Planning Panel on 13 December 2016.

The panel requested that as part of Council’s assessment of the application, the following matters be taken into consideration:

- Relationship of the development at the zoning interface
- Acoustics
- Parking

- Entry Point
- Landscaping and use of trees, both on site and in the street, to screen

The consideration of these specific matters is detailed elsewhere in this report.

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

SEPP 55 requires Council to consider whether the development site is contaminated and, if it is, whether it is suitable for the proposed development either in its contaminated state or following remediation works.

The applicant has submitted a Stage 1 and 2 Environmental Site Assessment Report prepared by Geo-Environmental Engineering Pty Ltd (GEE). The ESA has determined “*that there is no significant contamination of the soil and groundwater, and the site is suitable for the proposed land-use*”. Notwithstanding the above, there is an existing underground storage tank on site which GEE recommends be decommissioned in accordance with the relevant Australian Standards and the Protection of Environment Operations (Underground Recoverable Storage Systems) Regulation 2014. It is recommended that this be addressed as a condition of development consent.

As such, a remedial action plan is not required for the site, and it is therefore considered that, subject to conditions being imposed on any development consent to require the decommissioning of the existing underground storage tank on site, the consent authority can be satisfied that the development site can be considered suitable for the proposed use, in accordance with Clause 7 of SEPP 55.

Bankstown Local Environmental Plan 2015

The following clauses of the Bankstown Local Environmental Plan 2015 were taken into consideration:

- Clause 1.2 Aims of Plan
- Clause 1.3 Land to which this Plan applies
- Clause 1.4 Definitions
- Clause 1.6 Consent Authority
- Clause 1.7 Maps
- Clause 2.1 Land use zones
- Clause 2.2 Zoning of land to which Plan applies
- Clause 2.3 Zone objectives and Land Use Table
- Clause 4.3 Height of Buildings
- Clause 4.4 Floor space ratio
- Clause 4.5 Calculation of floor space ratio and site area
- Clause 6.2 Earthworks
- Clause 6.3 Flood planning
- Clause 6.4 Biodiversity
- Dictionary

An assessment of the Development Application revealed that the proposal complies with the matters raised in each of the above clauses of the Bankstown Local Environmental Plan 2015.

In particular, it is noted that the floor space ratio (FSR) of the development has been calculated at 0.51:1, which complies with the maximum FSR permitted of 1:1.

Furthermore, it is noted that a place of public worship is a permitted use in the IN2 Light Industrial zone, and is defined in the Dictionary in the BLEP 2015 as follows:

***“place of public worship** means 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.”*

The site is also affected by localised stormwater flooding associated with a large council drain which traverses the northern half of the site from the north-east corner to a point mid-way along the western boundary. The plans have been assessed by Council's drainage engineers and found to be satisfactory, subject to conditions to be imposed on any development consent.

Draft environmental planning instruments [section 79C(1)(a)(ii)]

There are no draft EPI's that are applicable to the proposed development.

Development control plans [section 79C(1)(a)(iii)]

The following table provides a summary of the development application against the relevant controls contained in Part B5 – Parking and Part B8 – Places of Public Worship of Bankstown Development Control Plan 2015.

STANDARD	PROPOSED	BDCP 2015 Part B5 – Parking		BDCP 2015 Part B8 – Places of Public Worship	
		REQUIRED	COMPLIANCE	REQUIRED	COMPLIANCE
Parking	127 spaces	92 (1 per 5m ² of assembly area) Car parking for ancillary uses and special events must be provided on-site on the basis of a Parking Study, to be submitted with the DA.	Yes	N/A	
Setbacks - Eldridge Rd - Nowill St	10.013m 45.274m	N/A		10m 10m	Yes Yes
Height - Eldridge Rd - Nowill St	- 9.29-11.83m - 9.05-9.55m			9.5m in residential zones, no height in industrial zone	N/A

STANDARD	PROPOSED	BDCP 2015 Part B5 – Parking		BDCP 2015 Part B8 – Places of Public Worship	
		REQUIRED	COMPLIANCE	REQUIRED	COMPLIANCE
- Dome - Minaret	- 13.5m - 17.96m			Council may consider minarets and the like which exceed 9.5m	Yes
Bankstown Airport concurrence	37.98m AHD			37.98m AHD	Yes
Traffic Management - Environmental capacity	214 vehicle movements per hour (71% of maximum capacity)			Must not exceed max capacity of 300 vehicle movements/hour	Complies - See discussion below
- Level of service (LoS)	LoS 'A'			Not less than LoS 'B'	

Based on the table above, the following matters are discussed in detail, as matters important in the assessment of the development and its potential impacts.

Height

Clauses 4.6-4.8 of Part B8 of the BDCP 2015 are reproduced as follows:

- 4.6** Within Zone IN1 General Industrial and Zone IN2 Light Industrial, the maximum wall height for a place of public worship that is located adjacent to a residential area is 9.5 metres.
- 4.7** Despite clauses 4.5 and 4.6, Council may consider spires, towers, minarets and similar structures, which exceed the wall height limit on the basis of their bulk and scale, the extent of their overshadowing, and their contribution to the streetscape.
- 4.8** The operational requirements of Bankstown Airport may place certain additional constraints on building heights within some areas of Bankstown. Council may refer certain development applications to the airport authority for consideration.

In this instance, the site is located on the opposite side of Nowill St from residential properties. These residential properties are not considered to be adjacent to the site. As such, the height limit of 9.5m is not considered to apply. Despite this, the parts of the proposed development that exceed a height of 9.5m all front Eldridge Rd, apart from the north-west end of the northern elevation of the proposed structure, where a height of 9.55m is proposed, due predominantly to the fall of the land from east to west across the site. As such, the development achieves compliance with the intent of Clause 4.6, by ensuring that the height of the building that is in the closest proximity of residential properties on the opposite side of Nowill St meets the numerical requirements of the control, except for a very short portion where the exceeds by 0.05m.

Furthermore, were the 9.5m height limit to apply, Clause 4.7 allows spires, towers, minarets and similar structures (such as domes) to exceed the height, dependent on their bulk and scale, any overshadowing impacts, and their contribution to the streetscape. The dome (13.5m high) and minaret (17.96m high) proposed as part of the application are considered to be appropriate, not excessive in terms of bulk and scale and make an appropriate contribution to the streetscape, which is otherwise characterised by industrial buildings.

Finally, the applicant has received written confirmation from Bankstown Airport Limited that the maximum height of the minaret, being RL 37.98m AHD, is acceptable, thereby addressing Clause 4.8 of Part B8 of the BLEP 2015. It is noted that there is no height limit specified for the site under the Bankstown Local Environmental Plan.

Parking

Part B5 of the BDCP 2015 stipulates that car parking must be provided at a rate of 1 space per 5m² of assembly area. Assembly area is defined in the DCP as follows:

Assembly area means the sum of that portion of the gross floor area of a building to be used for public assembly for the purpose of worship or other purposes and any outdoor area that may be used for public assembly for the purpose of worship or other purposes. It includes halls; mezzanines; secondary areas of assembly such as choir or musicians' areas, altar areas confessional areas, podiums, staging and the like; rooms used for religious instruction; and rooms and any outdoor areas capable of being used for overspill accommodation of the congregation during a worship service. Ancillary areas such as kitchens, toilets, washrooms and residential accommodation, which are not normally used for worship, are not considered to be part of the assembly area.

The application proposes a total worship area of 460m² (365m² for males and 95m² for females). The plans also make provision for approximately 400m² of religious instruction area, separate to the worship areas. The plans also make provision for a large central open courtyard of 150m². Under the definition above, the worship areas, religious instruction area and courtyard area would all fall under the definition of assembly area, thereby totaling approximately 1010m² of assembly area, which would require 202 car parking spaces.

Despite the definition above, it is considered that only the worship areas in this instance should be considered as assembly area for the purpose of calculation of car parking spaces. The religious instruction areas form part of separate focused study group based around teaching of the Koran/Quran and ethics, and replicate existing studies that this organisation previously conducted at their previous premises. The limited nature of the floor space at the previous site meant that significant rearrangements of rooms were required multiple times throughout the day, given the religious requirement for those of the Islamic faith to pray at 5 separate times throughout the day. The subject application seeks approval for a purpose-built centre that allows for the provision of separate worship areas and religious instruction

areas, to ease the burden on staff and worshippers to constantly reorganise space for different uses. It is considered that this is appropriate in this instance, and that the arrangement of the religious instruction spaces do not also lend themselves to being used as additional worship space. It is considered that, should consent be granted, conditions can be imposed requiring that the religious instruction spaces cannot be used as additional worship areas.

Similarly, the courtyard area would normally be included in the calculation of assembly area. However, the arrangement of the courtyard space incorporates landscaping and other built-in features (bench seating, changes in levels) to make this area difficult to use as a worship space. The intent of the courtyard is to provide a space for worshippers to congregate in, before and after prayer services, rather than congregating in the street, thereby limiting the potential for acoustic impacts associated with large groups of worshippers exiting the building immediately onto the public street.

As such, it is considered in this instance that the amount of assembly area is most appropriately calculated as 460m². Based on the standard in Part B5 of the BDCP 2015, the number of parking spaces required to be provided would be 92.

However, this requirement is not considered to be accurate or appropriate in this instance. The space is considered to be capable of holding a maximum of 417 patrons (at a rate of 1 patron per 1.1m²). This rate is consistent with the recommended maximum rates described in the Building Code of Australia for places of public worship. 417 patrons utilising 92 parking spaces would represent a rate of 4.5 persons per vehicle, which is not considered to be realistic.

The Sydney West Regional Planning Panel previously approved a similar place of public worship at 35 Anzac St, Greenacre, with parking based on a rate of 2.33 persons per vehicle. The subject application makes provision for 127 vehicles. Council's traffic engineers have reviewed the proposal, and adopted a vehicle occupancy rate of 2.7 persons per vehicle as the most appropriate rate for calculating car parking. At this rate, 154 parking spaces would be required to be provided in order to meet the expected highest peak demand generated for car parking. Council's traffic engineers have completed a review of the surrounding streets, independent of any analysis submitted by the applicant, and determined that there is sufficient parking in the surrounding road networks to accommodate the shortfall of 27 spaces. At the time of worst case (once a week variously between 12.30pm-2.30pm depending on the time of the year), the Friday midday communal prayer is the single biggest demand generator for car parking on the site. All other activities proposed to occur on the site can be comfortably accommodated within the 127 parking spaces provided. As the demand for parking off-site is limited to one event each week, and the overflow demand for parking can be accommodated in the surrounding street network at the time of proposed worst-case, Council's traffic engineers have advised that the number of parking spaces provided can be considered to be satisfactory.

Traffic Management

Clause 3.5 and 3.6 of Part B8 of the BSDCP 2015 relate to traffic management, and

are reproduced as follows:

Traffic management–environmental capacity

- 3.5** *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.*

This clause applies to places of public worship in the residential zones, the special use zone and the industrial zones.

Traffic management–level of service

- 3.6** *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.*

This clause applies to places of public worship in the residential zones, the special use zone and the industrial zones.

The applicant has submitted a Traffic Study with the application, demonstrating that as a result of the development, the environmental capacity of the surrounding street networks will not exceed the maximum of 300 vehicle movements per hour. This has been reviewed by Council's traffic engineer and is agreed, however vehicle movements will substantially increase from 39 vehicles per hour (13%) to 214 vehicles per hour (71%). The applicant agrees to the imposition of a condition requiring "No Stopping" signage and the extent of this will be subject to a Canterbury-Bankstown Traffic Committee recommendation, with signage supply and installation to be carried out by Council's contractor at the applicant's cost. This condition will be satisfied upon receiving payment for the signage as determined by Council's Traffic Engineer.

The Level of Service (LoS) has been assessed by Council's traffic engineer and is not expected to change from LoS "A" with spare capacity at nearby intersections.

As such, it is considered that the proposed development satisfactorily addresses the issue of traffic management in local streets and at nearby intersections, with regard to maximum environmental capacity and Level of Service.

Entry Point

It is considered important that the operation of the development must ensure that the Nowill St entrance to the site is only used at the times of peak demand (i.e. Friday midday communal prayer). The presentation of the development to Nowill St should also ensure that this entrance is not seen as the main entrance, and the focus of the development needs to be towards the Eldridge Rd frontage, to ensure the

minimisation of impact as much as possible onto the residential properties in Nowill St. The plans are considered to satisfactorily address this.

Acoustics

An acoustic report has been submitted with the application. This report has been reviewed by Council's Environmental Health Officers and found to be satisfactory, subject to the imposition of conditions requiring the operation of the premises to occur at all times in accordance with the recommendations of the acoustic report. The closure of the Nowill St car park entrance, particularly at times later in the evening, should ensure minimal acoustic impacts onto residential properties.

Landscaping and use of trees, both on site and in the street, to screen

It is considered important that the site incorporates significant tree planting to ensure the proposed building is appropriately screened from residential properties in Nowill St. To this end, the application includes a landscape plan that shows the planting of six (6) significant trees along the Nowill St boundary of the property. On the original plans these were intended to be "Ornamental Pear" trees, which are deciduous and would not provide appropriate screening during cooler/winter months. As a result, the applicant amended the landscape plan to propose that these trees be changed to *Melaleuca linarifolia* (Snow in Summer) and *Banksia integrifolia* (Coastal Banksia), both native species that will grow to a mature height of 6-8m, and will retain foliage all year round, providing an effective vegetated screen between the proposed development and the existing residential properties.

Council will also require the planting of four (4) trees in the footway, all being *Corymbia maculata* (spotted gum). This will further ensure an appropriate screen of vegetation between the residential properties on the northern side of Nowill St, and the proposed place of public worship on the subject sites.

All of the trees will need to be planted at a pot size of between 200-400L, and will need to be maintained for the life of the development.

Relationship of the development at the zoning interface

The appearance of the proposed development when viewed from residential properties is a critical aspect of the proposal. As detailed above, the requirement for an extensive vegetative screen will ensure there is an appropriate physical separation achieved between the proposal and the residential properties on the northern side of Nowill St. The utilisation of the Nowill St entrance to the car park only on Fridays at (or around) midday-2pm at the time of greatest demand will ensure that the impact of the peak demand on surrounding residential properties will only be fully felt on one occasion a week, at a time that is least likely to severely impinge on the amenity afforded to nearby residential properties. It is critical that the main entrance to the development is perceived as being the Eldridge Rd entrance and access points, and it is considered that the plans, as currently proposed, satisfactorily address this.

Planning agreements [section 79C(1)(a)(iia)]

There are no planning agreements applicable to the proposed development.

The regulations [section 79C(1)(a)(iv)]

The proposed development is not inconsistent with the relevant provisions of the Environmental Planning and Assessment Regulation, 2000.

The likely impacts of the development [section 79C(1)(b)]

It is acknowledged that the operation of a place of public worship on the subject site will have an impact on the surrounding locality. However, the most significant impact will be limited to one operation, once a week, being the Friday Midday Communal Prayer (variously held between 12.30pm-2.30pm, depending on the time of year). Outside of these times, the proposed uses of the premises will be conditioned to ensure that the level of impact on the surrounding locality, particularly the residential properties, is mitigated to the fullest extent possible.

It is considered that the likely impacts of the development will be within acceptable limits, subject to the imposition of the recommended conditions of consent.

Suitability of the site [section 79C(1)(c)]

Based on the assessment of the application, and as outlined in this report, it is considered that site is suitable for the development, as currently proposed, subject to the imposition of the recommended conditions of consent.

Submissions [section 79C(1)(d)]

The application was advertised and notified for three (3) separate periods of twenty-one (21) days. The first period, notifying of the development proposal which sought approval for a place of public worship for a maximum of 699 patrons, ancillary uses and parking for 125 vehicles, was from 13 April to 3 May 2016 following which 15 submissions were received. Two of these submissions were accompanied by petitions, one containing 87 signatures, and the other containing 335 names and/or signatures.

The second period, notifying of modifications to the original proposal reducing the amount of assembly area to accommodate a maximum of 470 patrons, and providing 2 additional parking space, was from 9 to 29 November 2016, following which another 11 submissions were received, including a petition containing 299 signatures.

The third and final period, notifying of modifications to the proposal further reducing assembly area and the maximum number of patrons to 417 (reflecting the development as currently proposed and reported for determination), was from 15 March to 4 April 2017, following which another 6 submissions were received. During the third period of advertising Council also received 108 copies of a pro-forma letter, each signed by a different person, representing 54 separate households or business premises. Following this period, two (2) submissions in support of the proposal were

also received by Council.

In total, Council has received 32 separate submissions from 16 separate households or business premises. Some of these submissions represent a second or third submission from the same household/business premises, received following each advertising and assessment period. A total of three (3) petitions were received, the first two containing, respectively, 335 and 87 names and/or signatures, and the third containing 299 names and/or signatures. Council has also received a total of 108 copies of a pro-forma letter, each signed by a different person, representing 54 separate households or business premises, and a total of two (2) submissions in support of the proposal.

Collectively, the submissions received following all of the advertising periods raise concerns relating to parking and traffic impacts, acoustics, amenity of residential properties, consistency with zoning objectives and permissible uses, and that the proposed intends to operate an illegal school. These issues are addressed in detail below.

Objection: The site is not compliant for a place of public worship, being situated next door to heavy industrial sites. The zoning should not allow a place of public worship, and any request to re-zone industrial, employment-generating land needs to go back to the people. The location fails the objectives of the IN2 zone.

Comment: A place of public worship is a permissible form of development in the IN2 – Light Industrial zone under the BLEP 2015. The use of the premises as a place of public worship does not represent a re-zoning of the land, being a use that is already permitted in the zone. There are no specific objectives of the IN2 zone that the approval of a use that is permissible in the zone would fail.

Objection: Prayer area is not compliant. Numbers are being moved around a page to appear compliant. No one is refused entry to a place of public worship.

Comment: There is no maximum assembly area stipulated for places of public worship located in industrial zones. It is noted that Clause 4.3 of Part B8 of the BDCP 2015 stipulates a maximum assembly area of 400m² in residential zones. Given that the site is opposite residentially-zoned land in Nowill St, it is considered that the reduced maximum assembly area of 460m² is an appropriate size, and the development has adequately addressed the impacts associated with the operation of a facility of this size. It is noted that a condition of consent will be imposed limiting the maximum number of patrons permitted on site at given times of each day of the week.

Objection: Height of building not compliant

Comment: This issue has been dealt with in detail elsewhere in this report.

Objection: The proposed hours of use are not compliant with the surrounding locality, nor are the proposed days compliant with the light industrial zoning. Council, the residents and the existing light industrial uses in

Nowill St, have worked together over hours of operation, and residents and industrial users get along. Why ruin this with the proposed hours?

Comment: It is recommended that a condition of consent be imposed, requiring the operation of the premises to comply at all times with the specific details provided in the Plan of Management submitted with the DA. The hours of operation are considered appropriate provided the particular uses detailed in the report comply with the times of use. Again it is noted that a place of public worship is a permitted use in the zone, and it is expected that any place of public worship would be used most days of the week, and particularly on weekends. The proposed times and days of operation are considered to be appropriate.

Objection: Design and street appeal not compliant with existing area

Comment: The design of the building and its presentation in the streetscape, surrounded by industrial-style buildings in both Eldridge Rd and Nowill St, is considered to be appropriate and not inconsistent.

Objection: The proposed religious instruction rooms appear likely to be used as an illegal school, which is not compliant or approved by the regulating authorities (i.e. the Board of Studies), based on information found on the applicant/proponents website, and appears to abuse the notion of 'home schooling'.

Comment: As previously detailed, the religious instruction areas are intended to form part of separate focused study groups based around teaching of the Koran/Quran and ethics. These replicate existing studies that the proponent conducted at their previous premises in Cross St, Bankstown. The limited nature of the floor space at the Cross St site meant that significant rearrangements of rooms were required multiple times throughout the day, given the religious requirement for those of the Islamic faith to pray at 5 separate times throughout the day. The subject application seeks approval for a purpose-built centre that will allow for the provision of separate worship areas and religious instruction areas, to reduce the burden on both staff and worshippers having to constantly reorganise space for different uses.

The applicant advises that information previously contained on the proponent's website is not accurate and represents a previous form of studies that were offered but are no longer continuing. The studies offered at the proposed new premises will align with the detailed operational plan of management. Any approval of the proposed use will require strict compliance with the plan of management to be observed.

The application was referred to the New South Wales Education Standards Authority (NESA) for consideration of the issues raised in submission regarding home schooling and the potential for the premises to be use as a school. It is noted that NESA investigated a similar operation being conducted at a premises in Cross St, Bankstown being operated by the proponents of the subject application. It was noted that that operation was not considered a school, and was operating appropriately. It is considered that the

operation of the premises can be conditioned to ensure compliance, both with the requirements for home schooling, and the general operation of the premises. Conditions requiring the use to be audited at regular intervals are also recommended and have been welcomed by the applicant.

Objection: Acoustics/noise impacts will be unacceptable on residential properties.
Comment: This issue has been dealt with in detail elsewhere in this report.

Objection: Parking and traffic

- *Catering for the parking on site but not factoring in the increased traffic which it will draw will cause increased traffic issues.*
- *Potentially 700 persons, potentially 700 vehicles.*
- *Cars will use Nowill St (a cul-de-sac).*
- *The volume of traffic at this end of Eldridge Rd is constant and endless.*
- *Congestion will escalate to a dangerous level. Road blockage may prevent fire brigade or ambulance access.*
- *The large number of vehicles will park wherever, be it legal or illegal and no regard to inconveniencing anyone else.*
- *Overflow parking, no access for trucks.*
- *Traffic is always banked up along Eldridge/Edgar during peak hours.*

Comment: These issues have been dealt with in detail elsewhere in this report. However, it is noted that the times of peak use and demand for parking and traffic generation do not coincide with times of 'peak hour traffic'. The number of patrons was originally proposed at 699, but has since been reduced, in line with concerns that the site could not adequately cater for the parking demand generated by such a large number of patrons. The application has been assessed by Council's Traffic Engineers and found to be satisfactory, particularly with regard to the environmental capacity of the surrounding road networks, and Level of Service at nearby intersections. Conditions will be imposed requiring patrons parking in the street to park legally and not obstruct or utilise private property for parking. In accordance with Clause 7.6 and 7.7 of Part B8 of the BDCP 2015, the operator of the place of public worship will be required, via a condition of consent, to organise a Neighbourhood Liaison Committee, with a view to ensuring any grievances raised over the operation of the premises by the surrounding residents can be acted upon by the operator of the premises. This will be addressed by a condition of consent.

Objection: This will potentially become a regional Islamic centre, with no supporting infrastructure. Will become a mono-cultural area, and sufficient mosques already exist in surrounding areas.

Comment: The size of the development is considered to be appropriate, subject to the imposition of conditions to ensure that the impacts associated with the operation are appropriately addressed. Whilst other mosques may exist in surrounding areas, there is no planning requirement for places of public worship to be located a certain distance from other places of public worship.

Objection: Businesses in Eldridge Rd and Nowill St would suffer major disruption on prayer days

Comment: As noted elsewhere in this report, the time of greatest and most significant impact is limited to once a week. At all other times, the operations on the premises are limited, with minimal impact on the amount of parking demand and traffic movements generated.

Objection: We feel both industrial and residential properties will substantially decrease in value.

Comment: No evidence has been provided to substantiate the claim that properties will decrease in value as a result of the subject application being approved.

Council has also received two (2) submissions in support of the proposal. These submissions variously raise issues relating to the need for a new mosque that is close to local workers' places of employment, to limit the amount of time that these workers need to be away from work at times when they are required to attend the mosque to pray, particularly the Friday Midday Communal prayer.

The public interest [section 79C(1)(e)]

Based on the assessment of the application and as outlined in this report, it is considered that the development as currently proposed, subject to the imposition of the recommended conditions of consent, will not contravene the wider public interest.

CONCLUSION

The Development Application has been assessed against the relevant provisions of the *Environmental Planning and Assessment Act, 1979*, in particular Section 79C, the Environmental Planning and Assessment Regulations 2000, State Environmental Planning Policy No. 55 – Remediation of Land, State Environmental Planning Policy (State and Regional Development) 2011, the Bankstown Local Environmental Plan 2015 and the Bankstown Development Control Plan 2015 (particularly Part B5 – Parking and Part B8 – Places of Public Worship).

Based on the assessment of the application detailed in this report, it is considered that the application appropriately addresses the relevant objectives and provisions of the above legislation, and is considered to be worthy of support in this instance, subject to the imposition of conditions to ensure the operation of the premises can appropriately ameliorate any potential impacts on surrounding properties, particularly with regard to the amenity afforded to nearby residential properties.

RECOMMENDATION

It is recommended that the application be approved subject to the attached conditions.