

COUNCIL ASSESSMENT REPORT

Panel Reference	2018SWC052
DA Number	1867/2018/JP
LGA	The Hills Shire Council
Proposed Development	Demolition of existing structure and construction of a Place of Public Worship and associated parking and landscaping.
Street Address	1 Larapinta Place Glenhaven
Applicant/Owner	Iconfm Australia Pty Ltd / Hills AWQAF Pty Ltd
Date of DA lodgement	19 April 2018
Number of Submissions	1068 (including 40 in support)
Recommendation	Refusal
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	Private infrastructure and Community Facilities exceeding \$5 million
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Section 4.15 (EP and A Act, 1979) • SEPP State and Regional Development 2011 • SEPP 55 Remediation of Land • SEPP BASIX 2004 • SREP 20 – Hawkesbury Nepean River • LEP 2012 • DCP Part B Section 1 - Rural • DCP Part C Section 1 – Parking • DCP Part C Section 3 - Landscaping
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Submissions
Report prepared by	Robert Buckham Development Assessment Coordinator
Report date	27 September 2018

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction

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 summarized, in the Executive Summary of the assessment report?

Yes

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

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?

Not Applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

No

Conditions

Have draft conditions been provided to the applicant for comment?

No

EXECUTIVE SUMMARY

The Development Application, as amended, is for a place of public worship to cater for up to 250 people operating between 5.00am and 10.00pm seven days a week. The proposed works include the construction of a building approximately 35 metres by 58 metres that incorporates a main worship hall over two levels, ablution rooms, classrooms, atrium areas and amenities. A 53 space car park is proposed with access from Larapinta Place. The Development Application as originally submitted sought consent for 400 people and a carpark for 116 vehicles. The building, which has not been reduced in size, has capacity to accommodate 1900 people when considered having regard to the Building Code of Australia.

The subject site is zoned RU6 Transition and whilst a place of public worship is currently permitted in the zone, the bulk and scale of the building and intensity of the use, including the hours of operation and number of attendees is not in keeping with the character of the locality and natural environment. The building is of a large institutional scale and introduces a number of conflicting elements into the immediate locality which are not currently present. The location of the building on a corner further exacerbates its prominence and creates an adverse impact on the existing streetscape.

It is considered that the proposal is contrary to the LEP RU6 zone objectives. The development and the use results in an unsatisfactory transition between rural residential development in the locality as it is not appropriately located given its scale and intended use. The proposal has not been designed having regard to the natural environment and will unacceptably impact on surrounding land uses within this zone.

The proposal includes variations to the DCP requirements, including site coverage, fill, waste water management, landscape requirements and acoustics impacts. The proposed variations are considered unsatisfactory and will unreasonably impact on the amenity of adjoining residents.

The plan of management submitted in support of the application lacks detail and is insufficient for the scale of the use proposed. It is considered that the size of the building is excessive for the maximum number of attendees proposed and this suggests the probability of a greater number of attendees. No explanation was provided for the reduction in the maximum number of worshippers from (400 to 250) with no commensurate change to building size. Should the development be approved in its current form there is no practical means for Council to control numbers of people attending the site and consequential impacts including noise and off street carparking. There is no practical way to alert worshippers that the premises are at capacity before they arrive at the site. Once they have arrived, the building is capable of accommodating them. This will lead to significant amenity impacts, particularly given the anticipated shortfall of appropriate parking on the site for use by worshippers.

The proposal was notified to adjoining and neighbouring property owners, and to date 1068 submissions have been received, with 40 of those submissions being in support. The concerns raised in the submissions relate to increased traffic, worshipper numbers, location suitability, hours of operation, scale and nature of the proposal and environmental impacts.

The scale of development and its impact on the character on the rural area is unacceptable. The Development Application is therefore recommended for refusal.

DETAILS AND SUBMISSIONS

Zoning:	RU6 Transition
Area:	20,260m ²
Existing Development:	Dwelling house and detached garage

Section 7.12 Contribution	\$75,483.52
Exhibition:	14 days
Notice Adj Owners:	Yes
Number Advised:	29
Submissions Received:	1068 (including 40 in support of the proposal).

HISTORY

Prior to the lodgement of the Development Application, on 24 October 2017, Council resolved to add additional objectives to the LEP for the RU6 Transition zone, remove cemeteries and places of public worship as permitted uses from the RU6 Transition zone and to add site coverage controls for the RU6 Transition zone. On 29 August 2018 correspondence was received from the Department that indicated that that a Gateway determination will be issued within the next four weeks. It is important to note that the Standard Instrument—Principal Local Environmental Plan for the RU6 Transition zone does not mandate the permissibility of a place of public worship.

The subject Development Application was lodged on 19 April 2018. The application as lodged was for a place of public worship to cater for up to 400 people. The proposed works included the construction of a worship hall with ancillary rooms and amenities. A 116 space car park was originally proposed.

On 15 May 2018 a letter was sent to the applicant requesting additional information in relation to the following matters; maximum building height, site coverage, setbacks, cut and fill details, survey data, submission of a plan of management, worshiper numbers, acoustic details, traffic survey data, stormwater details, waste water report, lighting details, landscaping, ecology matters and compliance with the Biodiversity Offset Scheme and waste management.

On 14 June 2018, amended plans and associated information was received. The building remained the same size, however the application sought approval for a maximum number of 250 people at any one time. The location of the development was been moved westerly by 10 metres and the setbacks have been increased on the eastern side boundary to 15.5m (from 5.5m). Parking has been reduced from 116 to 53 spaces. On 11 July 2017 waste water details were submitted. The amended plans and details were not re-notified as significant issues remained with the proposal.

PROPOSAL

The proposal as amended is for the demolition of existing structures and the construction of place of public worship for a maximum of 250 patrons. The place of worship is two storeys and will front Glenhaven Road, and will have vehicular access from Larapinta Place. The proposal includes a car parking area for 53 cars and 2 mini-buses.

The building has dimension of approximately 35m x 58 metres, up to 10 metres high and is primarily two storey with a sub-floor 2 bedroom caretakers dwelling. The building comprises a main prayer hall on the ground floor with a mezzanine style upper floor. In addition to the main prayer hall, the ground floor includes a central covered entrance/atrium area, female and male ablutions, amenities and consulting rooms. The upper floor includes an additional atrium area, four classrooms, amenities, office, boardroom and directors office. Two lifts and stairs are also provided.

The Mosque is proposed to be used for the following activities:

- Prayer services.
- Religious events associated with Islamic faith and the local community
- Prior and post worship congregation.
- Youth Services.
- Youth Counselling.

Hours of Operation

The application seeks approval for the operation of the site is between 5:00am and 10:00pm. The premises, including the car park, will not be accessible or used outside of these hours.

Prayer and Religious Services

Daily prayer service takes place within the following time periods and is not to exceed 30 minutes:

Time	Maximum worshippers
5am-6am	25
12pm - 1.45pm.	45
3pm - 5.30pm.	45
Sunset	50
7pm-9:45pm	50
Friday 12:30pm-2pm	250

Ramadan

Special evening prayer services during the month of Ramadan are expected to operate between 7:00pm and 9:30pm. All prayer services are to be undertaken solely within the prayer hall. No details on the number of worshipers during Ramadan.

Special Services

A total of 3 x special event prayer services per year will occur at the following times:

- 2 occurring between 7:00am and 9:00am.
- 1 occurring on a Friday between 12:00pm and 2:00pm.

A maximum of 250 worshipers are proposed during these events.

Youth Services

- Youth group activities will include religious and doctrine instruction, as well as general socialising associated with the formal activities of the Youth Group.
- Youth Group activities will be undertaken within the premises.
- Youth counselling will be arranged by appointment, with an allowance being made for any emergency counselling that may arise.

No details are provided in relation to weddings or funerals.

CONCILIATION CONFERENCE

As the proposal attracted more than 10 submissions, Council's practice is that a conciliation conference is held. However, the applicant opted not to participate therefore no conciliation conference was held.

THE SITE AND LOCALITY

The site is described as Lot 7 DP 249716, No. 1 Larapinta Place, Glenhaven and is located on the north-eastern side of the intersection of Glenhaven Road and Larapinta Place. It is an “L” shaped lot and has a frontage of 74.12m to Glenhaven Road and 195.38m frontage to Larapinta Place, and an area of 2.0261 hectares.

The land falls by approximately 24 metres from the front of the site, to the rear (north) of the site. A single storey dwelling and detached garage are located at the southern portion of the site. The rear portion of the site is densely vegetated native bushland which has been identified as Sandstone Heath on Council's vegetation mapping. An intermittent watercourse has also been identified at the rear of the site.

The definition of the locality was considered in two decisions of the Land and Environment Court, *The Quanic Society v Camden Council 2009* (Commissioner Brown) and *Shree Swaminarayan Temple v Baulkham Hills Shire Council 2011* (Commissioner Dixon) to be the visual catchment of the site and the setting in which the development on the site would be viewed and any comparison made with the adjoining and surrounding areas. The visual catchment of the site is primarily limited to the properties directly adjoining the development site. These properties comprise a rural bushland setting. The properties in the locality are rural residential in nature and comprise predominately single storey dwellings and associated sheds.

ISSUES FOR CONSIDERATION

1. SEPP State and Regional Development 2011

Clause 20 and Schedule 7 of SEPP (State and Regional Development) 2011 provides the following referral requirements to a Planning Panel:-

6 Private infrastructure and community facilities over \$5 million

Development that has a capital investment value of more than \$5 million for any of the following purposes:

- (a) *air transport facilities, electricity generating works, port facilities, rail infrastructure facilities, road infrastructure facilities, sewerage systems, telecommunications facilities, waste or resource management facilities, water supply systems, or wharf or boating facilities,*
- (b) *affordable housing, child care centres, community facilities, correctional centres, educational establishments, group homes, health services facilities or places of public worship.*

The proposed development has a Capital Investment Value of \$7,548,332 thereby requiring referral to, and determination by, a Planning Panel. In accordance with this requirement the application is referred to the Sydney Central City Planning Panel (SCCPP) for determination.

2. Compliance with LEP 2012

a. Permissibility and Objectives of the Zone

The site is zoned RU6 Transition. The proposed use is defined as a place of public worship 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 proposed use is permissible within the RU6 Transition zone.

The objectives of the RU6 Transition zone are:

- *To protect and maintain land that provides a transition between rural and other land uses of varying intensities or environmental sensitivities.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To encourage innovative and sustainable tourist development, sustainable agriculture and the provision of farm produce directly to the public.*

The proposed place of public worship is contrary to the first two objectives of the zone as it does not protect the land and its environmental sensitivities. The development and the use results in an unsatisfactory transition between rural residential development and results in conflict between land uses. There are other zones that are considered more appropriate for this building that would address the scale, intensity and visual dominance of this proposal. It has not been designed having regard to and will unacceptably impact on surrounding land uses, the natural environment and the rural character of the surrounding area. The proposal has failed to satisfactorily address biodiversity impacts with the required tree removal for bushfire requirements, management of waste water, and acoustic impacts for early morning prayer services.

The proposal is considered unsatisfactory in regard to the provisions of LEP 2012.

b. Draft Planning Proposal

On 24 October 2017 a Notice of Motion was considered at Council's Ordinary Meeting. The Notice of Motion sought to add two additional objectives to the RU6 Transition zone, remove cemeteries and places of public worship from permitted uses in the RU6 Transition zone and to add site coverage requirements into the RU6 Transition zone. At the Ordinary Meeting Council resolved as follows:

1. *Include two additional local objectives within the RU6 Transition zone of The Hills Local Environmental Plan 2012:*
 - *To maintain the rural and scenic character of the land*
 - *To provide for a range of land uses compatible with the rural residential character*
2. *Remove the following land uses as permitted within the RU6 Transition zone of The Hills Local Environmental Plan 2012:*
 - *Cemeteries*
 - *Places of public worship*
3. *Introduce a local clause to reflect the DCP site coverage controls into our Local Environmental Plan.*

Following feedback from the Department, on 13 February 2018 Council resolved to forward a revised planning proposal to the Department of Planning and Environment that removed the prohibition of cemeteries in the RU6 Transition zone. This was requested to allow the

Greater Sydney Commission to undertake its strategic investigation into the provision of cemeteries to address the needs for Greater Sydney. The revised planning proposal was submitted to the Department on 21 February 2018 with a request for Gateway Determination.

On 16 April 2018 a letter was signed and sent by the Mayor to The Hon. Anthony Roberts Minister for Planning requesting that the Gateway Determination be issued urgently to allow Council to proceed to public exhibition and continue to manage local issues. This letter outlined the objectives of the proposal and raised concerns that the Gateway approval is taking a long period of time.

On 11 May 2018 a letter was received from the Department which requested additional information to support the Planning Proposal. The Department advised in part as follows:

Before the Department can finalise its assessment of the planning proposal further information is required on:

- *why the proposed objectives are suitable for the RU6 zone given that the RU6 zone is to provide a transition between suburban areas and rural and scenic areas of the Shire;*
- *how the proposal may impact on the current and future needs of the community for places of public worship;*
- *why site coverage controls currently located in Council's Development Control Plan (DCP) should be duplicated into the LEP but this LEP control would apply only to the RU6 zone and not other zones where the DCP provisions apply; and*
- *why places of public worship should be prohibited in the RU6 zone, while they remain permissible in adjoining zones and while other uses in the RU6 zone that would have comparable impacts to places of public workshop should not also be prohibited in the zone.*

Consistent with the Government's practice the proposal will need to include saving provisions so that the new local plan would not be applied retrospectively to development applications already lodged with Council.

On 29 May 2018 a letter was sent to the Department addressing the matters raised above and on 31 May 2018, a further letter was sent to the Department advising that the Planning Proposal had been amended and now includes site coverage controls for the RU1, RU2 and RU6 zones, consistent with the application of such controls currently in The Hills Development Control Plan 2012.

On 27 July 2018 a letter was sent to the Secretary of the Department requesting a Gateway Determination be issued urgently to allow Council to proceed to public exhibition. On 29 August 2018 correspondence was received from the Department that indicated that a Gateway determination will be issued within the next four weeks.

In NSW, all Council's must prepare Local Environmental Plans consistent with the Standard Instrument – Principal Local Environmental Plan. The only mandated use in the RU6 Transition zone is dwelling houses and a decision needs to be made in relation to permissible uses. The place of public worship land use is not mandated and is a legacy use translated from Council's previous LEP. Recently, Council has become concerned about the size, scale and intensity of places of public worship and that they no longer reflect the desired character and zone objectives.

3. Compliance with The Hills Development Control Plan 2012

The proposal has been against the following provisions of The Hills Development Control Plan 2012 with variations identified in the table proceeding:

- Part B Section 1 – Rural;
- Part C Section 1 – Parking;
- Part C Section 3 – Landscaping;

DEVELOPMENT CONTROL	DCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
Part B Section 1 – Rural			
Site Cover	Between 2 - 10 ha: 15% or 2500m ² (<i>whichever is the lesser</i>)	4,516m ²	No, refer below.
Cut and Fill	Maximum cut shall not exceed: 1 metre Maximum fill shall not exceed: 600mm.	Car park - maximum 5.22m fill proposed. Building - maximum 1.19m fill proposed.	No, refer below.
Wastewater and effluent disposal areas.	To be located a minimum of 6 metres from native vegetation.	To be located in native bushland.	No, refer below.
Waste Management	Development shall comply with the objectives and controls of Clause 2.22 Waste Management – Storage and Facilities in Part B Section 6 - Business of this DCP	Proposal has failed to provide adequate waste management.	No, refer below.
Landscaping screening to boundaries	Dense landscape screening with a minimum depth of 3 metres must be incorporated into side and rear setbacks to effectively screen the development from adjoining property boundaries.	The landscaping provides 2 metre landscaping to boundaries. No plant schedule provided therefore unable to determine the density of screening.	No, refer below.
Acoustic/noise impacts	Proposals must demonstrate they will not give rise to offensive noise as defined in the Protection of the Environment Operations Act and shall comply with the NSW Industrial Noise Policy.	The applicant has not provided sufficient information to demonstrate the proposal will not give rise to offensive noise, with particular concern during early morning services.	No, refer below.
Hours of Operation	Proponents must provide detailed information with respect to the proposed hours of operation. This should include every day activities as well as the frequency of special events including any proposed bell ringing and	Applicant has advised a maximum of 250 patrons for Friday prayer, however has not provided details in regards to special events.	No, refer below.

DEVELOPMENT CONTROL	DCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
	maximum number of people attending these events.		
Part C Section 1 – Parking			
Number of Parking Spaces	No Requirement. It is noted that the DCP specifies in Table 1 that the number of required parking spaces that must be provided in respect of a place of public worship is “1 space per 5 seats”. There is no specification in the DCP of the number of car parking spaces that are required to be provided for a place of worship that does not contain seats.	53 car paces and two mini-bus spaces.	No, refer below.
Accessible path	A continuous, accessible path of travel in accordance with AS 1428.1 shall be provided between each parking space and an accessible entrance to the building or to a wheelchair accessible lift.	The proposal has failed to demonstrate a continued accessible path compliant with Australian Standards.	No, refer below.
Set down area	Set down areas should be level with a gradient less than 1:40, have adequate circulation space and be located away from traffic flow. Adjacent kerb ramps should be provided to allow access to a footpath, building entrance or a wheelchair accessible lift	The proposal has not nominated on the plans an adequate setback area located away from traffic flow.	No, refer below.
Lighting and Ventilation	Where car parks might be utilised in the evening, adequate artificial lighting should be provided for the whole car park area. Any lighting must not cause a detrimental impact on the amenity of adjoining properties and shall comply with AS	The outdoor car park is required to provide artificial lighting, however, the proposal has failed to provide lighting/lux details as requested.	No. Lighting details are required to assess the detrimental impact on adjoining properties.

DEVELOPMENT CONTROL	DCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
	4282 – Control of the obtrusive effects of outdoor lighting (Rural DCP).		
Outdoor parking landscaping	Outdoor parking areas are to be provided with two metre wide landscaping strips: <ul style="list-style-type: none"> Between rows served by different aisles. Between spaces at a rate of one in every ten car parking spaces. 	The development fails to provide landscaping between rows served by different aisles and between every 10 spaces.	No, refer below.
Outdoor parking landscaping	Outdoor parking areas are to be screened by a minimum of two metre wide landscaping strips. Such landscaping is to be of a mature and dense nature and be designed according to Part C Section 3 – Landscaping of this DCP	The outdoor parking area is not screened by a minimum of two metre wide landscaping strip.	No, refer below.
Outdoor parking landscaping	Driveways are to be screened by a minimum of two metre wide landscaping strip on either side.	The driveway is not screened by a minimum of two metre wide landscaping strip on either side.	No, refer below.
Part C Section 3 – Landscaping			
Landscaping Adjacent to Bushland Areas.	On sites directly adjacent to bushland, all dominant species are to be indigenous to the local area as recommended in Appendix A of this Section of the DCP. Accent planting of exotic species may occur using ground covers and shrubs.	Formal landscaping gardens provided – no plant schedule or species provided.	No, refer below.

Part B Section 1 – Rural

The Rural DCP contains the following Statement of Outcomes in relation to places of public worship:

- Community facilities, recreation facilities and places of public worship do not impact on the amenity of surrounding development or character of the rural area.

Comment: The scale and visual impact of the proposed development is not in keeping with the rural residential nature of the area. The colours and finishes result in an imposing

structure out of keeping with the character of the locality. The design, colours and finishes are more akin to an industrial/commercial development. The development and its potential intensity will result in adverse impacts on the amenity of surrounding developments. The applicant has failed to ensure the proposal does not have environmental impact for such matters as acoustic, waste water management, biodiversity and tree removal.

a. Site Coverage

The DCP requires that for lots between 2 and 10 hectares in size, site coverage is limited to 15% of the land area or 2500m², whichever is the lesser. The site has an area of 2.0261 hectares and as such the 2500m² criteria is applicable.

The applicant has indicated that the proposal has a site coverage of 3,179.2m². However, Council staff calculations indicate a site coverage of 4,516m². The additional site coverage is primarily attributed to pathways detailed on the landscape plan.

The applicant has provided the following justification to support the variation:

The proposed development has been significantly scaled back to address concerns relating to site coverage. This has largely been realised by accepting a reduced and enforced maximum number of patrons to that expected for Friday Prayer, which results in a reduction in hard stand car spaces from 116 spaces to 50 spaces.

While this is above 2,500m², the control for site coverage in The Hills DCP states: For lots between 2 and 10 hectares, the maximum site coverage is 15% of the site area; or 2,500m², whichever is the lesser.

Using the minimum applicable 2-hectare site area, 15% of the site is 3,000m². This means at no time can the 'percentage of site area' control be applied, given that 2,500m² is always going to be 'the lesser'.

This appears to be an oversight in Council's control, as the same occurs for sites over 10 hectares.

It means that 2,500m² is the maximum site coverage applicable for a site from 0.5 hectares to 10 hectares. The control as it reads does not allow the flexibility that a percentage control intends to provide. For this reason, the proposed development aims to generally reflect 15% of the Site area.

While there is still a minor variation outstanding (172.9m²), approximately 46% of the site coverage is for at-grade car spaces. The intent of the site coverage control is largely to regulate visual appearance and scale. Given that nearly half the site coverage is at ground level and hidden from the streetscape by the required landscape screening, the proposed scale of development is appropriate for the site and meets the intent of the site coverage control.

The amended design reflects a significant reduction in site coverage and an acceptance of a lower maximum worshipper count at the premises, as noted in the submitted Plan of Management. This will also further reduce any perceived impact with regard to traffic and amenity impacts.

Comment:

The site coverage requirements include all structures, loading, parking and manoeuvring areas and all hard surface and paved areas. Council staff have calculated the site cover as being 4,516m², this includes the building footprint, parking, driveway and paving, which results

in a variation of 2,106m². Even with the pathways shown on the landscape plan excluded from the calculations, the development footprint is still 3,395m².

The relevant outcome of the DCP is:

- *The scale, siting and visual appearance of new development maintains the open rural feel of the landscape and preserves scenic and environmental qualities of the area.*

The proposal includes a large building of approximately 35m x 58 metres and carpark for 53 vehicles. The proposal involves the removal of a large number of trees and it is considered that the siting, scale and visual appearance of the development is not in keeping with existing landscape character of the locality.

As acknowledged by the applicant, a large portion of the site coverage is attributed to the carpark. The carpark has been reduced from 116 spaces to 53 spaces however the building has remained the same size. Furthermore, the carpark requires 5.22m of filling which will result in a visually dominant platform that is not site responsive. The original proposal had a site coverage of 5,223m² based on the building footprint and carpark only. As outlined in this report it is considered that the use of the site will exceed the patron numbers proposed and the parking proposed will not be able to cater for the anticipated use. This will lead to a development that not only exceeds the site coverage but also leads to off-site impacts based on scale and visual appearance.

The site coverage control seeks to address the potential visual and operational impacts a development may have on adjoining properties and the locality. It is also intended to limit built form, size and scale to ensure uses are more compatible with the intensity of rural character and rural amenity. Consideration of the size, scale, bulk, design, and materials of the proposed building is required to ensure that development is compatible with the character of the locality. The proposed non-compliance in site coverage is considered to be unsatisfactory.

b. Cut and Fill

The DCP requires that developments in the rural area shall not exceed 1 metres of cut and fill shall not exceed 600mm. The proposal seeks approval for the construction of car park which has fill of 5.22 metres, which is a variation of 4.62 metres. The proposed building requires cut of 1.19m, a minor variation of 0.19m.

The applicant has not provided a justification for the level of fill proposed, however the Statement of Environmental Effects stated that *“any earthworks will be minor and mainly relate to the provision of parking and services on the allotment and levelling of the site.”*

Comment:

The proposal level and amount of fill is considered to be significant, and inappropriate for the rural area, and a retaining wall of over 4 metres (as well as any safety railings) along the eastern side boundary is an undesirable outcome. No elevations or sections have been provided for the parking area to fully ascertain the visual impact of the fill.

c. Waste Water and Effluent Disposal Area

The DCP requires that waste water and effluent disposal areas be located a minimum of 6 metres from native vegetation.

Comment:

The applicant has proposed the waste water system to be located within the native bushland at the rear of the site which is contrary to the DCP requirements. The resultant impact on this ecological community has not been identified and has not been addressed by the proponent. The current report is insufficient and requires a complete waste water assessment including:

- the identification of cleared land for the disposal of effluent,
- the assessment of the soil type and depth of soil in the cleared area,
- a site plan showing adequate area away from bushland that is to be retained or that there will be the required process to seek approval to remove the bushland,
- provision of the required buffer distance to intermittent waterways of 40 metres,
- consideration of the Local Approvals Policy Appendix 2 Installation of a Sewage Management Facility.

The applicant was previously requested to provide a report, prepared by an appropriate qualified person, on the treatment, management and disposal of waste water in accordance with Council's Local Approvals Policy, Appendix 2 Installation of a Sewage Management Facility.

d. Waste Management

The DCP requires that the development comply with the objectives and controls of Clause 2.22 Waste Management – Storage and Facilities in Part B Section 6 - Business of this DCP.

Comment:

The proposal has failed to adequately manage waste generated by the proposal. Specifically, the applicant is to provide written evidence that service to the site with a Medium Rigid Vehicle including the proposed bin type (1.5m³) can be provided.

It was previously requested that amended plans must be submitted showing a bin room layout plan. The bin room layout plan must show the proposed number of bins (to scale) as detailed in the waste management plan.

e. Landscape Screening to Boundaries

The DCP requires that places of public worship provide dense landscape screening with a minimum depth of 3 metres which are to be incorporated into side and rear setbacks to effectively screen the development from adjoining property boundaries.

Comment:

The proposal provides only 2 metres of landscaping along the eastern side boundary and along the Larapinta Place frontage. The applicant has not provided a planting schedule (as requested) nominated the species with the landscape plan, therefore the species, the size, densities, etc. is unknown.

f. Acoustic / Noise Impacts

The DCP requires that the proposals must demonstrate they will not give rise to offensive noise as defined in the Protection of the Environment Operations Act and shall comply with the NSW Industrial Noise Policy.

Comment: The applicant has not provided sufficient information to demonstrate the proposal will not give rise to offensive noise, as defined in the Protection of the Environment Operations Act and shall comply with the NSW Industrial Noise Policy.

The potential noise from the development prior to 7am should be reassessed based on a realistic number of car movements for 25 people which is the maximum number of attendees as stated in the Statement of Environmental Effects with the cars entering the site between 5am and 5:30am and leaving between 6:30am and 7am.

g. Hours of Operation and Attendance

The DCP requires the applicant to provide detailed information with respect to the proposed hours of operation. This should include every day activities as well as the frequency of special events including any proposed bell ringing and maximum number of people attending these events.

It is noted that the amended proposal resulted in the reduction of the number of maximum worshippers and reduction in parking parking, however the scale and size of the place of worship has remained the same. The Plan of Management provides the following details with respect to hours of operation:

The hours of operation of the site is between 5:00am and 10:00pm. The premises, including the car park will not be used or accessible outside of these hours.

Prayer and Religious Services

Daily prayer service takes place within the following time periods and is not to exceed 30 minutes:

Time	Maximum Worshippers
5am – 6am	25
12pm – 1:45pm	45
3pm – 5:30pm	45
Sunset	50
7pm – 9:45pm	50
Friday 12:30pm – 2pm	250

Ramadan

Special evening prayer services during the month of Ramadan are expected to operate between 7pm and 9:30pm. All prayer services are to be undertaken solely within the prayer hall.

Special Services

A total of 3 x special even prayer services per year will occur at the following times:

- 2 x occurring between 7:00am to 9:00am
- 1 x occurring on a Friday between 12:00pm and 2:00pm

Comment:

The applicant has not included details of marriage ceremonies or funerals to occur at the place of worship. These special events may not attract the usual patrons of the place of worship, therefore the maximum patron numbers are unknown.

Furthermore, concern is raised in regards to maximum patrons given the original approval sought 400 patrons, and the amended details state 250 patrons however the size of the structure has remained the same. Population calculations in regards to Building Code of Australia based on floor area square metre per person rate indicates that the two storey place of worship can have a maximum overall capacity of 1900 persons at one time. The main

prayer hall alone with an area of approximately 620m² would allow 620 persons based on the BCA rate of 1 per 1m² for a church. This is well over the 250 maximum patrons identified by the applicant.

h. Number of Parking Spaces

The DCP requires that the number of required parking spaces that must be provided in respect of a place of public worship is 1 space per 5 seats. There is no specification in the DCP of the number of car parking spaces that are required to be provided for a place of worship that does not contain seats. The relevant objective of the DCP is:

- *To provide sufficient parking that is convenient for the use of residents, employees and visitors of the development.*

It is considered that the place of public worship is likely to have adverse impacts in terms of traffic generation and car parking on the local network and the amenity of the locality as the use of the premises would produce a higher demand for parking that could be expected for a 250 seat place of worship.

Council's Wrights Road Community Building is currently leased and used for Islamic prayer during the Friday Jummah prayer time. Council staff have observed the use of the facility on a number of occasions during the prayer time.

There are 126 legal car parking spaces within the Wrights Road community centre car park. During observations it was noted that the majority of these spaces were full resulting in some attendees parking illegally within the community centre car park and others parking within the nearby shopping centre car park and on surrounding roads. It was observed that cars generally contained 1 or 2 persons in each vehicle.

Based on these observations, the provision of 53 car parking spaces is considered to not be sufficient to meet the demands on the proposed development. There is potential for attendees to park on public streets once the on site car park has reached capacity. This will have adverse impacts on the amenity of adjoining residents in terms of safety and potential acoustic impacts based on traffic movements particularly based on the proposed hours of operation.

There are no footpaths on Larapinta Place or Glenhaven Road in the vicinity of the site and therefore pedestrians may be at risk if attendees are forced to park on these roads.

The above suggests that the proposed car parking provision is inadequate for the scale of development proposed and the proposed site 'population' of 250 worshippers is an overdevelopment of the site. A larger car park will have even greater impacts on the native vegetation area, particularly in terms of tree removal and bulk earthworks and potentially greater acoustic impacts.

Based on the above, it is considered that the car parking provision is not suitable for the scale and intensity of development proposed and that the impacts of the proposed development in terms of the adequacy of the car parking and traffic generation (and associated acoustic impacts) are likely to be so significant that the amenity of residents will be adversely affected.

i. Assessment of Remainder of Variations to the DCP

The remainder of the variations identified in the table above in relation to Part C Section 1 – Parking and Part C Section 3 – Landscaping cannot be supported given they result in unsatisfactory development in conjunction with the non-compliances with the control in Part C Section B Section 1 – Rural outlined above.

4. Size and Occupant Capacity

The Development Application as originally submitted sought consent for 400 people and a carpark for 116 vehicles. The building, which has not been reduced in size, has the potential to accommodate 1900 people when having regard to the Building Code of Australia.

The plan of management submitted in support of the application lacks detail and is insufficient for the scale of the use proposed. It is considered that the size of the building is excessive for the maximum number of attendees proposed and this suggests the probability of a greater number of attendees. No explanation was provided for the reduction in the maximum number of worshippers (400 to 250).

Should the development be approved in its current form there is no practical means for Council to control numbers of people attending the site and consequential impacts including noise and off street carparking. This will lead to significant amenity impacts, particularly given the anticipated shortfall of appropriate parking on the site for use by patrons.

A number of cases in the Land and Environment Court have considered this issue as outlined below.

In the case of *Nasser Hussein v Georges River Council* [2016] NSWLEC 1548, the Applicant advised that the maximum worshipper numbers would be limited to 76 in circumstances where the floor area of the building was capable of accommodating a larger number. The Council argued that it would be difficult to restrict attendance to 76 persons. The Court said at paragraph 114:

"The mosque design doesn't necessarily restrict worshipper capacity so I accept there is potential for more worshippers to be accommodated than proposed which will require enforcement by Council – even Mr Clay conceded no-one is likely to count for most of the prayer times and the Imam can't see how many are in the women's prayer room."

In the case of *Newcastle Muslim Association v Newcastle City Council* [2012] NSWLEC 1056 the Applicant indicated that the attendance at a place of worship would be capped at 250 persons and included provisions in a plan of management that sought to limit the attendance to that number. The Court did not consider that the provisions in the plan of management would be able to control the number of persons attempting to attend the site. The Court said:

"It is apparent, from the evidence provided that without limiting attendances at the site to 250 persons there will be a traffic conflict, that is agreed between the experts. The POM is intended to address this cap however, it cannot control the number of persons attempting to attend the site. I accept the evidence that persons could see signage placed ahead of the entrance advising them the site is full and they would proceed away from the site having met their religious obligation however, there is no quantitative or qualitative information that would indicate the impact of those additional vehicles on the road network as Mr Hendicott advises all modelling has been conducted on the basis of 250 persons maximum..."

"Whilst I accept that POMs can successfully be applied to manage a range of issues, I am not satisfied on the evidence before me, that the potential impacts of the application, particularly those that relate to traffic attending the site can be controlled to ensure there will be no adverse impacts, particularly in regard to road safety along Croudace Road. The POM cannot control how many people attempt to enter the site, it can only restrict the number of persons who can access the site."

In the case of *Prajna Monastery Australia Incorporated v Georges River Council* [2018] NSWLEC 1258, the Council contended that there were no adequate measures in place to ensure that the number of attendees would be as stated. The Council's expert in that case

suggested that a more appropriate means of ensuring the capacity of the worship hall was limited was to reduce its size so that internally and structurally, the use was limited to the proposed attendee numbers. Alternatively, it was argued that the impacts in terms of acoustics and parking needed to be assessed based on the actual capacity of the building. At paragraphs 75 and 80 of the judgment Acting Commissioner Morris said:

“There are no means of addressing breaches or ensuring the noise of persons on site is minimised. The acoustic experts agree that noise from persons moving between buildings becomes an issue if it takes over two minutes. I also accept Ms Warton’s evidence that the proposed hall is capable of accommodating more than 52 persons. This is supported by the photographs included in the draft POM. That fact has implications for ongoing monitoring of the site to ensure attendance limits are not exceeded. I have not been persuaded that the source of any breach could be readily identified which is contrary to the test in Renaldo at 3....

...

Because of my findings in relation to the POM, the fact that the hall can cater for more persons than proposed and therefore requires stringent management measures and monitoring, I am not satisfied that the objectives of the zone are met or that the site is suitable for the proposed development.”

It is considered that where it has not been demonstrated that the number of attendees can be limited to the number proposed by the Applicant, it is legitimate to have regard to the capacity of the proposed building in terms assessing the car parking demand and other amenity impacts such as noise generation.

5. SEPP 55 Remediation of Land

Clause 7 (Contamination and remediation to be considered in determining development application) of SEPP 55 – Remediation of Land states:

(1) A consent authority must not consent to the carrying out of any development on land unless:

(a) it has considered whether the land is contaminated, and

(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and

(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

A Contamination Assessment prepared by MEtech Consulting, dated 11 April 2018 accompanies the Development Application. The report concludes that the site is suitable for the proposed development and land use setting, subject to the management of a stockpile identified on the site as containing a mixture of soil and various anthropogenic materials.

The proposal is considered satisfactory in regard to the requirements of SEPP 55.

6. Rural Fire Service Comments

The proposal was referred to Rural Fire Service (RFS) as the proposal is defined as a ‘special fire protection purpose’. The RFS have issued a Bush Fire Safety Authority under Section 100B of the Rural Fire Act 1997 subject to the imposition of a condition relating to asset protection zones, water and utilities, access, evacuation and emergency management, design and construction and landscaping.

The RFS require that for a distance of 85 metres to the north, the area from the building be managed as IPA (inner protection area), and that in all other directions (south, east and west) of the building the area be managed as IPA to the property boundaries.

The IPA to the north has the most significant environment impact as this encroaches in the native bushland within the northern portion of the site. The applicant has failed to provide details of tree removal required to comply with APZ requirements (as well as the impact on Biodiversity – refer to Ecology Comments below).

The IPA (inner protection area), to the south, east and west of the building will negate the opportunity to provide screen landscaping, in which case the impacts on the adjoining owners and the streetscape will be significant and adverse.

7. Central City District Plan

A Metropolis of Three Cities – the Greater Sydney Region Plan

The Central City District Plan contained 'Directions for Sustainability' which include:

- A City In Its Landscape - Planning Priority C15 – Protecting and enhancing bushland, biodiversity and scenic and cultural landscapes; and
- A City In Its Landscape - Planning Priority C18 – Better managing rural areas.

The plan seeks to ensure that biodiversity is protected and urban bushland and remnant vegetation is enhanced. The Biodiversity Conservation Act 2016 provides a framework and tools to avoid, minimise and offset impacts on biodiversity. The applicant has failed to address the biodiversity impacts as a result of the development and the impact of the removal of the native bushland located at the rear of the site in accordance with the Biodiversity Conservation Act 2016.

The map within the Central City District Plan has identified the site as being located within the 'Metropolitan Rural Area'. The Plan seeks to better manage rural areas by ensuring environmental, social and economic values are protected and enhanced. The proposal fails to consider and address the environmental impact of the development on the land in regards to tree removal, asset protection zone locations, and waste water management and the biodiversity impacts.

Given the biodiversity impacts, and impacts on the rural land, the proposal is considered unsatisfactory in regard to the Central City District Plan.

8. Insufficient Information

Clause 50 of the NSW Environmental Planning and Assessment Regulations 2000 requires an applicant to provide all the necessary and requested information to allow for a proper assessment of the application. As detailed below, the following list details the incomplete or insufficient information required:

BASIX certificate

The Development Application includes a dwelling which is proposed to be occupied by an on-site caretaker. The dwelling is a BASIX affected building as defined in the Environmental Planning and Assessment Regulation, 2000 (the Regulation). The Regulation defines a BASIX affected building as follows:

BASIX affected building means any building that contains one or more dwellings, but does not include a hotel or motel.

Pursuant to Clause 2A of Schedule 1 of the Regulation, the application is required to be accompanied by a BASIX certificate for the dwelling. No such certificate has been lodged.

Geotechnical assessment

The proposed development includes fill of over 5m in some areas of the site in order to create the car parking area. In addition, the development relies on on-site treatment of waste water.

According to a letter from Australian Consulting Engineers Pty Ltd dated 9 July 2018, it is proposed to use an on-site aerated waste water treatment system and then dispose of treated effluent within the retained vegetated area at the north of the site. Notwithstanding that no assessment of the impact of the disposal of effluent might have on the trees within this part of the site has been provided, no assessment of the suitability of the soil for the proposed method of waste water treatment and disposal has been undertaken.

Furthermore, a geotechnical assessment of the site is required to confirm that the site is suitable for the significant bulk earthworks required to be undertaken in order to make the site suitable for the development.

Without the benefit of a geotechnical assessment, it is not possible to assess whether the site is suitable for the extent of bulk earthworks proposed or for the proposed method of waste water treatment.

Ecological assessment

The site is mapped on Council's mapping as containing Sandstone Gully Forest and Sandstone Heath. In addition, areas of the northern part of the site are mapped on the Biodiversity Values Map produced by NSW Office of Environment and Heritage (OEH).

Therefore, any development of the site triggers the need for a Biodiversity Development Assessment Report (BDAR) to be submitted. No such report has been provided. The development is also likely to require clearing of more than 0.5ha of native vegetation in which case it will also trigger the Biodiversity Offset Scheme (BOS) provisions of the Biodiversity Conservation Act 2016 (BC Act).

The application includes an email prepared by Cumberland Ecology which merely identifies the vegetation community on the northern part of the site and notes that it *is an intact native plant community type in moderate condition and may support threatened flora and/or fauna species listed under the BC Act and/or EPBC Act.*

The application did not include an ecological assessment to confirm whether in fact the site does support any threatened flora and/or fauna species, nor did it include a BDAR and BOS assessment, both of which are required under the BC Act.

Therefore insufficient information has been lodged to assess the potential impacts the development (and other associated works including clearing for asset protection zones (APZs) for bushfire protection, tree removal associated with the building works, stormwater disposal across the retained native vegetation area, bulk earthworks, retaining structures and waste water disposal) might have on the retained native vegetation.

Erosion and sediment control plan

There is an ephemeral watercourse on the site as well as native vegetation which is described by Cumberland Ecology as being intact Hornsby Enriched Sandstone Exposed Woodland of moderate condition.

Although Drawing No. 1006 prepared by IDraft is identified as being the Sedimentation Control Plan, the plan does not include any details as to how areas downslope of the development site will be protected during the demolition and construction phases of the development.

Therefore, sufficient information has not been provided to be satisfied that the development will not have adverse impacts on the retained native vegetation and water courses.

Insufficient detail on architectural and landscape plans

The arborist assessment has identified trees which are required to be retained and trees suitable for removal. The site plan (Drawing No. 1001) is an overlay of the survey plan and identifies all trees on the northern part of the site, suggesting that all trees are to be retained. The landscape plan however does not include trees which are identified in the arborist report as trees to be retained. This plan indicates that many of the trees identified as to be retained are also proposed to be removed.

Furthermore, the landscape plan does not include any details of the species of trees or plants proposed to be provided or whether the proposed landscaping has had regard to the RFS General Terms of Approval which require the maintenance of the areas around the building to the east, south and west as an inner protection area (IPA). The requirement to maintain these areas as IPAs might result in less planting than the planting proposed on the landscape plan in which case the potential screening that the proposed landscaping might have provided will not eventuate.

The architectural plans lack sufficient detail to confirm whether the building does in fact comply with the 10m building height limit. Specifically, at least one long section through the building with the existing ground level included and a roof plan (with RLs) is required in order to confirm compliance. Given the disparity in site coverage calculations, a site coverage plan should also have been provided.

Given the lack of detail on the plans (and inconsistency of the plans) submitted with the DA, Council staff cannot be satisfied that the development will comply with statutory development standards and DCP development controls or be satisfied that the development has been designed to have regard to the site constraints.

Stormwater management

The stormwater management plans lack sufficient detail to enable a thorough assessment as to the potential impacts the proposed method of stormwater disposal might have on the retained native vegetation or whether the development might in fact involve works within 40m of a water course and therefore trigger the integrated development provisions of the Environmental Planning and Assessment Act 1979.

Waste water

The information provided regarding waste water treatment and disposal was inadequate and not in accordance with Council's adopted Local Approvals Policy.

The report does not provide a site plan for the disposal area but states that the disposal area will be in the portion of the site containing native vegetation. No information has been provided on the soil type and depth and there has been no consideration given to the required buffer distances to intermittent waterways.

It is inappropriate to dispose of effluent to native bush land. The high level of nutrients in the effluent will kill many native plants and promote the growth of weeds and exotic plants. Disposing waste water to areas of shade under trees will reduce the level of transpiration of the waste water.

From aerial photographs and photographs of the site, the site appears to have significant rock outcrops and so soil depth will most likely be an inhibiting factor for the disposal of waste water on the site. Should there be shallow soils above rock the irrigated effluent would move in the subsoil along the underlying rock towards the local waterway.

Acoustics

The additional information provided in regards to acoustics did not adequately address the previously raised concerns.

Early morning prayers start at 5:30am with people arriving on site from 5am. The acoustic report has calculated only 3 cars entering the property at this time. The Statement of Environmental Effects (SEE) predicts the average number of people as being 15 and the SEE states the maximum number of people as being 25. Therefore there will be significantly more cars than the 3 used for the noise calculations. The assessment has also failed to consider potential sleep arousal noise such as the sound many cars make when being locked or unlocked, car doors or boot lids being slammed shut, the potential sound of car sound systems and voices in the carpark. The provided information has failed to provide an accurate assessment of the impact of the early morning noise from traffic and carpark.

It is noted that the carpark has been reduced from 116 down to 53. This assists with a reduced noise load but the car park is considered undersized for the expected patronage. Congestion in the car park as cars enter, move to find or wait for a space or leave and park on the street will add to the noise level and this has not been adequately investigated.

Calculations of the noise level imposed on the closest neighbouring residence for a worst case situation, being the maximum occupancy of the car park has not been provided.

The acoustic report recommended the provision of a two metre high acoustic barrier along the eastern boundary. The additional information provided on acoustics stated that the barrier was not required but no justification or calculations were provided.

The submitted acoustic information has not adequately demonstrated that there will not be an impact on the neighbouring residents during what is still considered night being early in the morning, between 5am and 7am. For this reason the application is not supported.

Accessibility Assessment

An assessment from an access consultant has not been submitted to confirm compliance with the Disability Discrimination Act 1992 and relevant Australian Standards.

Details relating to retaining of fill

As noted above, the development requires significant bulk earthworks, including in excess of 5m of fill, to be undertaken. The DA does not include any details in relation to the method of retaining the fill and therefore the potential impacts of this work cannot be assessed.

9. Issues Raised in Submissions

The Development Application was notified to 29 adjoining and surrounding property owners for 21 days. To date, a total of 1068 submissions have been received, with 40 of those submissions being in favour of the proposal. The submissions have been summarised below:

ISSUE/OBJECTION	COMMENT	OUTCOME
The development is not in keeping with the low scale rural-residential nature of the area, and the 10 metre structure will have an	The scale and visual impact of the proposed development is not in keeping with the rural residential nature of the area. The colours	Reason for refusal.

ISSUE/OBJECTION	COMMENT	OUTCOME
adverse impact on the streetscape.	and finishes result in a commercial/industrial style building and are not appropriate for the locality.	
A place of worship of this size is better suited to an area zoned business or industrial, similar to where Hillsong Church is.	The proposal is a permissible land use in the RU6 zone, however, the proposal fails to be consistent with the objectives of the rural zone.	Reason for refusal.
The 24-hour nature of the development is not appropriate for the rural-residential area.	The proposal does not seek approval for a 24 hours operation. It is noted that a care taker will reside on site, however worshippers are restricted from 5:00am to 10:00pm under the proposal.	Issue addressed.
The nature of the development will result in large amounts of worshippers congregating for significant number of consecutive days which will have adverse impacts on the local amenity.	Concern is raised in regards to the potential number of worshippers attending the site and the amenity impacts on neighbouring residents.	Reason for refusal.
The development contravenes the objectives of the RU6 zone.	Refer to comments above.	Reason for refusal.
The proposal will result in adverse noise impacts.	The applicant has not provided sufficient information to demonstrate the proposal will not give rise to offence noise, with particular concern during early morning services.	Reason for refusal.
The site does not have access to sewer, and appropriate waste water management is a concern as well as a failure if an on-site system was built.	The proposal fails to provide details of a waste water management system that complies with Council requirements. The system proposed is to be located in native bushland which is contrary to the DCP controls.	Reason for refusal.
There is no traffic management at the corner of Glenhaven Road and Larapinta Place, and it will be dangerous for the additional traffic turning in/out of the intersection.	An analysis of the sight distance requirements at the intersection of Larapinta Place and Glenhaven Road has been carried out and established that the available sight distance exceeds the minimum Safe Intersection Sight Distance (SISD) required under the Austroad's Guidelines.	Issue addressed.
Glenhaven Road cannot cope with any more traffic, as there is	The proposal generally operates outside of peak traffic times,	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
significant volume during peak times.	nevertheless, Council's Council's Principal Coordinator – Traffic & Road Management Traffic has indicated during the morning and afternoon traffic peak the intersection of Larapinta Place and Glenhaven Road will continue to operate at an acceptable level of service. Refer to full comments below.	
The parking provided is inadequate for the type of development. It is likely (on Friday afternoons) that one individual will be in the car only, as they will be coming from/to work (and not arriving as a family).	It is considered that the car parking provision is not suitable for the scale and intensity of development proposed and that the impacts of the proposed development in terms of the adequacy of the car parking and traffic generation are likely to be significant that the amenity of residents will be adversely affected.	Reason for refusal.
The cars will park along Glenhaven Road and Larapinta Place which will be dangerous.	This is considered to be a valid concern no on-site overflow parking has been identified on site. Furthermore, the environmental and level constraints at the rear of the site do not allow for over-flow parking.	Reason for refusal.
Given the location it is unlikely that the worshippers will utilise public transport, therefore will need to rely on private transport.	The site is serviced by public transport, however it is considered to be infrequent and unlikely to be utilised by patrons of the place of worship.	Issue addressed.
The extra traffic generated by this development will result in additional noise, air and light pollution.	The proposal will result in an increase in noise, air and light pollution in the area.	Reason for refusal.
The traffic generated from this development will have adverse impact on the amenity of the residents in the local area.	It is noted that the proposal will result in an increase in traffic in the local area.	Reason for refusal.
Pedestrian safety is a concern as there are no footpaths along Glenhaven Road and Larapinta Place. There has already been one fatality on Glenhaven Road.	It is unlikely that patrons will be arriving by foot to the site, however concern is raised as overflow parking has not been provided, patrons will park on the street. Refer to comments above.	Reason for refusal.
The development has not considered the impact on flora and	The applicant has not addressed the biodiversity impacts of the	Reason for refusal.

ISSUE/OBJECTION	COMMENT	OUTCOME
fauna or satisfactorily addressed the requirements of the Biodiversity Act.	development.	
The proposal has failed to detail the tree removal and the ecological impact the development will have.	Refer to comment above.	Reason for refusal.
The facility appears to be an over development for a small number of daily number of worshippers.	The size and occupancy capacity of the proposed development is excessive for the maximum number of patrons stated by the applicant and will lead to a much greater number of patrons and consequent impacts.	Reason for refusal.
The development fails to provide details on amplified noise/sound system for the call to prayer early in the morning.	The applicant has stated that amplified noise/sounds systems will not be used. Nevertheless, the applicant has not provided sufficient information to demonstrate the proposal will not give rise to offence noise, with particular concern during early morning services.	Reason for refusal.
The ABS figures show that the Muslim population in the area do not indicate any requirement for a development of this size.	This is not considered to be a planning consideration.	Issue addressed.
A development of this nature is not in keeping with the cultural environment of the area.	Places of Public worship are a permissible land use within the RU6 zone. The religious or cultural values of the proponent are not considered to be a planning consideration.	Issue addressed.
If approved, this development will likely increase as the applicant has indicated that they need it to cater for growth.	The application is considered on its merits however concern is raised regarding the size of the facility and patron capacity.	Reason for refusal.
Concern is raised that the development is not only a place of worship, but a teaching centre (questions raised as to why so many classrooms are need when only 10-15 people visit daily?).	The applicant has not indicated that this place of worship will be used for general teaching purposes, other than for religious studies associated with the place of worship.	Issue addressed.
Concern is raised in regards to the stormwater run-off from the development.	Council's Senior Subdivision Engineer has reviewed the stormwater plans and raises no issue with the proposed stormwater management of the site.	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
There is a significant risk if an evacuation was required due to a bushfire (parking, traffic, etc).	The NSW Rural Fire Service have issued a Bush Fire Safety Authority under Section 100B of the Rural Fire Act 1997 subject to the imposition of a condition relating to asset protection zones, water and utilities, access, evacuation and emergency management, design and construction and landscaping.	Issue addressed.
Concern is raised in regards to the extent of fill proposed, and visual impacts of the retaining wall required for the car parking.	The matter is a concern and has been addressed in the report. The level of fill and use of significant retaining walls is unsatisfactory in this instance.	Reason for refusal.

Issues Raised in Support

Forty submissions were received in support of the Development Application. These submissions primarily related to the support of a permanent place of worship for the local Muslim community. The submissions also indicate that the proposal is unlikely to impact existing residents.

BUILDING COMMENTS

Council's Fire Safety Officer has reviewed the plans to determine if there is sufficient egress width for the population proposed, and has advised that based on the population proposed and plans provided, egress widths are sufficient for the premises.

In regard to the capacity of the development, based on the stair widths available on the first floor, (3 stairs adding up to 4.8m, free of obstructions) the maximum number of persons capable of being accommodated on the first floor is 500.

Based on the exit widths on the ground floor (this being 12 x 750 mm doorways which would allow an aggregate width of 10.2m, less 250mm for each doorway) the maximum capacity is 1400 persons.

In regards to the maximum overall capacity, there is the potential, with the split in upper and lower populations, the building could safely accommodate 1900 persons at one time.

SUBDIVISION ENGINEERING COMMENTS

The Development Application was reviewed by Council's Senior Subdivision Engineer and has raised no issues were raised in respect to engineering matters.

TRAFFIC MANAGEMENT COMMENTS

Council's Principal Coordinator – Traffic & Road Management has review the Development Application and has provided the following comment:

i) Existing Traffic Environment

This application proposes to demolish an existing residence and construct a place of worship to accommodate a maximum of 250 people with 53 off street parking spaces. The property is

located on the corner of Glenhaven Road and Larapinta Place, Glenhaven and a traffic report, prepared by Stanbury Traffic Planning has been submitted in support of the application.

Being a corner property the proposed site has two road frontages, the main frontal façade for pedestrian access is to Glenhaven Road, with the main vehicular access being provided off Larapinta Place.

Larapinta Place is a 300m long 6.0m wide local access street built to a rural road standard servicing 7 residences.

Glenhaven Road is classified as a sub-arterial road linking Green Road at its western end and the State Arterial of Old Northern Road at its eastern extremity. It typically sustains around 15,000 daily vehicle movements with the western section between Green Road and Holland Road primarily being constructed to a two lane rural standard with one 3.0m wide travelling lane in each direction and two 2.0m wide sealed shoulders. The section between Holland Road and Evans Road is however constructed to an urban sub-arterial standard with kerb and gutter on both sides and a carriageway width of 12.5m. It is signposted at a 60km/h speed limit with a 40km/h school speed zone fronting Glenhaven Public School.

ii) Proposed Development - Traffic Generation

The traffic consultant's report stipulates that maximum normal weekly patronage of 250 people occurs during at Friday midday prayer services between 12:00 midday and 2:00pm. There are also three special event services such as Easter Friday midday Prayer Service and Eid Morning Prayer Service where the maximum number of attendees increases to 400.

There are no specific traffic generation rates for places of worship stipulated in the RMS Guide to Traffic Generating developments. The traffic consultant has relied upon the correlation between traffic generation and the number of parking spaces provided. On this basis in accordance The Hills Shire Council Parking DCP Part C Section 1, for places of public worship, the rate is specified as 1 space per 5 seats or the equivalent of a car occupancy rate of 5 persons per car. Using this logic the proposed 50 off street parking spaces is sufficient to cater for the normal 250 person Friday lunch time peak between 12:00 midday and 2:00pm. The consultant indicates that this type of trip activity also suggests that the peak hour trip generation equates to 50 inbound and 50 outbound or a **total of 100 peak hour trips**

Whilst the above logic is supportable, the car occupancy rate of 5 persons per car for events occurring on Friday's at lunchtime is not. This comment is based on the fact that the majority of attendees would tend to work and have origin trips generated from their place of employment, the car occupancy rate should be reduced significantly to around 2.5 persons per car.

If this rate is applied, the inbound trips would increase to 100 trips requiring 100 parking spaces and the outbound trips increasing to 100 trips for a **total of 200 peak hour trips**.

As the three per year special events such as Eid with 400 people in attendance tend to be a more family based activity, the car occupancy rate could reasonably be increased to 4 people per car also generating 100 inbound and 100 outbound trips for a total of **200 peak hour trips**.

The consultant has also carried out a detailed SIDRA analysis of the intersection of Larapinta Place and Glenhaven Road and understandably given the existing low traffic generation from the side street confirmed that the intersection currently operates, during the AM and PM peak periods, at a very good Level of Service A.

Whilst there has been no additional SIDRA analysis undertaken to confirm operational efficiency under post development conditions, there is commentary provided within the traffic report that indicates during the morning and afternoon traffic peak the intersection of Larapinta

Place and Glenhaven Road will continue to operate at an acceptable level of service based on the traffic generation provided by the Applicant. The levels of service are likely to diminish based on more realistic traffic generation rates. It is also noted that Larapinta Place is a small cul-de-sac servicing 6 other dwellings. The traffic generation in Larapinta Place will be a significant noticeable increase in intensity.

iii) Access and Sight Distance Requirements

An analysis of the sight distance requirements at the intersection of Larapinta Place and Glenhaven Road has also been carried out and established that the available sight distance exceeds the minimum Safe Intersection Sight Distance (SISD) required under the Austroad's Guidelines. Similarly the proposed driveway location off Larapinta Place also exceeds the desirable Safe Intersection Sight Distance (SISD) requirements of AS 2890.1.2004.

iv) Traffic Improvements in the locality

As the majority of peak traffic generation for the proposal principally occurs on Friday's between the hours of 12:00 and 2:00pm, well outside normal AM and PM traffic peak periods, the imposition of conditions requiring the applicant to carry out traffic improvements is difficult to justify, however kerb and gutter would be required that would detract from the rural character of the locality.

Compliance with the recommended lower car occupancy rate of 2.5 person per vehicle during Friday services will however the provision of additional off street parking spaces, the number can be calculated at 100 spaces for attendees and a further 15 spaces for the administration staff equating to a total of 115 off street parking spaces.

ECOLOGY COMMENTS

The Development Application has been reviewed by Council's Senior Environmental Assessment Officer and has provided the following comments:

The application was received outside of the transitional arrangements period under the new Biodiversity Conservation Act 2016, and therefore the Biodiversity Offset Scheme (BOS) must be considered.

The minimum lot size for the site is 2 hectares and therefore clearing of native vegetation >0.5 hectares triggers the new Scheme. The development, in conjunction with the required APZ, will result in clearing of native vegetation that exceeds the threshold. In addition, the site is mapped on the Biodiversity Values Map, and this is also a trigger for the BOS.

The applicant must provide a Biodiversity Development Assessment Report (BDAR) in accordance with the new Biodiversity Conservation Act 2016, as the Biodiversity Offset Scheme (BOS) is triggered on both an area threshold and mapping of Biodiversity Values. If this is disputed this must be documented in a report. The applicant also needs to include an assessment of significance in relation to threatened biodiversity to determine whether or not the BOS is triggered as a result of a significant impact.

TREE MANAGEMENT COMMENTS

Councils' Landscape Assessment Officer has review the submitted amended plans, landscape plan and arborist report and has deemed them unsatisfactory.

The DCP requires outdoor parking areas to be provided with two metre wide landscaping strips between rows served by different aisles and every 10 car spaces. This has not been provided. Trees to be provided within these landscape strips. Carparking is to be screened

by minimum two metre wide dense landscaping and 2m wide landscaping strip either side of driveway.

The development is to provide proposed levels to landscape plan to paths and turfed areas especially at the junction with carparking areas and to boundaries.

The existing trees should be retained where possible in accordance with the Arborist report prepared by Abacus Tree Services. The landscape design does not reflect retention of these trees.

No plant schedule has been provided indicating species name, size and quantities.

The development is to provide minimum 3m wide dense landscape screening to side and rear boundaries as required by the DCP. This landscape strip is to include native species from Sandstone Heath and Sandstone Gully Forest species within planting palette for trees, shrubs and groundcovers.

Additional screening to northern and eastern boundaries of the carpark is required as retaining walls associated with the carpark exceed 3 metres in height plus balustrading to the top of the wall.

Front fence must be of open style and not solid masonry or solid panel construction. The design is to be in accordance with DCP requirements and be of an open style rather than solid panels, further fencing detail are required.

It is also noted that the landscape plan and architectural plans are inconsistent in relation to the car parking layout.

HEALTH & ENVIRONMENTAL PROTECTION COMMENTS

The Development Application has been reviewed by Council's Environmental Health Coordinator in regards to acoustic impact and waste water management, and the following comments have been provided:

Waste water

The information provided regarding waste water treatment and disposal was inadequate and not in accordance with Council's adopted Local Approvals Policy.

The report does not provide a site plan for the disposal area but states that the disposal area will be in the portion of the site containing native vegetation. No information has been provided on the soil type and depth and there has been no consideration given to the required buffer distances to intermittent waterways.

It is inappropriate to dispose of effluent to native bush land. The high level of nutrients in the effluent will kill many native plants and promote the growth of weeds and exotic plants. Disposing waste water to areas of shade under trees will reduce the level of transpiration of the waste water.

From aerial photographs and photographs of the site, the site appears to have significant rock outcrops and so soil depth will most likely be an inhibiting factor for the disposal of waste water on the site. Should there be shallow soils above rock the irrigated effluent would move in the subsoil along the underlying rock towards the local waterway.

Acoustics

The additional information provided in regards to acoustics did not adequately address the previously raised concerns.

Early morning prayers start at 5:30am with people arriving on site from 5am. The acoustic report has calculated only 3 cars entering the property at this time. The Statement of Environmental Effects (SEE) predicts the average number of people as being 15 and the SEE states the maximum people as being 25. Therefore there will be significantly more cars than the 3 used for the noise calculations. The assessment has also failed to consider potential sleep arousal noise such as the sound many cars make when being locked or unlocked, car doors or boot lids being slammed shut, the potential sound of car sound systems and voices in the carpark. The provided information has failed to provide an accurate assessment of the impact of the early morning noise from traffic and carpark.

It is noted that the carpark has been reduced from 116 down to 50. This assists with a reduced noise load but the car park is considered undersized for the expected patronage. Congestion in the car park as cars enter, move to find or wait for a space or leave and park on the street will add to the noise level and this has not been adequately investigated.

Calculations of the noise level impose on the closest neighbouring residence for a worst case situation, being the maximum occupancy of the car park has not been provided.

The acoustic report recommended the provision of a two metre high acoustic barrier along the eastern boundary. The additional information provided on acoustics stated that the barrier was not required but no justification or calculations were provided.

The submitted acoustic information has not adequately demonstrated that there will not be an impact on the neighbouring residents during what is still considered night being early in the morning, between 5am and 7am. For this reason the application is not supported.

WASTE MANAGEMENT COMMENTS

The Development Application has been reviewed by Council's Resource Recovery Officer and the following comments have been provided:

It is noted a number of waste collection contractors have been contacted by the applicant confirming capability of servicing the site with a MRV including the proposed bin type (1.5m³). Written evidence from potential waste collection contractors must be submitted confirming this service can be provided.

As mentioned previously, amended plans must be submitted showing a bin room layout plan. The bin room layout plan must show the proposed number of bins (to scale) as mentioned in the WMP.

NSW POLICE COMMENTS

The NSW Police have reviewed the Development Application and outlined a number of Crime Prevention Through Environmental Design (CPTED) recommendations to ensure that the site is appropriately protected.

CONCLUSION

The application has been assessed against the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979, Local Environmental Plan 2012 and The Hills Development Control Plan 2012 and is considered unsatisfactory.

The proposed development is considered to be inconsistent with the objectives of the zone and is considered not in keeping with the rural-residential nature of the area and will have adverse environmental impacts.

Accordingly, the application is recommended for refusal.

IMPACTS:

Financial

This matter may have a direct financial impact upon Council's adopted budget as refusal of this matter may result in Council having to defend a Class 1 Appeal in the NSW Land and Environment Court.

The Hills Future - Community Strategic Plan

The social and environmental impacts have been identified and addressed in the report. The proposal conflicts with the development objectives of the LEP and DCP. It is considered unsatisfactory with regard to The Hills Future Community Strategic Plan.

RECOMMENDATION

The Development Application be refused on the following grounds:

1. The proposed development is contrary to objectives of the RU6 Rural Transition Zone under The Hills Local Environmental Plan 2012 as it has not been designed having regard to and will unacceptably impact on surrounding land uses, the natural environment and the rural character of the surrounding area.
(Section 4.15 1(a)(i) of the Environmental Planning and Assessment Act 1979).
2. The proposed development is not in keeping the bushland rural character of the locality.
(Section 4.15 1(a)(i) of the Environmental Planning and Assessment Act 1979).
3. The proposal has not adequately addressed the requirements of the Biodiversity Conservation Act 2016 given that a Biodiversity Development Assessment Report has not been provided.
(Section 4.15 1(a)(i) of the Environmental Planning and Assessment Act 1979).
4. The proposed development does not comply with the following Development Controls and results in an unsatisfactory development and will unacceptably impact on surrounding land uses, the natural environment and the rural character of the surrounding area.

Part B Section 1 – Rural

- Site Coverage
- Cut and Fill
- Waste Water and Effluent disposal area
- Landscape Screening to Boundaries
- Acoustic/Noise Impacts
- Hours of Operation

Part C Section 1 – Parking

- Parking
- Accessible Path
- Set Down Area
- Lighting and Ventilation
- Outdoor parking landscaping

Part C Section 3 – Landscaping

- Landscaping Adjacent to Bushland Area
(Section 4.15 1(a)(iii) of the NSW Environmental Planning and Assessment Act 1979).
- 5. The proposed development is contrary to the provisions of Clause 50 of the NSW Environmental Planning and Assessment Regulations 2000, which requires the applicant to provide all the necessary and requested information to Council to allow for a proper assessment of the application, including the submission of information including earthworks and fill details, landscaping, tree removal, biodiversity impacts, waste water management, acoustic details.
(Section 4.15 1(a)(iv) of the NSW Environmental Planning and Assessment Act, 1979).
- 6. The size and occupancy capacity of the proposed development is excessive for the maximum number of patrons stated by the applicant and has the potential to lead to a much greater number of patrons and consequent impacts than stated by the applicant.
(Section 4.15 1(b) of the NSW Environmental Planning and Assessment Act 1979).
- 7. The development is not considered to be suitable for the site as it is an overdevelopment in terms of scale and intensity and results in unacceptable amenity impacts on neighbours. Other sites are more suitable to adequately address the impacts of this proposal.
(Section 4.15 1(c) of the NSW Environmental Planning and Assessment Act 1979).
- 8. The development is considered not to be in the public interest.
(Section 4.15 1(e) of the NSW Environmental Planning and Assessment Act 1979).

ATTACHMENTS

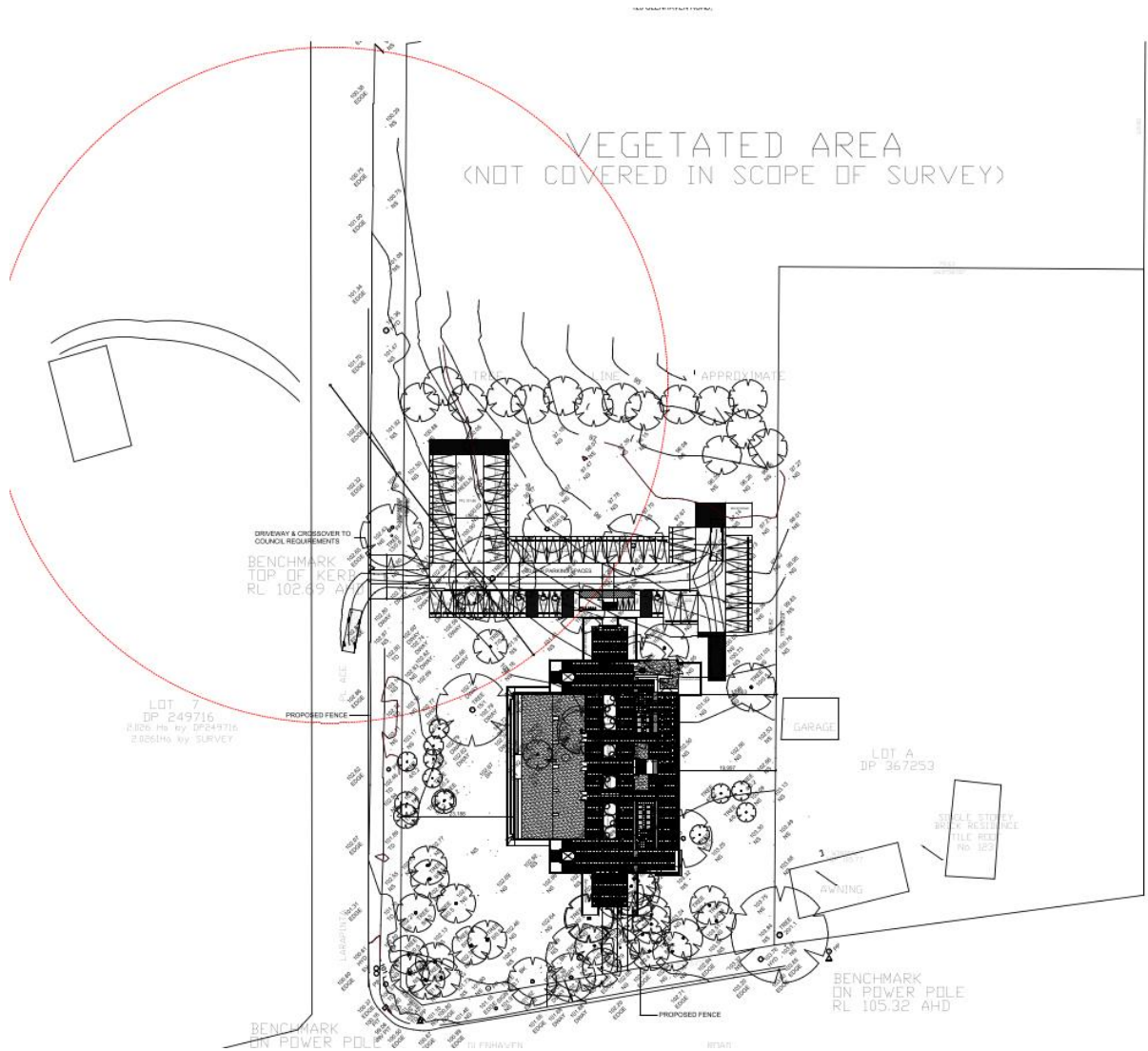
1. Locality Plan
2. Aerial Photograph
3. Site Plan
4. Part Site Plan
5. Sub Floor Plan
6. Ground Floor Plan
7. First Floor Plan
8. Elevations
9. Colours and Finishes
10. Streetscape Elevation
11. Landscape Plan
12. NSW Rural Fire Service Comments

**ATTACHMENT 1 – LOCALITY
PLAN**

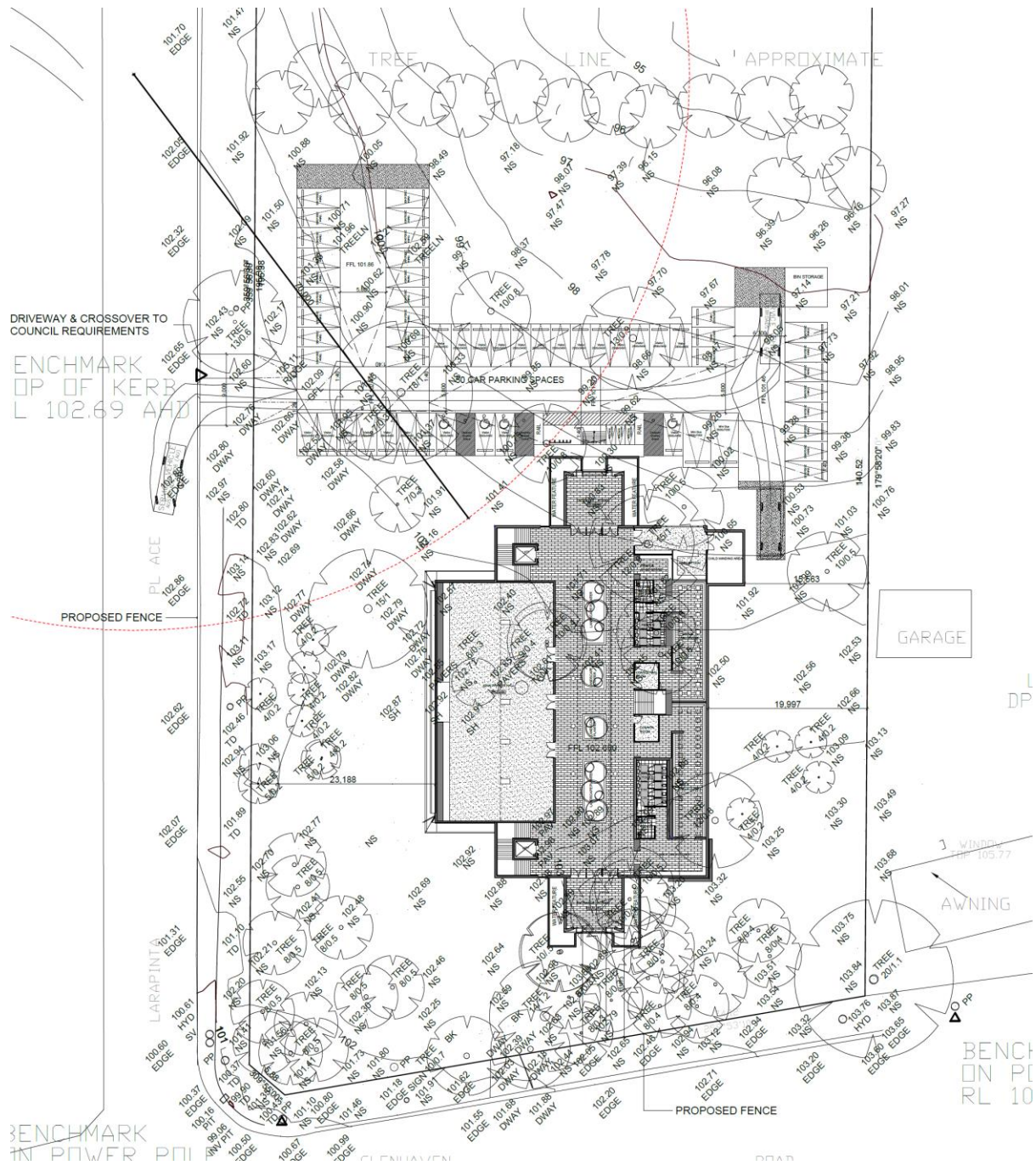
ATTACHMENT 2 – AERIAL PHOTOGRAPH



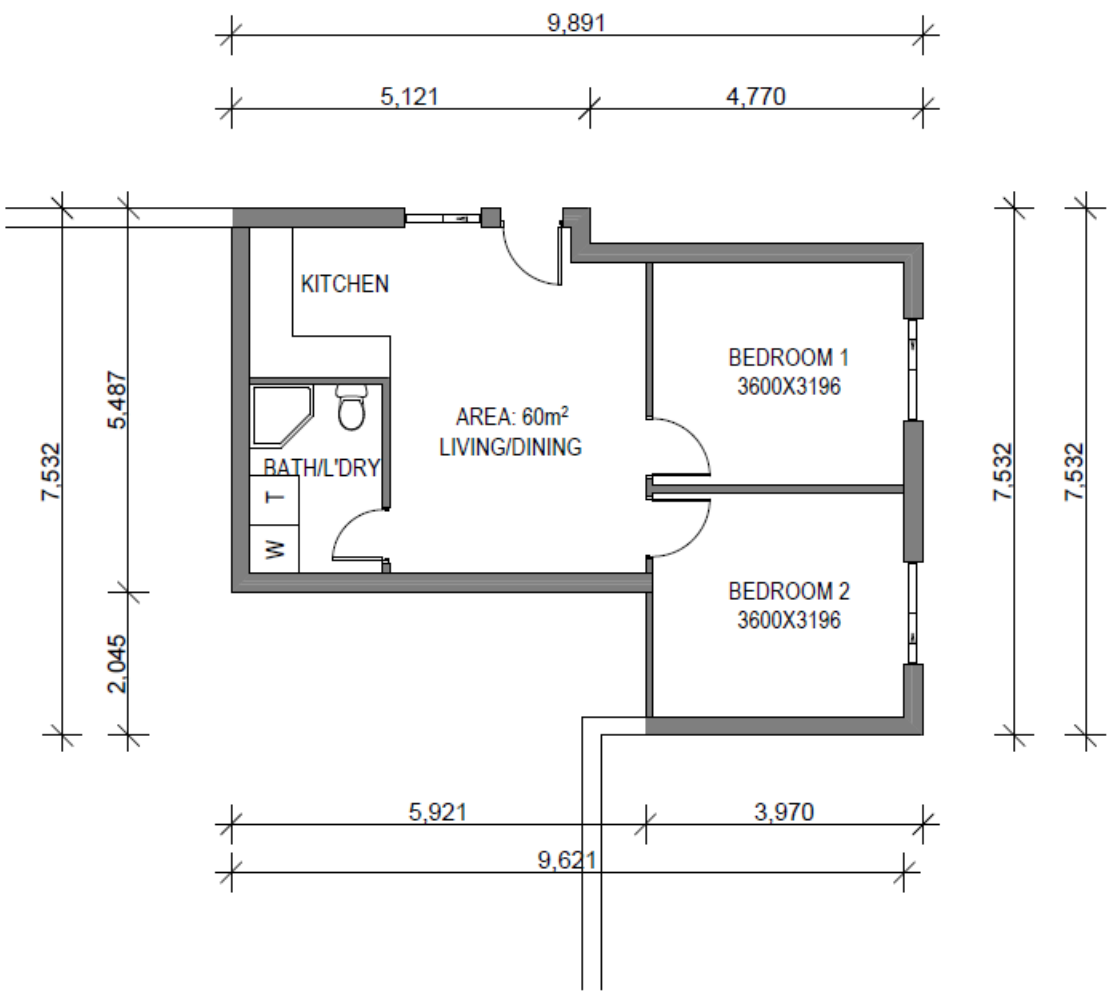
ATTACHMENT 3 – SITE PLAN



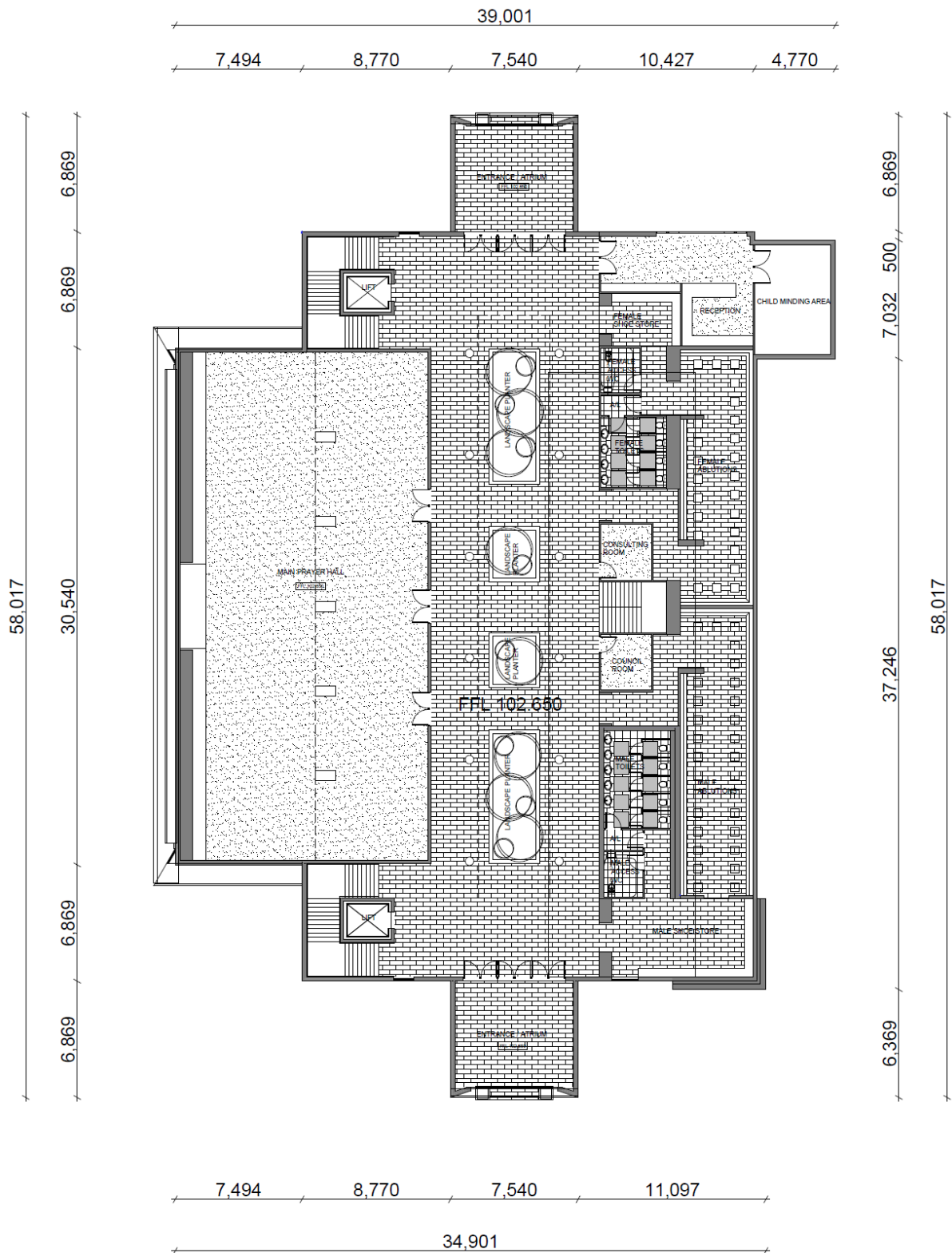
ATTACHMENT 4 – PART SITE PLAN



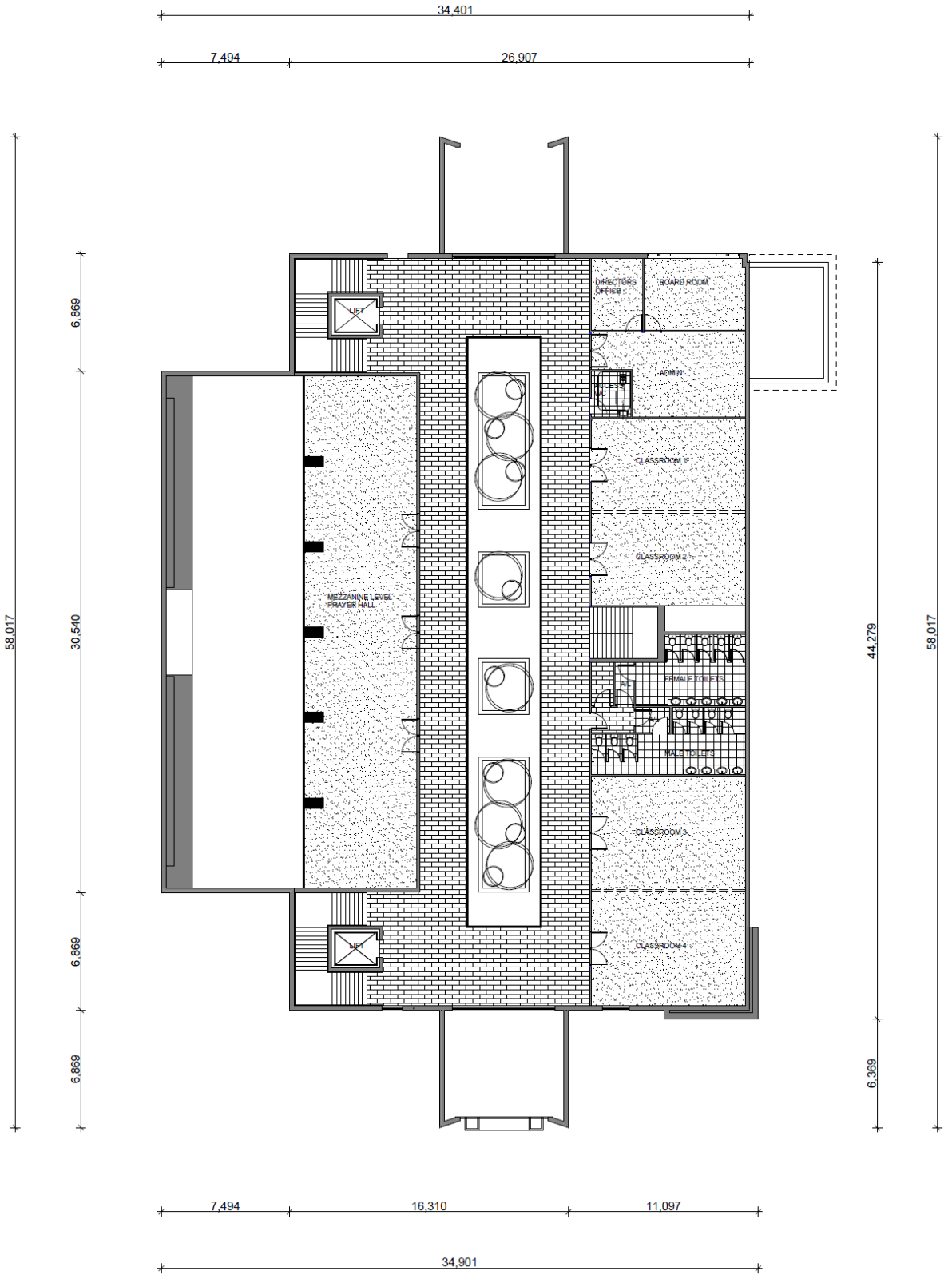
ATTACHMENT 5 – SUB FLOOR PLAN



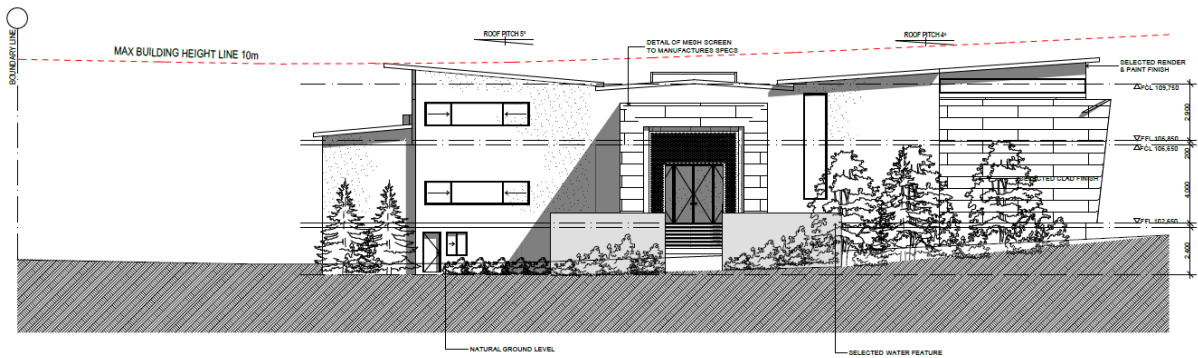
ATTACHMENT 6 – GROUND FLOOR PLAN



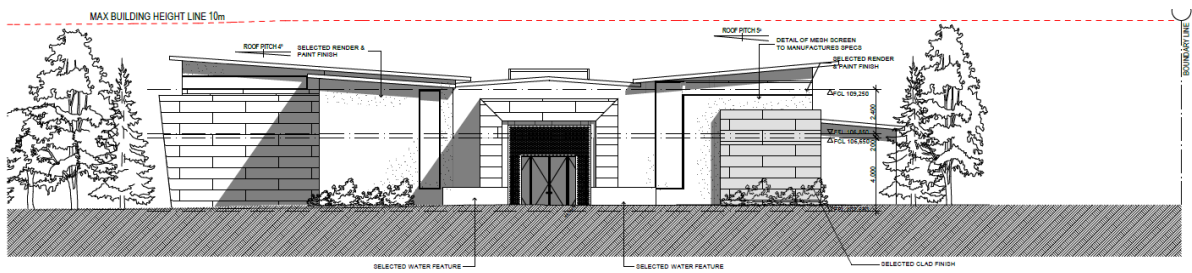
ATTACHMENT 7 – FIRST FLOOR PLAN



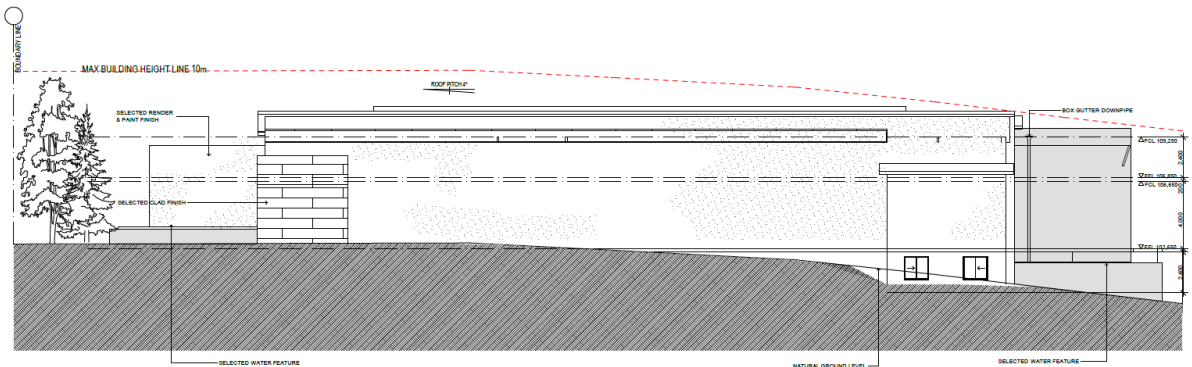
ATTACHMENT 8 –ELEVATIONS



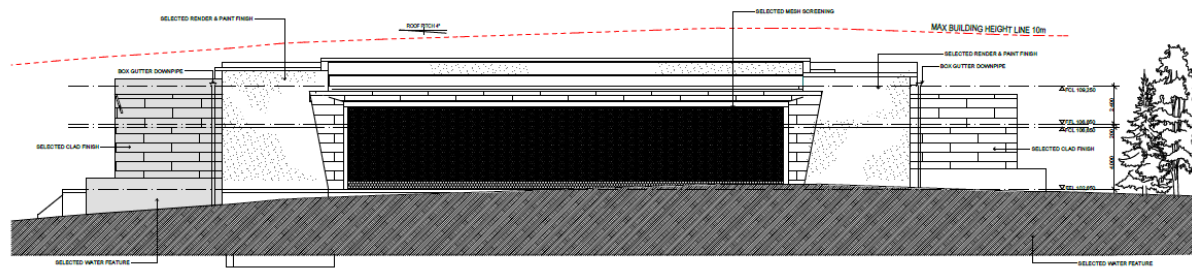
North Elevation



South Elevation

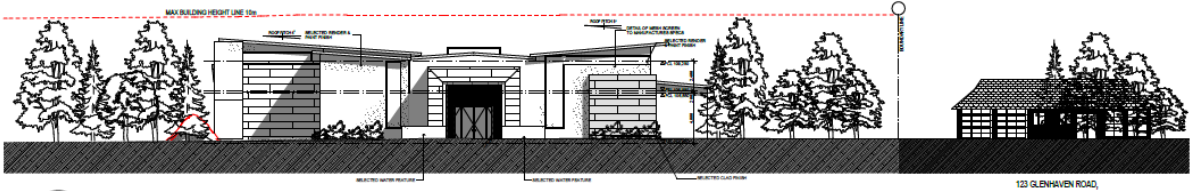


East Elevation

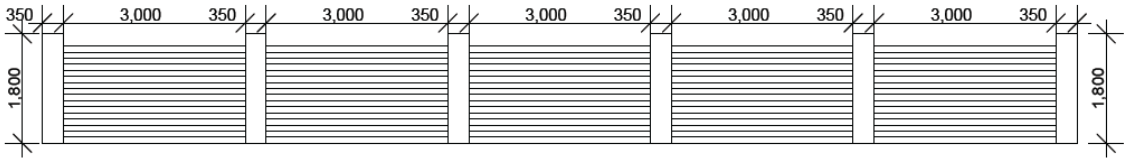


West Elevation

ATTACHMENT 9 – STREETSCAPE ELEVATION AND FENCE DETAIL

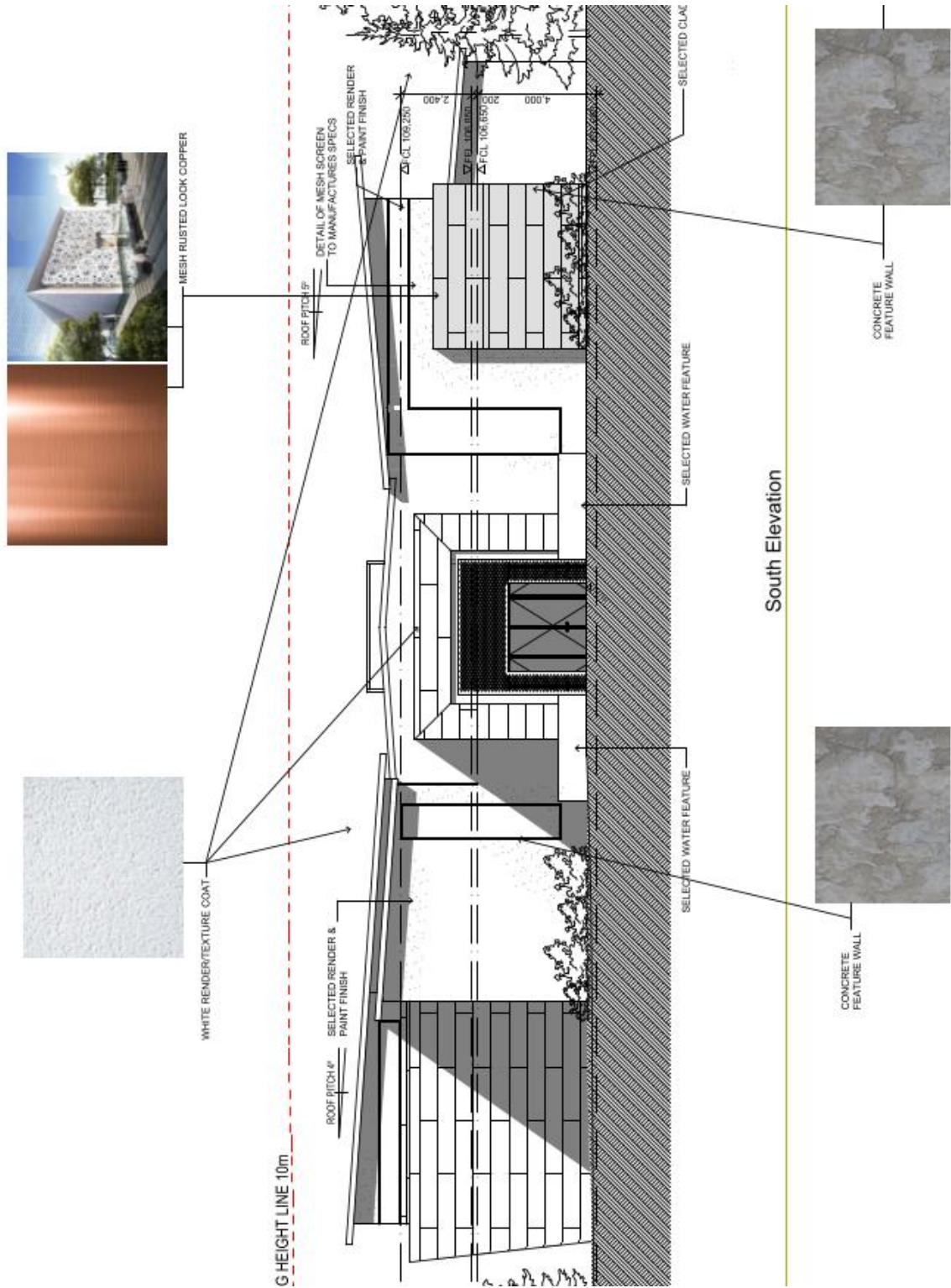


Glenhaven Streetscape



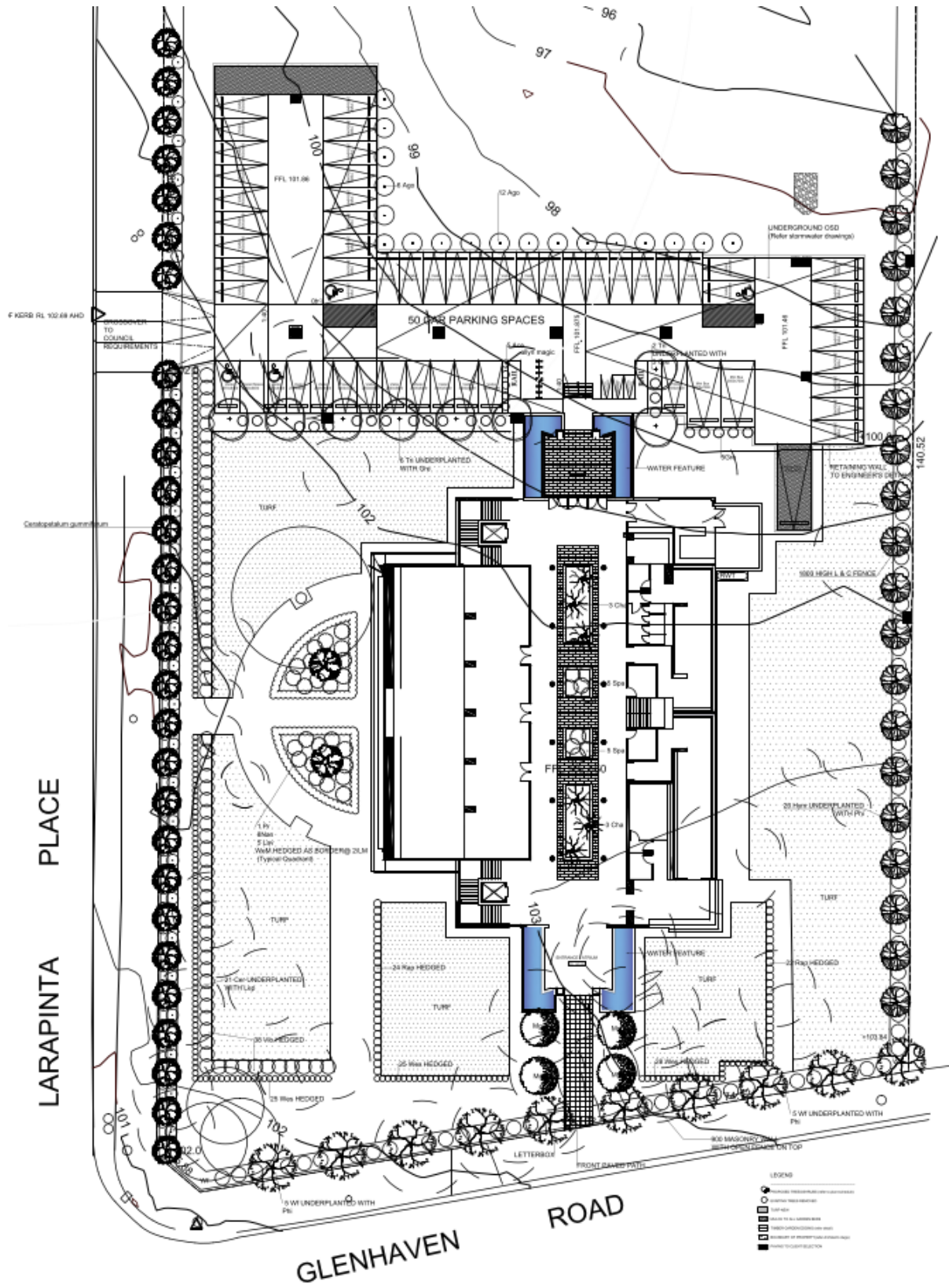
Fence Detail

ATTACHMENT 10 – COLOURS AND FINISHES





ATTACHMENT 11 – LANDSCAPE PLAN



ATTACHMENT 12 – NSW RURAL FIRE SERVICE COMMENTS

All communications to be addressed to:

Headquarters
15 Carter Street
Lidcombe NSW 2141

Telephone: 1300 NSW RFS
e-mail: records@rfs.nsw.gov.au

Headquarters
Locked Bag 17
Granville NSW 2142

Facsimile: 8741 5433



The General Manager
The Hills Shire Council
PO Box 7064
BAULKHAM HILLS BC NSW 2153

Your Ref: 1867/2018/JP
Our Ref: D18/5396
DA18050212884 AS

ATTENTION: Sandra Watts

21 May 2018

Dear Sir/Madam

Integrated Development Application - 7//249716 1 Larapinta Place Glenhaven NSW 2156

I refer to your correspondence dated 23 April 2018 seeking general terms of approval for the above Integrated Development Application in accordance with Section 91 of the 'Environmental Planning and Assessment Act 1979'.

The New South Wales Rural Fire Service (NSW RFS) has considered the information provided. General Terms of Approval, under Division 5 of the 'Environmental Planning and Assessment Act 1979', and a Bush Fire Safety Authority, under Section 100B of the 'Rural Fires Act 1997', are now issued subject to the following conditions:

Asset Protection Zones

The intent of measures is to provide sufficient space for fire fighters and other emergency services personnel, ensuring radiant heat levels permit operations under critical conditions of radiant heat, smoke and embers, while supporting or evacuating occupants. To achieve this, the following conditions shall apply:

1. At the commencement of building works, and in perpetuity, the area around the building shall be managed as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for Asset Protection Zones' as follows:
 - North: Inner Protection Area (IPA) for a distance of 85 metres; and,
 - All other directions: IPA to the property boundaries.

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and

electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

2. The provision of water, electricity and gas shall comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

Access

The intent of measures for internal roads is to provide safe operational access for emergency services personnel in suppressing a bush fire, while residents are accessing or egressing an area. To achieve this, the following conditions shall apply:

3. Internal roads shall comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.
4. A Bush Fire Emergency Management and Evacuation Plan shall be prepared consistent with 'Development Planning- A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan December 2014'. This plan is to be submitted to the local NSW Rural Fire Service district office for liaison and approval prior to the proposed development being occupied.

Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

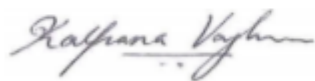
5. New construction shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection 2006'.

Landscaping

6. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

Should you wish to discuss this matter please contact Adam Small on 1300 NSW RFS.

Yours sincerely



Kalpana Varghese

A/Team Leader - Development Assessment and Planning

For general information on bush fire protection please visit www.rfs.nsw.gov.au