

## FURTHER COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	2018SWC052
<b>DA Number</b>	1867/2018/JP
<b>LGA</b>	The Hills Shire Council
<b>Proposed Development</b>	Demolition of existing structure and construction of a Place of Public Worship and associated parking and landscaping.
<b>Street Address</b>	1 Larapinta Place Glenhaven
<b>Applicant/Owner</b>	Iconfm Australia Pty Ltd / Hills AWQAF Pty Ltd
<b>Date of DA lodgement</b>	19 April 2018
<b>Number of Submissions</b>	1 <sup>st</sup> Notification – 1015 objections, 40 in support 2 <sup>nd</sup> Notification – 223 objections, 401 in support
<b>Recommendation</b>	Refusal
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011</b>	Private infrastructure and Community Facilities exceeding \$5 million
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• Section 4.15 (EP and A Act, 1979)</li> <li>• SEPP State and Regional Development 2011</li> <li>• SEPP 55 Remediation of Land</li> <li>• SREP 20 – Hawkesbury Nepean River</li> <li>• LEP 2012</li> <li>• DCP Part B Section 1 - Rural</li> <li>• DCP Part C Section 1 – Parking</li> <li>• DCP Part C Section 3 – Landscaping</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Submissions</li> <li>• Further Information submitted by the Applicant</li> </ul>
<b>Report prepared by</b>	Robert Buckham Principal Executive Planner
<b>Report date</b>	22 August 2019

### EXECUTIVE SUMMARY

At the Sydney Central City Planning Panel meeting on 27 September 2018 the Panel resolved to defer the subject application. A copy of the Panel's reasons for deferral are included at Attachment 1. A copy of the previous report is included at Attachment 2.

*In summary, the majority decision of the Panel was defer the application "to enable the Applicants to supply all outstanding requirements as specified in the council assessment report within 3 months of the date of this decision. In addition, considering the voluminous number of concerns expressed by local residents, and the members of the Glenhaven group in particular, about traffic problems on Glenhaven Road and fears associated with this application, the Panel requires the Applicant to engage a suitably qualified traffic expert to carry out an independent assessment of the impact of this proposal on Glenhaven Road and Larapinta Place."*

Upon a request from the applicant, the Panel agreed to provide an extension until 1 February 2019 to provide the information. Amended plans and supporting information was received on 1 February 2019. Originally the building had general dimensions 58m by 35m, now it is generally 50m by 31m, however the development now incorporates a basement carpark for 81 vehicles. The basement extends beyond the footprint of the main building and is approximately 70m by 60m. The floor area of the building has reduced from the original application by approximately 36%. The reduction primarily relates to a reduction of the main internal corridor area and some reduction in the size of the prayer halls. The main and mezzanine prayer halls were originally 30.5m by 14m and 30.5m by 6.5m respectively, and have been reduced to dimensions of 26.8m by 12.3m for the main prayer hall and 26.8m by 5.8m for the mezzanine prayer hall. The proposal remains two storeys (over the basement) and includes a similar number of offices, classrooms and amenities. New ecological, bushfire, waste water and traffic reports were provided. The nominated maximum attendance remains at 250 people. The application was subsequently renotified and 223 objections and 401 submissions in support were received.

Following a review of the submitted information, Council staff wrote to the applicant identifying issues that required clarification or further information. Further amended plans and reports were submitted on the 5 July 2019. It was considered that the amendments did not warrant further notification.

The built form remains similar to the original proposal although there has been some rationalisation of the floor layout and reduction of at grade car spaces due to the inclusion of the basement. It is considered that the bulk and scale of the building and intensity of the use remain unsatisfactory and the proposal remains inconsistent with the character of the locality and natural environment. The building remains of an institutional scale. As identified previously, the location of the building on a corner further exacerbates its prominence and creates an adverse impact on the existing streetscape.

The proposal remains contrary to the LEP RU6 zone objectives as 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 the intensity of the use. The proposal will impact unreasonably on nearby residents given daily activities will occur from 5.30am to 9.00pm each day, and particularly during the month of Ramadan when there will be activity at night and given the intensity of use each Friday. The proposal has not been designed having regard to the natural environment and will unacceptably impact on surrounding land uses.

The proposal still requires a number of variations to the DCP requirements, including site coverage, fill, waste water management, landscape requirements and acoustics impacts. Although the applicant contends that the proposal now complies with site coverage, this is not agreed as outlined in this report. The variations are a further indication that the site is not suitable for the development proposed and it will unreasonably impact on the amenity of adjoining residents.

Although details of the prayer mat layout has been provided to demonstrate the capacity of the building during prayers, the prayer halls could still accommodate additional worshippers and based on Building Code of Australia rate of 1 person per 1m<sup>2</sup> for places of worship, the prayer halls alone could accommodate 495 persons based on a total area of 495.9m<sup>2</sup> of both prayer halls. There is also a significant amount of floorspace (including four classrooms) on the upper floor which is additional to the prayer halls. The purpose of these classrooms is unclear and they could also potentially be used for worship. It is noted that the Wrights Road Community Centre which is currently leased and used for Islamic prayer services during the Friday midday prayer has four separate rooms. These rooms have a total floor area of approximately 450m<sup>2</sup>. and a lease capacity for 330 persons (380 approved by consent). The capacity was also calculated at the rate of 1 person per 1m<sup>2</sup> but is limited below 450 person capacity due to the number of amenities (toilets) provided. The number of amenities or fire

egress out of the proposed building is not a limiting factor for the subject proposal. The approved capacity of this facility (for the Friday prayer) is 330 persons. Given that worshipper numbers greater than 250 have been regularly observed at Council's Community Centre building, concerns remain with the proposal.

An amended Plan of Management has been submitted including details as to how patron capacity may be managed. However it is not considered that it would not be practical to enforce the plan. In any event people who want to attend the site, and are turned away once capacity has been reached will add to congestion.

At the Wrights Road Facility it has been observed that large numbers of worshippers arrive in a short period of time just before prayer commences. Given the numbers it would not be possible to alert worshippers that the premises are at capacity before they arrive at the site. This will lead to significant amenity impacts, particularly given the anticipated shortfall of appropriate parking on the site for use by worshippers.

Council staff engaged an independent Traffic Consultancy, The Transport Planning Partnership (TTPP) to peer review the proposal. The review has determined that the proposal should not be supported based on;

- Insufficient parking provision due to the incorrect car occupancy rate adopted for the proposal, the car park cannot accommodate the projected parking demand of 160 spaces based on the car occupancy rate of 1.56;
- Incomplete traffic modelling as the DA did not assess worst-case scenarios adequately to cover the highest patronage that would use the Glenhaven Road and Larapinta Place intersection;
- Lack of a right turn facility at the Glenhaven Road and Larapinta Place intersection to accommodate the increase in the right turning demand from Glenhaven Road onto Larapinta Place as a result of the increased traffic volumes associated with the proposal, the estimated traffic volumes meet the warrant for a Channelised Right Turn (CHR) layout involving a right turn lane on Glenhaven Road;
- Deficiencies in the carpark design; and
- Impracticability of the Plan of Management.

The Traffic and Parking Peer Review is included at Attachment 4.

Council staff also sought a Peer Review of an independent Town Planning Consultancy, DFP Planning. The review concurs with the conclusions reached in this report. The Town Planning Peer Review is included at Attachment 5.

The scale and intensity of the development has a high potential to result in land use conflict and its impact on the amenity of nearby residents and the character of the locality. The proposal is not suitable for the subject site. Places of public worship are permitted in other zones which are better able to manage the intensity of this use and on sites less likely to result in land use conflict and loss of residential amenity. The subject land and adjacent land has a rural bushland character. The intended future character, as foreshadowed by the exhibited LEP amendment, is to protect this character and to prohibit uses with an unsuitable scale and intensity.

## **REPORT**

This further report is supplementary to the previous report considered by the SCCPP on 27 September 2018 (refer Attachment 2). This report provides an assessment of the application as amended by the Applicant in response to the deferral and request from Council staff for further information.

## **PROPOSAL**

Amended plans and supporting information were received on 1 February 2019 and in response to Council staff's letter dated 3 May 2019 a further set of additional information was lodged on 5 July 2019. Below is a list of the amended information lodged and a summary of the amended application.

- Statement of Environmental Effects (received 1 February 2019)
- Plan of Management (received 1 February 2019)
- Accessibility Report (received 1 February 2019)
- Acoustic Report (received 1 February 2019) and supplementary letter (received 5 July 2019)
- Arborist Report (received 1 February 2019) Amended Report (received 5 July 2019)
- Bushfire Report (received 1 February 2019)
- Waste Management Plan (received 1 February 2019) Amended Plan (received 5 July 2019)
- Geotechnical Contamination Investigation Report (received 1 February 2019)
- Biodiversity Development Assessment Report (received 1 February 2019) Amended Report (received 5 July 2019)
- Parking and Traffic Impact Assessment Report (received 1 February 2019)
- Waste Water Report (received 1 February 2019) and supplementary letter (received 5 July 2019)
- Survey Plan (received 1 February 2019) Amended Plan (received 5 July 2019)
- Architectural Plans (received 1 February 2019) Amended Plan (received 5 July 2019)
- Landscape Plan (received 1 February 2019) Amended Plans (received 5 July 2019)
- Lighting Plans (received 1 February 2019)
- Stormwater Plans (received 1 February 2019) Amended Plans (received 5 July 2019)
- Quantity Surveyors Report (received 5 July 2019)
- Vegetation Management Plan (received 5 July 2019)

### **Summary of Amendments**

The following provides an outline of the primary amendments made to the proposal.

#### Capacity/Hours of Operation

The applicant has advised that the proposed patron numbers remain at 250 and the primary hours of operation remain between 5.00am and 10.00pm. A schedule of uses is outlined further below.

In regard to managing capacity, the applicant has outlined in their plan of management that:

A counter must be stationed at the main entry to each the prayer hall to count the number of worshippers entering the prayer hall. The counter must be equipped with a counting device and radio communication device/phone to allow communication with the other counter and the Site Manager.

Once capacity is reached, the counters will communicate and inform the Site Manager. The Site Manager will close access to the site and deploy a sign that states "prayer hall full". Subject to consent, a sign will also be located near Glenhaven Road indicating that the Premises has reached capacity to inform vehicles prior to entering.

Until prayer service starts, the counter/Site Manager will remain at the site entrance to inform any additional worshippers that capacity has been reached and they cannot enter the prayer hall and must leave the premises immediately.

### Building

The proposed built form is generally consistent with the original proposal however the development now incorporates a basement carpark for 81 vehicles. Originally the building had general dimensions 58m by 35m, now it is generally 50m by 31m. The basement extends beyond the footprint of the main building and is approximately 70m by 60m. The reduction in building size primarily relates to a reduction of the main internal corridor area and some reduction in the size of the prayer halls. The proposal remains two storeys (over the basement) and includes a similar number of offices, classrooms and amenities. Minor amendments to the building height were made in the latest amendments and additional sections were provided.

### Parking and Traffic

The amended proposal replaces the original at-grade 53 space car park with a 27 space at-grade carpark and 81 space basement carpark (78 spaces quoted on plans, 81 actual spaces)(108 spaces in total).

An amended traffic and parking report was provided by the applicants' consultant, Stanbury Traffic Planning. The report details that Friday Prayer sessions at Wrights Road were surveyed (patrons questioned) regarding their mode of transport over eight prayer sessions. They have concluded an average of 2.9 persons per vehicle. The applicant's traffic consultant also undertook a further analysis and modelling based on amendments to the application and the survey results. In summary the consultant has concluded:

- *The proposed site access arrangements are compliant with relevant AS2890.1:2004 specifications and are capable of accommodating the largest vehicles expected to service the site;*
- *The proposed off-street passenger vehicle parking provision significantly exceeds the relevant requirements of DCP 2012 applicable to a place of worship and readily exceeds the expected peak operational parking demands based upon detailed surveys of existing services held at Wrights Road Community Centre;*
- *The vehicle circulation and servicing arrangements are capable of providing for safe and efficient internal manoeuvring, incorporating the recommendations provided within this report;*
- *The surrounding road network operates with a reasonable level of service during peak periods;*
- *The maximum hourly traffic generation during weekday commuter peak hours (7:00am – 9:00am and 4:00pm – 6:00pm) is expected to be 30 trips occurring between 4:00pm and 5:00pm associated with youth services / counselling and afternoon prayer service;*
- *The maximum hourly traffic generation is expected to be 105 trips occurring between 6:00am and 7:00am associated with morning and special event Eid prayer services;*
- *Further notable periods of generation during special event periods occur between 9:00am – 10:00am, 11:00am – 12:00pm, 2:00pm – 3:00pm, 6:00pm - 7:00pm and 9:00pm – 10:00pm when maximum hourly traffic generation is expected to range between 69 – 97 trips;*
- *Detailed SIDRA modelling indicates that the adjoining road network is capable of accommodating the additional traffic projected to be generated by the subject development.*

### Schedule of Uses

The applicant provided a more detailed schedule of uses, provided below:

DAY	TIME	ACTIVITY	MAXIMUM ATTENDANCE
Monday - Thursday	5:30am – 6:30am	Morning Prayer Service	25
	9:00am – 6:00pm	Administration	10
	9:00am – 11:00am	Youth Services / Counselling	15
	12.00pm – 2:00pm	Midday Prayer Service	50
	3:00pm – 6:00pm	Youth Services / Counselling	15
	3:30pm – 5:00pm	Afternoon Prayer Service	25
	5:30pm – 8:30pm	Sunset Prayer Service	25
	7:00pm – 9:00pm	Evening Prayer Service	25
Friday	5:30am – 6:30am	Morning Prayer Service	25
	9:00am – 6:00pm	Administration	10
	9:00am – 11:00am	Youth Services / Counselling	15
	12.00pm – 2:00pm	Midday Prayer Service	250
	3:00pm – 6:00pm	Youth Services / Counselling	15
	3:30pm – 5:00pm	Afternoon Prayer Service	25
	5:30pm – 8:30pm	Sunset Prayer Service	25
	7:00pm – 9:00pm	Evening Prayer Service	25
Saturday-Sunday	5:30am – 6:30am	Morning Prayer Service	25
	9:00am – 11:00am	Youth Services / Counselling	15
	12.00pm – 2:00pm	Midday Prayer Service	50
	3:00pm – 6:00pm	Youth Services / Counselling	15
	3:30pm – 5:00pm	Afternoon Prayer Service	25
	5:30pm – 8:30pm	Sunset Prayer Service	25
	7:00pm – 9:00pm	Evening Prayer Service	25

Details of special event prayers have also been provided:

DAY	TIME	ACTIVITY	MAXIMUM ATTENDANCE
Monday-Sunday	7.00am-9.00am	Eid Morning Prayer Service	250
Easter Friday	12.00pm-2.00pm	Midday Prayer Service	250
Monday-Sunday	7.00pm-9.00pm	Ramadan Evening Service Prayer	200

Notes:

1. The Eid morning service is only provided twice per year, the days of which vary year to year.
2. The Easter Friday midday service is only provided once per year on Easter Friday.
3. The Ramadan evening prayer service is provided on a daily basis for the month of Ramadan, the month of which varies year to year.

#### Landscaping/Fencing

An amended landscape plan has been provided which now identifies some tree retention on the Glenhaven Road/Larapinta Place corner of the site. The architectural fencing detail remains unclear however the submitted information identifies it as open style fencing to a height of 1.8m. The fencing appears to be masonry columns with batten infill. Landscaping is provided behind the fence. A notation on the landscape plan also notes 1.8m lapped and capped fencing on the eastern boundary, however this is thought to be an error. The latest landscape plan also includes an "area of fill tidied and graded for proposed maintenance access".

#### Other Amendments

Details of the waste water system have now been provided. An in-ground irrigation system is proposed around the building and in part over the basement carpark.

A biodiversity report has also been provided.

### **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 amended development has a Capital Investment Value of \$7,340,796 thereby requiring an application required to be determined by the Sydney Central City Planning Panel (SCCPP).

## **2. Local Environmental Plan 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.*

It is considered that the proposal remains 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. The location of the site, the nature of the access being provided by a cul-de-sac with six other lots contributes to the proposed development resulting in unreasonable amenity impacts in the context of its current proposed location.

As identified previously there are other sites and zones that are considered more appropriate for this building and use that would address the concerns relating to the scale, intensity and visual dominance of this proposal. Council staff met with the Applicant and their representatives on a number of occasions with the view of discussing a more appropriate site within the Shire. It is understood that this is not a position the applicant is looking to further.

It is maintained that the current proposal does not integrate with the rural bushland character of the area. The proposal introduces conflicting elements of building size, design, car parking areas, lighting poles and early morning and evening uses into the locality where such are not present. Prayers are to be held in early morning from 5.30am with the building opening from 5.00am and evening prayer services until 9.00pm with the building closing at 10.00pm. In addition special occasions such as the Ramadan evening prayer are to occur each night during the month of Ramadan from 7.00pm to 9.00pm for up to 200 worshippers. These activities may be able to be accommodated on another site, however the intensity proposed is considered to conflict with adjoining and nearby rural-residential land uses.



## **b. Height**

Clause 4.3 Height of Buildings of the LEP requires that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. The maximum height of buildings on the subject site is 10m.

The objectives of clause 4.3 are:

- (a) to ensure the height of buildings is compatible with that of adjoining development and the overall streetscape,*
- (b) to minimise the impact of overshadowing, visual impact, and loss of privacy on adjoining properties and open space areas.*

It is considered that insufficient details have been provided to confirm that the proposed building height complies with the LEP 10 metre height restriction. On a number of occasions the applicant has been requested to provide clear details including appropriate sections to demonstrate compliance. The applicant relies on a new section (Section E-E), however, this section has not been taken at a point where the roof is at its highest above existing ground level. An assessment based off the plans including the location of existing natural ground level at this point (lower than contour RL101) would appear to indicate that the proposed building will have a maximum height of RL111.15 and exceed the 10m building height by at minimum of 150mm to 200mm in the north eastern corner of the building. It is acknowledged that this is a minor variation, but a clause 4.6 request to vary the height standard has not been provided.

Irrespective, of whether the building height does or does not comply with the 10m height maximum, it is considered that the height of the building as proposed is not appropriate given the context within which this development will sit and is inconsistent with the objectives of clause 4.3. In this regard, surrounding development is generally single storey in scale. The prominent corner location of the proposed development will result in this building being a conspicuous element in the streetscape and therefore the bulk and scale of the proposed building is unacceptable.

The height will be further exacerbated by the excavation for the basement driveway and entrance and will read as a 13 metre building from the finished ground level at this point (refer Northern Elevation).

## **c. Draft Amendment**

As outlined in the previous report, Council had sought to amend LEP 2012 to add two additional objectives to the RU6 Transition zone, remove places of public worship (and initially cemeteries) from permitted uses in the RU6 Transition zone and to add site coverage requirements into the RU6 Transition zone.

The two additional objectives are:

- *To maintain the rural and scenic character of the land*
- *To provide for a range of land uses compatible with the rural residential character*

The place of public worship land use is not mandated in the RU6 zone 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.

The Department of Planning issued a Gateway Determination on 10 July 2019. The planning proposal will be on exhibition from 30 July 2019 to Friday 30 August 2019.

The Gateway Determination requires the Planning Proposal to include a savings transition clause to ensure that the proposed amendment does not affect any development applications or appeal processes lodged with Council prior to the amendment being finalised. Delegation for making of the LEP has been issued to Council under the Gateway Determination.

### 3. The Hills Development Control Plan 2012

The amended 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 <sup>2</sup> ( <i>whichever is the lesser</i> )	3,984m <sup>2</sup> including basement footprint  The Applicant contends a compliant site coverage of 2,362.91m <sup>2</sup>	No, refer below.
Side and rear setback associated with agricultural produce industry, animal boarding or training establishments, community facilities, recreation facilities, <b>places of public worship</b> , landscape material supplies, garden centres, plant nurseries, intensive plant agriculture or veterinary hospitals	5m for parking or manoeuvring areas (excluding any existing kerb crossings or driveways to be retained)  15m for any structure or area (including storage, display, or loading areas)	7m (eastern boundary) 20m western boundary  7m (eastern boundary)  10m (western boundary)	Yes     No, refer below.
Cut and Fill	Maximum cut shall not exceed: 1 metre  Maximum fill shall not exceed: 600mm.	Building floor level approximately 3 metres above NGL (Carpark levels 1.7m above NGL)  Cut max – 4m for basement	No, refer below.
Waste Water	Wastewater and effluent disposal areas must be located on land that	The proposal will discharge effluent over the basement	No, refer below.

DEVELOPMENT CONTROL	DCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
	<p>meets the following locational criteria:</p> <ul style="list-style-type: none"> <li>• 40m from a dam or intermittent watercourse</li> <li>• 100m from a permanent water course</li> <li>• 6m from a structure, property boundary or native vegetation</li> <li>• Not on slope greater than 15%</li> <li>• Soil depth greater than 300mm.</li> </ul>	carpark. Effluent disposal areas are required to observe certain buffer distances, including 15 metres from buildings (spray) or 3m/6m if subsurface irrigation.	
Landscaping screening boundaries to	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 between 3.5 metres and 2 metres landscaping to boundaries.	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 regarding vehicle movements for early morning and evening services.	No, refer below.
Part C Section 1 – Parking			
Number of Parking Spaces	<p>No Requirement.</p> <p>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</p>	<p>108 spaces including two mini-bus spaces.</p> <p>Parking comprises a 27 space at-grade carpark and 81 space basement carpark (78 quoted on plans, 81 actual spaces)</p>	Considered inadequate, refer below.

DEVELOPMENT CONTROL	DCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
	contain seats.		
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 set down area located to the south of the worship hall does not provide for an accessible path to the worship hall.	No, refer below.
Outdoor parking landscaping	Outdoor parking areas are to be provided with two metre wide landscaping strips: <ul style="list-style-type: none"> <li>Between rows served by different aisles.</li> <li>Between spaces at a rate of one in every ten car parking spaces.</li> </ul>	The proposed architectural plans show a run of 11 car spaces and the landscape plans show 12 spaces without a two metre wide landscape bay.	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.

### The Hills DCP, Part B, Section 1 – Rural

The aim of this section of the DCP is *to ensure that rural development is compatible with the capability of land, has regard to the natural environment, scenic qualities and rural character and contributes to the social and economic wellbeing of the rural area.*

The DCP also provides an explanation as to What is Rural Character. In this regard, the DCP states that the rural area of the Shire *is a relatively undeveloped place, with a natural look that could be described as unplanned and non-uniform. In terms of its physical characteristics it is agricultural activities, large land parcels, **low scale dwellings**, farm sheds and natural scenic beauty.*

Whilst it is acknowledged that this building is not a dwelling, it is considered that the height of the proposed development is not low scale and will dominate the site particularly when viewed from the public domain and adjoining properties.

The character is also described as one of rural lifestyle where people enjoy the qualities of the area that make it rural with open spaces and countryside.

It is considered that the intensity of the use (i.e. a site 'population' of 250 people and hours of operation from 5am to 10pm) is the complete antithesis of the character of the area as described in the DCP.

## **Section 2 – New Development**

This section of Part B, Section 1 – Rural of The Hills DCP relates to new development, including places of public worship.

The Statement of Outcomes in relation to new development are:

- *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 location of new rural/ residential development is to have regard to the potential impacts arising from existing adjacent rural business activities.*

The development controls for new development are the mechanisms for achieving these outcomes.

As detailed below, the proposed development does not comply with numerous development controls and therefore the proposed development does not satisfy the outcomes for new development.

### **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 2500m<sup>2</sup>, whichever is the lesser. The site has an area of 2.0261 hectares and as such the 2500m<sup>2</sup> site coverage criteria is applicable.

The applicant contends that the amended proposal has a compliant site coverage of 2,362.91m<sup>2</sup>. However, Council staff calculations indicate a site coverage of 3,984m<sup>2</sup> which includes the basement which is partly out of the ground.

The site coverage requirements for a place of worship and other more intensive uses permitted in rural zones includes;

*“All structures associated with the activity on site and any outdoor areas utilised by the activity (either frequently or infrequently including storage and/or display areas) as well as all loading, parking and manoeuvring areas and any associated dwellings, outbuildings, hard-surface areas, fenced in areas or ancillary items”*

The amended proposal includes an 81 space basement car park in addition to a 27 space at-grade carpark. It is acknowledged that the general building footprint and at grade carpark would be considered compliant with the site coverage control. The proposed basement is a significant element of the proposal which is located 10 metres from the Larapinta Place boundary and 6.5 metres from the eastern property boundary. Although it will appear as lawn area when viewed from Glenhaven Road, the basement will be visible elsewhere on the site and therefore contributes to visual impact and site coverage.

The site coverage control is intended to limit built form, size and scale to ensure uses are compatible with the rural character of the area in which the development is located and rural amenity. The non-compliance with the site coverage control is an indication that the proposed development results in an overdevelopment of the site and an outcome which is out of character with the surrounding area.

On this basis, the proposed non-compliance in site coverage is considered to be unsupportable.

**b. Side Setback**

The DCP requires that for places of worship a 15m setback is required for any structure or area (including storage, display, or loading areas). The basement is set back 7m from the eastern boundary and therefore does not comply with the setback controls.

As identified above in relation to site coverage, the side setback control is intended to limit built form, size and scale to ensure uses are compatible with the rural character and foster amenity. This variation points to an over development of the site and limits the provision of a compliant buffer from the proposal to the adjoining development. In combination with the other matters raised in this report a variation is not supported.

**c. Cut and Fill**

The DCP requires that developments in the rural area shall not exceed 1 metre of cut and fill shall not exceed 600mm. The proposal seeks approval for the construction of a basement car park which involves a significant excavation across the site up to a depth of 4 metres. The proposed building and at-grade carpark also involve finished levels above natural ground level of 3 metres and 1.7 metres respectively.

The applicant has not provided a justification for the level of cut and fill proposed, however the amended Statement of Environmental Effects notes *“550mm of cut (south elevation) and fill 1m top of basement slab for landscaping however this is not provided to ‘level’ the site.”*

The proposed levels and extent of earthworks to be carried out is significant, and inappropriate for the rural area. The development has not been designed to respond to the site conditions. Furthermore, the need to provide a basement car park is considered incompatible within the rural setting.

**d. Waste Water and Effluent Disposal Area**

The DCP requires that waste water and effluent disposal area proposals must demonstrate sufficient area is available for any proposed on-site sewerage management and effluent disposal areas. Proposals must ensure compliance with Council’s applicable Local Approvals Policy. Wastewater and effluent disposal areas must be located on land that meets the following locational criteria:

- 40m from a dam or intermittent watercourse
- 100m from a permanent water course
- 6m from a structure, property boundary or native vegetation
- Not on slope greater than 15%
- Soil depth greater than 300mm.

The application provides for a waste water system to be located within the setbacks areas to Larapinta Place and Glenhaven Road and between the building and the eastern property boundary. The wastewater disposal area is also located over the proposed basement slab which is contrary to the DCP requirements.

The proposal will discharge effluent over the basement carpark slab. Effluent disposal areas are required to observe certain buffer distances, including 15 metres from buildings (spray) or 3m/6m if subsurface irrigation. It is understood that subterranean buildings require subsurface

drainage to prevent water building up around the building. A 40 metre buffer is required from drainage channels, which include drainage pits, to prevent effluent from entering water bodies.

**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 is to be incorporated into side and rear setbacks to effectively screen the development from adjoining property boundaries.

The proposal provides landscaping along the eastern side boundary and along the Larapinta Place frontage ranging in 3.5m to 2m in depth. The applicant has not provided a planting schedule nominating the species within the landscape plan, therefore the species, the size, densities, etc. is unknown and therefore its effectiveness in providing screening cannot be assessed.

**f. Acoustic / Noise Impacts**

The DCP requires that 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 enable Council to be satisfied that the proposal will not give rise to offensive noise, as defined in the Protection of the Environment Operations Act and is capable of complying with the NSW Industrial Noise Policy.

The applicant's reports claim that noise levels will be vary between 24dB(A) to 33dB(A) (depending on receiver location). Adopting the report's sound power level of 88dB(A) for a single motor vehicle at low speed, the modelling of noise levels by Council staff indicate much higher levels of between 42 dB(A) to 50 dB(A). If additional vehicles are added to the calculations (as suggested by TTPP in their assessment of likely vehicular traffic generation), significantly higher noise levels would be experienced.

It would be appropriate for noise modelling with contour mapping to demonstrate how the applicant's consultant has arrived at low noise levels.

The Protection of the Environment Operations Act regulates the emission of noise, providing powers to regulatory authorities such as Council, where offensive noise is emitted. Offensive noise is defined as being any one of the following:

- i) Noise that is harmful to a person outside of the premises from which it is emitted;
- ii) Noise that unreasonably interferes with the comfort or repose of a person who is outside of the premises from which it is emitted; or
- iii) Noise that is of a level, nature, character or quality prescribed by regulations or that is made at a time or circumstances prescribed by the regulations.

Most relevant in this proposal is the second criteria and whether the predicted noise would be typical for the area. Based on assessment by Council staff, the likely noise levels will be atypical of the current noise environment and could therefore impact on the amenity of nearby residents.

An assessment of the predicted noise levels should be carried out using the Offensive Noise Test as contained within the Noise Guide for Local Government.

## **g. Number of Parking Spaces**

As identified in the previous report, the DCP requires parking to be provided in respect of a place of public worship at a rate of 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.*

Based on the feedback from the traffic consultants engaged by Council (TTPP) and observation of the existing facility operating from the Wrights Road Community Centre, it is considered that the proposed development is likely to have adverse impacts on the local network in terms of traffic generation and insufficient car parking has been provided for the maximum site 'population' of 250 worshippers. This is likely to impact adversely on the amenity of the locality as the use of the premises would produce a higher demand for parking that is provided on site.

Council's Wrights Road Community Building is currently leased and used for Islamic prayer services 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 also observed that cars generally contained 1 or 2 persons in each vehicle. Based on these observations, the provision of 108 car parking spaces for the amended scheme remains insufficient to meet the demands on the proposed development.

The applicant's traffic consultant conducted surveys of eight Friday prayer events between 16 November 2018 and 4 January 2019. The consultant found that;

*The surveyed Friday services attracted attendances of between 179 and 213 people, with an average attendance of 202 people. A maximum of 78 people drove themselves to the services, thereby generating demand for parking (whilst additional parking demand was observed during the periods of service, this demand was observed to be associated with other surrounding uses such as Centenary of ANZAC Reserve and / or Kellyville Shopping Village). An average of 35% of service attendees were surveyed to drive themselves to services, with the remaining 65% primarily being driven or utilising other forms of transport thereby not actually generating any demand for parking.*

The applicant's consultant has considered that an average vehicle occupancy be extrapolated to be approximately 2.9 service attendee per parked vehicle. Application of the above rate to the maximum capacity of 250 people of the proposed development results in a projected peak parking demand of 87 spaces. The applicant considers that the proposed passenger vehicle parking provision of 103 spaces is therefore capable of accommodating the projected peak operational demands of the development, providing additional flexibility for some variability with respect to service attendee and staff method of travel.

Given the differing observations by Council staff, a Traffic Consultant was engaged by Council to review the application from a parking and traffic perspective (refer Attachment 4). In relation to parking demand it was concluded that the applicant's analysis was incorrect and, based on the existing operations parking at a rate of 1 space per 1.56 persons or 160 spaces would be required to service the proposed 250 patrons. It is considered that even this rate could be



in alternate locations including the adjacent shopping centre carpark and along Green Road and a significant number of worshippers arrive as the sole occupant of the vehicle. Apart from some ability to park on Larapinta Place, which is generally not considered reasonable or acceptable in a rural zone (to the degree that it could occur), based on Council's observations and advice from TTPP, the parking proposed for this proposal remains insufficient.

If the on site car parking is insufficient, worshippers will revert to parking on the surrounding street verges which will have adverse impacts in terms of safety and also impact on the amenity of adjoining residents in terms of 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 which have unsealed shoulders.

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

The site is poorly serviced in terms of public transport with the first bus (Bus route 603 Rouse Hill to Parramatta via Glenhaven) arriving around 6am and the last service at around 7.30pm. Services are half hourly during the morning and afternoon peaks and hourly for the hours outside the peaks. These service times do not coincide with prayer times and therefore public transport is not a feasible alternative in terms of accessing the site. In this regard, worshippers will have to rely wholly on accessing the site via private vehicle which is also undesirable from a sustainability perspective.

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.

#### **4. Size and Occupant Capacity**

As outlined in the previous report, the Development Application originally sought consent for 400 people. It was subsequently amended to cater for 250 people. The current amended application resulted in a rationalisation of the internal corridor areas and a minor reduction in the size of prayer halls and now includes details of space occupied by prayer mats within the prayer hall. The prayer mat layout allows for a prayer mat 0.8m x 1.2m and circulation space.

Further clarification was sought as to the use of the 4 classrooms on the upper floor given that the schedule of uses indicates that a maximum of 15 persons were identified to use the classrooms for youth services and counselling. Each of the 4 rooms has dimensions of 8.7m x 4.5m and indicative seating in each for 18 persons. The applicant identified that the layout provided flexibility and would not be used by more than 15 persons.

It is noted that there is a significant difference in the area utilised for prayer mats and the actual floor area of each prayer hall. The ground floor prayer hall has an area of 336.54m<sup>2</sup>, the prayer mats occupy an area of 209.70m<sup>2</sup>. The upper floor has an area of 159.47m<sup>2</sup> and the prayer mats occupy an area of 84.36m<sup>2</sup>. Based on a Building Code of Australia rate for churches of 1 person per 1m<sup>2</sup>, the prayer halls alone could accommodate 495 persons based on a combined total area of 495.9m<sup>2</sup>. It is noted that the floor area of the 4 rooms in the Wrights Road Community Centre total approximately 450m<sup>2</sup> and have a capacity for 330

persons. As identified in this report, consultants acting on behalf of the objectors have surveyed significantly more than 250 persons using the community centre.

An amended plan of management (POM) was submitted with the application. The Plan of Management includes details as to how patron capacity will be managed. In summary the POM requires:

1. A counter must be stationed at the main entry to each prayer hall to count the number of worshippers entering the prayer hall.
2. The counter must be equipped with a counting device and radio communication device/phone to allow communication with the other counter and the Site Manager.
3. Once capacity is reached, the counters will communicate and inform the Site Manager.
4. The Site Manager will close access to the site and deploy a sign that states "prayer hall full". Subject to consent, a sign will also be located near Glenhaven Road indicating that the Premises has reached capacity to inform vehicles prior to entering.
5. Until prayer service starts, the counter/Site Manager will remain at the site entrance to inform any additional worshippers that capacity has been reached and they cannot enter the prayer hall and must leave the premises immediately.

It is maintained that should the development be approved in its current form there is no practical means to control numbers of people attending the site and consequential impacts including noise and off street car parking.

As has been observed at Council's Community Centre building at Wrights Road, Kellyville, a facility utilised for Friday prayer, large numbers of worshippers arrive in a short period of time just before prayer commences. Given the significant numbers of persons arriving in this short period of time, it would not be practical to alert worshippers that the premises are at capacity before they arrive at the site. In any event they are likely to be at or nearby the site and therefore the impacts created by these worshippers 'intending' to pray will lead to significant amenity impacts, particularly given the anticipated shortfall of appropriate parking on the site for use by worshippers.

As identified above, the POM in this instance is not adequate or appropriate to be relied upon as the only mechanism to control patron numbers and the associated impacts of excessive patrons entering the site or being turned away from the site.

The Court has put forward a planning principle in relation to Plans of Management (*Renaldo Plus 3 Pty Limited v Hurstville City Council* 2005). In considering whether a Management Plan is appropriate for a particular use and situation, the following questions should be considered:

1. Do the requirements in the Management Plan relate to the proposed use and complement any conditions of approval?
2. Do the requirements in the Management Plan require people to act in a manner that would be unlikely or unreasonable in the circumstances of the case?
3. Can the source of any breaches of the Management Plan be readily identified to allow for any enforcement action?
4. Do the requirements in the Management Plan require absolute compliance to achieve an acceptable outcome?
5. Can the people the subject of the Management Plan be reasonably expected to know of its requirements?
6. Is the Management Plan to be enforced as a condition of consent?

7. Does the Management Plan contain complaint management procedures?
8. Is there a procedure for updating and changing the Management Plan, including the advertising of any changes?

The POM contains measures to limit occupancy at times when acoustic impacts are likely to be greater, i.e. early morning, in an effort to comply with relevant acoustic criteria. However, the fact that this needs to be incorporated into the POM is a further indication that the site is not a suitable location for the scale and intensity of the proposed use.

#### Other Places of Worship

Throughout the Shire, places of worship operate in various zones and are of various scales and the majority of these operate without a Plan of Management. An application for a place of worship is considered based on the characteristics of the use including worshipper numbers, schedule of uses and activities, parking, zoning and site constraints.

Provided environmental impacts can be managed appropriately, places of worship in business and industrial zones can generally operate outside of key business hours with limited restrictions.

Residential zones generally support places of worship of a smaller scale or where they operate in association with schools and rely on dual use of facilities, including parking. Depending on the constraints of the site, acoustic measures might be required to be implemented to ensure the amenity of neighbours can be protected. Generally local roads are of an appropriate urban standard to facilitate these uses.

Rural zones can provide opportunities for places of worship provided they are of an appropriate scale and have been designed to respect the characteristics of each site. Rural sites can be affected by bushfire and ecology constraints and have limited services such as town water or sewer. Generally the roads are of a lesser standard than urban areas and footpaths are not provided and therefore it is imperative that parking to meet demand is provided on site.

## **5. Traffic**

In response to the Panel's deferral, the applicant provided an amended traffic and parking report by Stanbury Traffic Planning. Comments relating to parking provision are provided in Section 4 of this report. In summary, the consultant has considered that an average vehicle occupancy rate of 2.9 people per vehicle. The applicant's traffic consultant also undertook a further analysis and modelling based on amendments to the application and the survey results. In summary the consultant has concluded:

- *The proposed site access arrangements are compliant with relevant AS2890.1:2004 specifications and are capable of accommodating the largest vehicles expected to service the site;*
- *The proposed off-street passenger vehicle parking provision significantly exceeds the relevant requirements of DCP 2012 applicable to a place of worship and readily exceeds the expected peak operational parking demands based upon detailed surveys of existing services held at Wrights Road Community Centre;*
- *The vehicle circulation and servicing arrangements are capable of providing for safe and efficient internal manoeuvring, incorporating the recommendations provided within this report;*
- *The surrounding road network operates with a reasonable level of service during peak periods;*

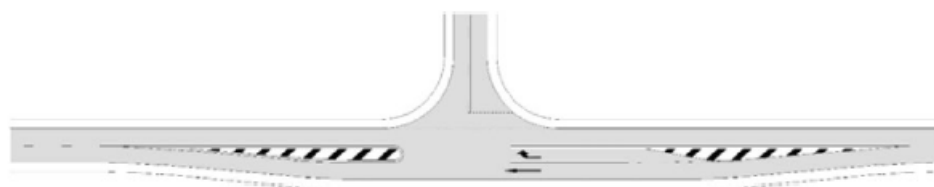
- *The maximum hourly traffic generation during weekday commuter peak hours (7:00am – 9:00am and 4:00pm – 6:00pm) is expected to be 30 trips occurring between 4:00pm and 5:00pm associated with youth services / counselling and afternoon prayer service;*
- *The maximum hourly traffic generation is expected to be 105 trips occurring between 6:00am and 7:00am associated with morning and special event Eid prayer services;*
- *Further notable periods of generation during special event periods occur between 9:00am – 10:00am, 11:00am – 12:00pm, 2:00pm – 3:00pm, 6:00pm - 7:00pm and 9:00pm – 10:00pm when maximum hourly traffic generation is expected to range between 69 – 97 trips;*
- *Detailed SIDRA modelling indicates that the adjoining road network is capable of accommodating the additional traffic projected to be generated by the subject development.*

Council staff engaged an independent Traffic Consultancy, The Transport Planning Partnership (TTPP) to peer review the proposal (refer Attachment 4). The review has determined that the proposal should not be supported based on the following reasons:

- Insufficient parking provision due to the incorrect car occupancy rate adopted for the proposal, the car park cannot accommodate the projected parking demand of 160 spaces based on the car occupancy rate of 1.56 persons per vehicle;
- Incomplete traffic modelling as the DA did not assess worst-case scenarios adequately to cover the highest patronage that would use the Glenhaven Road and Larapinta Place intersection;
- Lack of a right turn facility at the Glenhaven Road and Larapinta Place intersection to accommodate the increase in the right turning demand from Glenhaven Road onto Larapinta Place as a result of the increased traffic volumes associated with the proposal. The estimated traffic volumes meet the warrant for a Channelised Right Turn (CHR) layout involving a right turn lane on Glenhaven Road;
- Deficiencies in the carpark design, and
- Impracticability of the Plan of Management.

It is noted that the provision of a Channelised Right Turn (CHR) layout (see below) involving a right turn lane on Glenhaven Road would involve road widening, service relocation and potentially land acquisition. The road verge opposite the Larapinta Place intersection (southern side of Glenhaven Road) drops away from the existing Glenhaven Road surface and significant fill and or retaining works would be required.

The provision of a CHR at this intersection is only generated as a result of the proposed development. This work would be completely out of context with the rural nature of the roads in this location and will have significant impacts on the character of the area and the amenity of nearby residents.



Channelised right turn (CHR)  
on the major road

Source: Austroads Guide to Road Design Part 4 (2017)

The Traffic and Parking Peer Review is included at Attachment 4.

## **6. SEPP 55 Remediation of Land**

As identified in the previous report, 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.

## **7. Rural Fire Service Comments**

As identified in the original report, 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 an IPA to the property boundaries.

The IPA to the north has the most significant environmental impact as this encroaches in the native bushland within the northern portion of the site. A Vegetation Management Plan (VMP) has been submitted to address the IPA. The impacts on biodiversity are addressed later in this report.

## **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. Detailed below, are the matters that remain incomplete or insufficient information has been provided:

### Insufficient detail on architectural and landscape plans

The architectural plans still lack sufficient detail to confirm whether the building does in fact comply with the 10m building height limit. On a number of occasions the applicant has been requested to provide clear details including appropriate sections to demonstrate compliance. The applicant relies on a new section (Section E-E). This section has not been taken at a point where the roof is at its highest on the building. An assessment based off the plans including the location of existing natural ground level at this point (lower than contour RL101) would appear to indicate that the proposed building will have a maximum height of RL111.15 and exceed the 10m building height by at minimum of 150mm to 200mm in the north eastern corner of the building. A clause 4.6 request to vary the height standard has not been provided.

Notwithstanding, and as previously noted, it is considered that a building height of 10m having regard to the design of the building and the context of this site, is not appropriate.

A number of other matters remain unclear and there are inconsistencies between the plans submitted. These would need further clarification if the application was to be supported.

### 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 following comments are made in relation to waste water:

- The wastewater report uses a design wastewater load of 5,040 litres per day based upon 420 worshippers on a Friday. It is not clear how or why the 420 worshippers has been determined given reports that Midday Prayer will have 250 worshippers and all other Prayer Services having 25 attendees.  
With administration and counselling services, the design wastewater load is 4,620 litres per day, plus an additional 3,000 litres for Fridays during the month of Ramadan (total maximum daily design wastewater load of 7,620 litres).
- The proposed method of effluent disposal is spray irrigation. Spray irrigation is not supported for open space of this nature as it does not prevent people from being potentially exposed to treated effluent (a required performance standard under the Local Government (General) Regulation 2005).
- It is proposed to discharge effluent over the basement carpark. Effluent disposal areas are required by the Environment & Health Protection Guidelines – On-site Sewage Management for Single Households to observe certain minimum buffer distances, including 15 metres from buildings (spray) or 3m/6m if subsurface irrigation. It is understood that subterranean buildings require subsurface drainage to prevent water building up around the building. A 40 metre buffer is required from drainage channels, which include drainage pits, to prevent effluent from entering dams and creeks and this is not provided.
- The applicant has failed to demonstrate that suitable on-site disposal methods can be provided and that the capability of the treatment system can adequately process 7,620 litres per day.

#### Acoustics

The acoustic reports submitted with the development application have been assessed by Council staff. The assessment indicate that acceptable noise levels will be exceeded at nearby homes from vehicle traffic entering and leaving the site.

A number of deficiencies have been identified within the reports:

- Whilst the background noise levels appear to be appropriate, no details of weather were provided to indicate if any data was required to be excluded. The removal of any weather impacted data could result in lower noise criteria.
- The reports appear to assess each noise source independently of other sources. As there is a logarithmic relationship between multiple noise sources and therefore the accumulative impact of all noise sources should be modelled and considered.
- There have been no details of ventilation of the plant room or the car park and the acoustic impacts of that ventilation.
- There has been no consideration given to whether the development will satisfy the definition of offensive noise under the Protection of the Environment Operations Act.

In an earlier version of the acoustic report an acoustic barrier was proposed along the eastern boundary. In order to reduce the noise level within the acoustic criteria, modelling by Council staff indicates that a 3.3 metre high barrier would be required. The provision of a 3.3m high acoustic barrier is considered to be out of character with the rural context within which the site sits and is a further indication that the site is not a suitable location for the scale and intensity of the development proposed.

Assessment of the acoustic impacts of the proposed development raises concerns that nearby residential dwellings will be adversely impacted from noise from vehicle movements and mechanical ventilation and that the noise may unreasonably impact upon those residents.

#### Trees and Landscaping

The amended Arborist Report and Landscape Plan have been assessed. There remain a number of issues where details are lacking or there are inconsistencies between the plans submitted. It is considered that they could be resolved by further amended plans.

#### Biodiversity

An area of vegetation within the proposed APZ was determined to contain the threatened species *Eucalyptus* sp. *Cattai* in the first Biodiversity Development Assessment Report (BDAR) prepared by GIS Environmental Consultants dated January 2019. Council's ecologist concurred with this identification. The site contains suitable habitat with previous records within close proximity. The previous BDAR proposed to protect these trees including tree retention and management of the area through the preparation of a Vegetation Management Plan (VMP). Discussions with the applicant and bushfire consultant determined that this could be achieved.

The applicant then engaged Cumberland Ecology who submitted a new BDAR dated 4 July 2019. This report concluded that the subject trees were not *Eucalyptus* sp. *Cattai*. This conclusion was based on advice from The Royal Botanic Gardens (National Herbarium of NSW). It was concluded that the specimen provided was not a good match based on a comparison to a sample collected in 1954.

Very little is known about this species and research is ongoing into identification and its genetics. It is unknown how reliable the record from 1954 would be. Based on this and given the critically endangered conservation status of the species Council's Ecologist supports the proposal in principal subject to a precautionary approach which would require the protection and management of the subject trees. The application currently proposes to protect the trees within an area managed as an APZ in accordance with a VMP. It is appropriate that the VMP provide specific recommendations for the protection and management of these trees. The BDAR should also be amended to reflect this precautionary approach and assess the trees as *Eucalyptus* sp. *Cattai*.

### **9. Issues Raised in Submissions**

The amended information received on 1 February 2019 was renotified to adjoining residents and those who initially made a submission, 223 objections and 401 submissions in support were received. The issues raised in the submissions are generally consistent with the issues raised to the original application. The issues in support generally relate to the need for an Islamic place of worship in the locality. New issues raised are summarised below:

<b>ISSUE/OBJECTION</b>	<b>COMMENT</b>
The reduction in the scale of the proposal to 250 people is only in order to gain approval. As stated by member of the Hills District Muslim Society, the group has over 800 members and growing.	The application was originally for a capacity of 400 worshippers. Council staff remain concerned that the building is capable of accommodating more than 250 worshippers. It is considered that the site is not a suitable location for a development of the scale and intensity proposed due to the potential impacts and that it is out of character with the surrounding area.

ISSUE/OBJECTION	COMMENT
Given the applicant's clear objective to grow their membership base, the site will be further constrained in accommodating their operations into the future.	It is agreed that the development as proposed exceeds the environmental capacity of the site.
The traffic and noise reports are flawed as they base their conclusions on car sharing that is not reflective of the actual use anticipated.	The car-occupancy rate adopted by the applicant is not realistic given the occupancy rates at the current facility based on independent surveys or based on surveys of similar places of worship.
Inadequate and conflicting information for an accurate assessment to be undertaken.	It is agreed that insufficient and inconsistent information has been lodged. A number of the supporting reports, specially acoustics, waste water and biodiversity remain unsatisfactory and the submitted plans conflict or require further clarification.
Accurate data has not been provided by the applicant to show the full extent type and nature of the current operation. The existing operation at Wrights Road for Friday prayer has been surveyed by professional surveillance consultants between September 2017 and May 2019 on 16 occasions. It has been identified that the average attendance was 401 persons with a high of 524 persons and low of 328 persons. The average of 401 persons is approximately double the average utilised in the applicant's traffic report.	It is agreed that the data provided the applicant does not appear to reflect existing operations at Wrights Road observed by Council staff or as observed by consultants acting on behalf of objectors.
The maximum capacity of the Wrights Road Community Centre is 330 persons within four rooms. This capacity was exceeded on 14 of 16 occasions surveyed.	This statement is based on observations undertaken on behalf of objectors. Concerns remain that the proposed building has the capacity to cater for more persons that the maximum 250 proposed.
Based on observations at Wrights Road, it has been determined that based on an average attendance of 401 persons, 286 vehicles at a car occupancy rate of 1.4 persons per vehicle is a realistic estimate of actual Friday prayer operations.	The car-occupancy rate adopted by the applicant is not realistic given the occupancy rates at the current facility based on independent surveys or based on surveys of similar places of worship.
Most persons who were observed entering the Wrights Road facility on Fridays were males in work attire travelling alone which does not correspond with the applicant's traffic surveys.	It is anticipated that the place of worship will service a large portion of persons working in the locality for Friday prayer.
The 603 bus route that travels along Glenhaven Road is an hourly bus service at best that would provide limited service to the place of worship.	It is agreed that public transport will provided limited service to the proposed place of worship.



ISSUE/OBJECTION	COMMENT
The amendments to the application including the addition of a third floor and a larger building footprint warrant the submission of a new Development Application.	The amendments made to the application are a result of the deferral of the application. A new Development Application is not required.
The car park lighting will be a nuisance to adjoining neighbours.	Any lighting if approved would need to comply with the Australian Standards, however it is agreed that lighting during the proposed hours of operation will reduce the amenity of nearby residents. A carpark illuminated during the early morning and evening proposed hours of operation is not consistent with the character of the area.
If a proposal needs to rely on a Plan of Management it is clearly located on the wrong site.	Concerns related to the plan of management are addressed in this report. The extent of reliance a management plan is concerning.
I am against my rates being used to supply council rangers to continually monitor this facility and have to turn up every day and stop people entering the facility.	It is maintained that should the development be approved in its current form there is no practical means for Council to control numbers of people attending the site.
Based on surveys and the average attendance of 401 persons at Wrights Road, 40% of worshippers will be turned away once the 250 person capacity is reached.	As above.
The application now proposes a waste water system on top of the basement. This highlights the limited available area on site to cater for a development of this size.	It is agreed that the proposed waste water system is not adequately designed.
The sewerage treatment system sits immediately above the stormwater pits which presents a risk in terms of contamination to the stormwater which drains to the area classified as biodiversity.	A 40 metre buffer is required from drainage channels, which include drainage pits, to prevent effluent from entering water bodies.
The earthworks associated with the basement are excessive and will impact on a number of existing trees.	The proposal level and amount of fill is considered to be significant, and inappropriate for the rural area. The development should involve a more responsive design to the site which may include a proposal of a lower scale.
Visual impact of a LED sign saying 'prayer hall full', near Glenhaven Road.	It is agreed that a proposed sign would add to the proposal being out of character with the locality. No details have been provided of the sign however and LED sign on Glenhaven road is unlikely to be supported.
There is no consideration of those persons who have already arrived and are told to leave. There is a real prospect that a person	Concerns related to the plan of management and the difficulty of its enforcement are addressed in this report.

ISSUE/OBJECTION	COMMENT
<p>who has made the effort to attend Friday Prayer and was turned away, would not leave. If they do leave, those persons will still have to exit the premises creating further traffic chaos or wait for the next bus.</p>	
<p>We note that there is no provision for the parking of trucks for persons attending Friday Prayer. Many attendees drive work vehicles such as trucks to Friday prayers. These are unlikely to be able to access the underground carpark.</p>	<p>Concerns regarding parking are addressed in this report. It is agreed that the proposal will likely result in significant on street parking.</p>
<p>The extent of excavation required to achieve the underground car carping is excessive and represents more than double the size of the building above ground level. This is highlighted in the Demolition Plan which demonstrates the significant scale and the extent of the excavation relative to both the existing dwelling and the overall site available for development.</p>	<p>The proposed levels and amount of earthworks to be carried out is considered to be significant, and inappropriate for the rural area. The development should involve a more site responsive design which may include a proposal of a lower scale.</p>
<p>There is no ducted air conditioning in the building (two split systems only). Given the acoustic report requires all doors and windows to be shut, it is unlikely that this requirement will be met in summer.</p>	<p>The application was amended and now includes an air-conditioned plant room in the north-western corner of the building.</p>
<p>Since the proposed basement will create a large undercover area, it would be ideally suited for gatherings instead of the proposed car-park area.</p>	<p>It cannot be assumed that the basement will be used for other purposes other than parking.</p>
<p>Further clarification of the exact uses undertaken is required to properly assess the application.</p>	<p>A schedule of activities is provided in this report. It is considered that the use of the building as proposed is considered with the definition of a place of public worship which means <i>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.</i></p>
<p>The Biodiversity Development Assessment Report has been reviewed and considered to be lacking information. We submit that unless those areas of concern are satisfactorily addressed by the applicant, then Council cannot determine the development application as there is no certainty as to the ecological impact of the development.</p>	<p>As outlined in this report, the amended Biodiversity Development Assessment Report remains unsatisfactory. These issues could potentially be addressed but the outcome is currently uncertain.</p>

ISSUE/OBJECTION	COMMENT
The applicant has not provided comprehensive noise modelling or calculations to allow Council staff to properly consider the noise impacts from the development.	As outlined in this report, The additional information provided in regards to acoustics has not adequately addressed the previously raised concerns.

## CONCLUSION

As addressed in this report, the amended proposal is considered to be of a scale and intensity that remains unsatisfactory. The proposal remains inconsistent with the character of the locality and natural environment and exceeds the environmental capacity of the site to accommodate a development of this scale. The building effectively remains as originally lodged with the exception of some rationalisation of the floor layout and reduction of at-grade car spaces due to the inclusion of the basement. The building remains of a large institutional scale and introduces a number of conflicting elements into the immediate locality which are not currently present. As identified previously, the location of the building on a corner further exacerbates its prominence and creates an adverse impact on the existing streetscape.

Based on observed occupancy of vehicles of worshippers attending the existing facility at Wrights Road, it is considered that the proposal does not provide sufficient on site parking. This has the potential for worshippers to use street parking which has potential vehicular and pedestrian safety implications (due to the lack of footpaths) and significant amenity impacts for surrounding residents, including acoustic impacts.

There are a number of non-compliances with the relevant DCP controls and the current proposal is considered to be inconsistent with the aim of the Rural chapter of the DCP, as well as the relevant objectives of the RU6 zone.

For the reasons outlined in this report, especially given the scale of development and its impact on the character on the locality, the proposal is not suitable for the subject site and remains unsatisfactory.

It is recommended that the amended application be refused.

## 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 contrary to the objectives of Clause 4.3 Height of The Hills Local Environmental Plan 2012 as the height of the building is incompatible with adjoining development and the overall streetscape and with result in unacceptable visual impacts when viewed from adjoining properties and the public domain. There is also some doubt as to whether the development complies with the maximum height shown for the land on the Height of Buildings Map which provides for a 10m metre height on this site. In this regard, a clause 4.6 request to vary the height standard has not been provided.  
(Section 4.15 1(a)(i) of the Environmental Planning and Assessment Act 1979).
3. The proposed development is not in keeping the bushland rural character of the locality and therefore is inconsistent with the aim of Part B, Section 1 – Rural of The Hills DCP

(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 of The Hills DCP 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
- Landscape Screening to Boundaries
- Acoustic/Noise Impacts

Part C Section 1 – Parking

- Parking
- Set Down Area
- Outdoor parking landscaping

(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 traffic, landscaping, biodiversity impacts, waste water management, acoustic details.

(Section 4.15 1(a)(iv) of the NSW Environmental Planning and Assessment Act 1979).

6. The development is of a scale and intensity which is out of character with the surrounding development and exceeds the environmental capacity of the site due to the unacceptable impacts.

(Section 4.15 1(b) of the NSW Environmental Planning and Assessment Act 1979).

7. The proposed development will have unacceptable impacts upon road safety due to lack of a right turn facility at the Glenhaven Road and Larapinta Place intersection to accommodate the increase in the right turning demand from Glenhaven Road onto Larapinta Place as a result of the increased traffic volumes associated with the proposal.

(Section 4.15 1(b) of the NSW Environmental Planning and Assessment Act 1979).

8. The site is not considered to be suitable in terms of scale and intensity of the proposed development and the unacceptable amenity impacts on neighbours.

(Section 4.15 1(c) of the NSW Environmental Planning and Assessment Act 1979).

9. 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. SCCPP Record of Deferral
2. Previous Report to Regional Planning Panel 27 September 2018
3. Amended Architectural and Landscape Plans
4. Peer Review - Parking and Traffic
5. Peer Review – Town Planning

