

TO: Sydney Central City Planning Panel

SUBJECT: 64 Mountford Avenue GUILDFORD NSW 2161

APPLICATION No: DA2020/0081

Application lodged	19 February 2020						
Applicant	ICMG Sydney Inc						
Owner	Australian Islamic Social Association INC						
Application No.	DA2020/0081						
Description of Land	64 Mountford Avenue GUILDFORD NSW 2161, Lot 18 Sec 3 DP 683						
Proposed Development	Demolition of existing structures and construction of a place of public worship (mosque) with basement parking						
Site Area	1656.88sqm						
Zoning	Zone R4 High Density Residential						
Disclosure of political donations and gifts	Nil disclosure						
Heritage	Subject site is not identified as a heritage item and is not located within a heritage conservation area. The site is however located in vicinity of heritage items within the Talbot Road Precinct (i.e. a heritage item of local significance at 11-23 and 12-24 Talbot Road, Guildford)						
Principal Development Standards	<table> <tr> <td><u>FSR</u></td><td><u>Height of Building</u></td></tr> <tr> <td>Permissible: 0.8:1</td><td>Permissible: 11</td></tr> <tr> <td>Proposed: 0.79:1</td><td>Proposed: 11.5m (lift overrun), 12m – Dome, 19.3m – Minaret.</td></tr> </table>	<u>FSR</u>	<u>Height of Building</u>	Permissible: 0.8:1	Permissible: 11	Proposed: 0.79:1	Proposed: 11.5m (lift overrun), 12m – Dome, 19.3m – Minaret.
<u>FSR</u>	<u>Height of Building</u>						
Permissible: 0.8:1	Permissible: 11						
Proposed: 0.79:1	Proposed: 11.5m (lift overrun), 12m – Dome, 19.3m – Minaret.						
Issues	Car parking Traffic Noise impacts Height Privacy Submissions						

SUMMARY

1. Development Application No. DA2020/0081 was received on 19 February 2020 for the demolition of existing structures and construction of a place of public worship (mosque) with basement parking.
2. The application was publicly notified to occupants and owners of the adjoining properties for a period of 21 days between 25 March 2020 and 15 April 2020. In response, Council received a total of two (2) submissions raising concerns regarding increased traffic, parking, noise and permissibility of bookstore/café.

3. The subject site is not identified as a heritage item or located within a heritage conservation area. The site is however located in the vicinity of heritage items within the Talbot Road Precinct (11-23 and 12-24 Talbot Road, Guildford).
4. The application was referred externally to NSW Police and Endeavour Energy, and internally to Council's Development Engineer, Environmental Health Officer and Resource Recovery Officer. Concerns have been raised by Council's Development Engineer and Environmental Health Officer.
5. The application seeks a variation to the following development standard and Council's controls:

Development standard (PLEP 2011)	Required	Provided	% variation
Cl. 4.3 Height of buildings (lift overrun)	11m	11.5m	4.5%
Development control (PDCP 2011)			
Car parking	Min. 296 spaces	66 spaces	77.7%

6. The application is recommended for refusal for the reasons listed in the attached schedule.
7. The application is referred to the Panel in accordance with schedule 7 of cl. 5(b) of SEPP (State and Regional Development) 2011, as the proposal relates to a place of public worship that has a capital investment value of more than \$5 million.

REPORT

SUBJECT SITE AND SURROUNDING AREA

The site is legally described as Lot 18, Section 3 in DP 683 and commonly known as 64 Mountford Avenue, Guildford. The site is zoned R4 – High Density Residential and is located on the southern side of Mountford Ave, between Marian Street to the East and Talbot Road to the West. The site is regular in shape with a frontage width of 27.735m and depth of 59.74m creating a total land area comprising 1,653.7sqm.

The land has a moderate slope of approximately 1.4m across the site and drains towards the front of the site.

An inspection of the site carried out on 25/3/2020 confirmed that the land is currently occupied by an existing one storey cement rendered brick building to the front northern side of the site, car parking located on the western side of the site and a 2 x two-storey building towards the rear southern side of the site. Other site features include a carport attached to rear building located along the western boundary, landscaped front yard and front metal pool style fencing. It is noted that the site is currently being used as a Place of Public Worship and relies on the previous consent no. 163/1009.

The site is in an area undergoing transition with the emerging character of the area being identified as comprising of high density residential flat developments that is evident in the streetscape and which is consistent with the R4 high density residential land use zoning.

Adjoining developments include a one storey dwelling house directly to the East and to the West comprises of a two-storey townhouse development. Directly opposite the site to the North consists of a mix of one storey residential dwellings and a new 3 storey residential flat building. Immediately to the South with a zoning interface of R2 Low Density Residential, is another one storey residential dwelling. Further along to the East and West are also several residential flat developments and the site is also located 200m West of a railway corridor (Railway Terrace). A locality map of the site is provided below.

Figure 1 – Locality Plan of subject site



Figure 2 – Aerial view of subject site

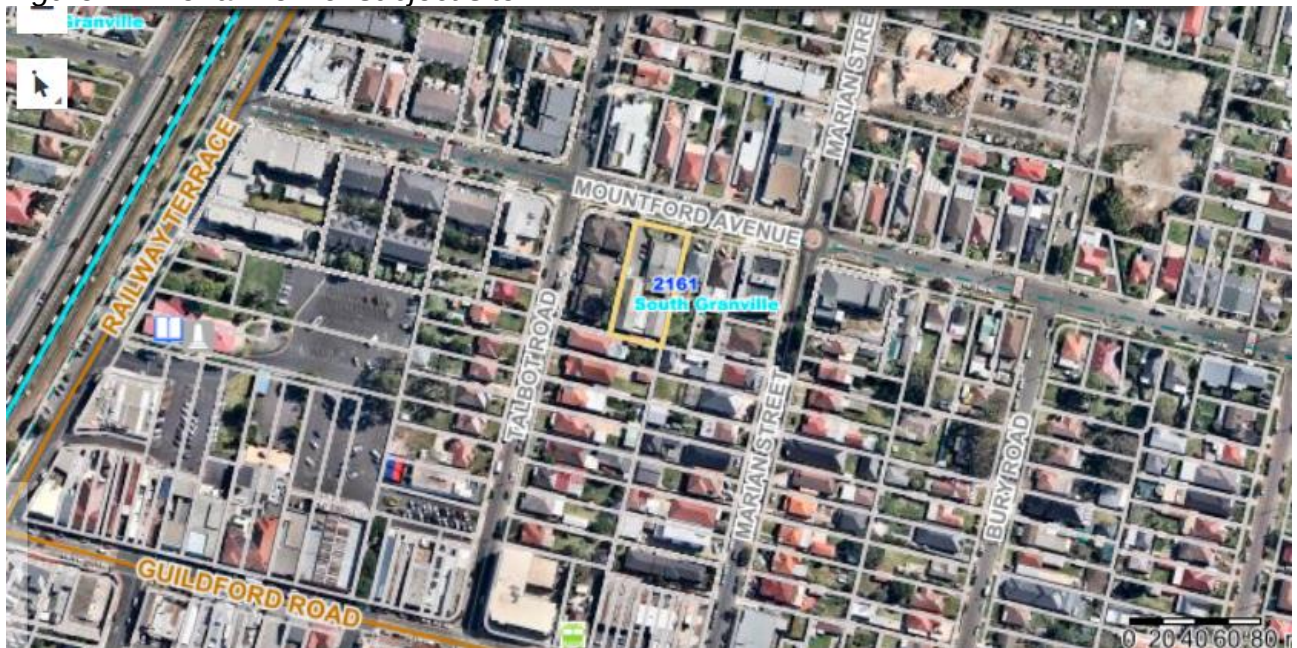


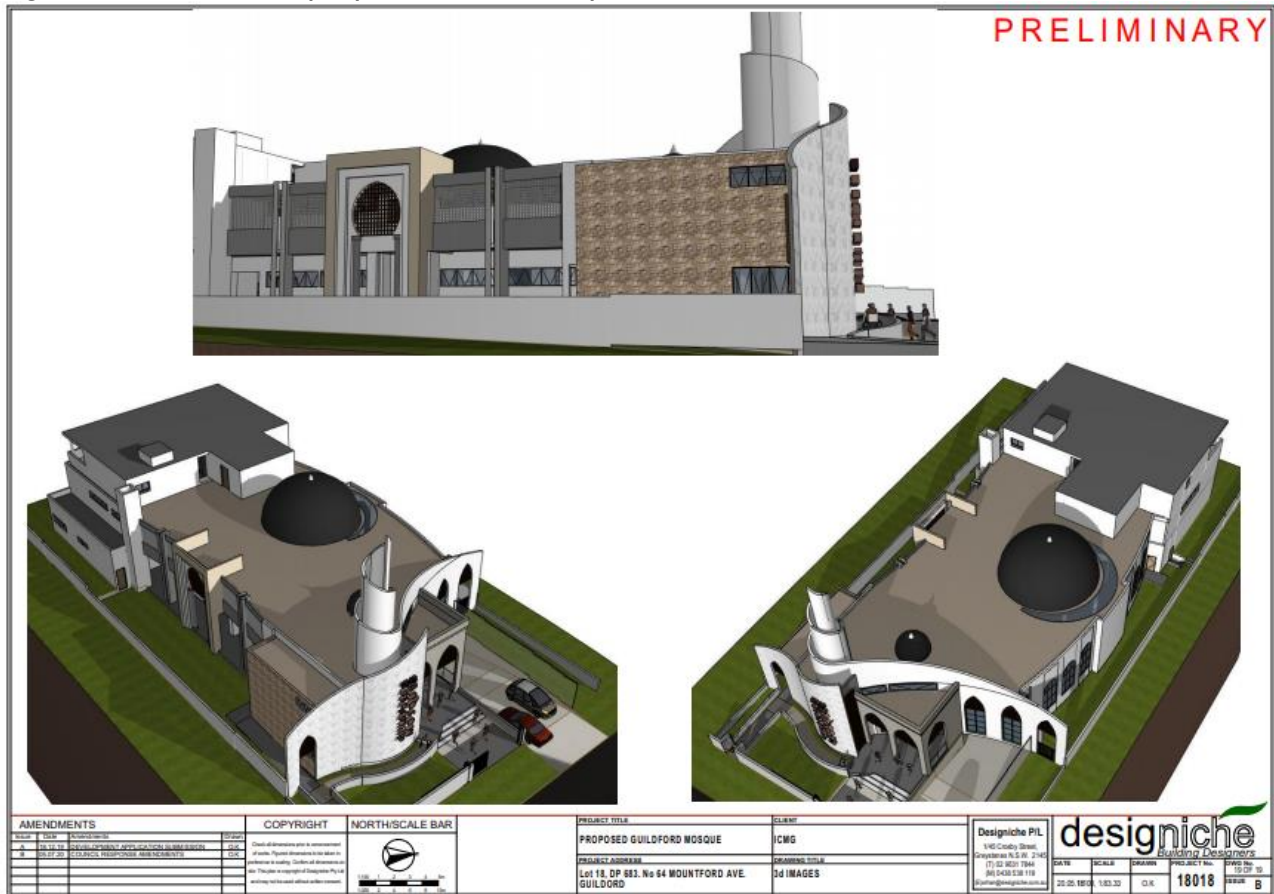
Figure 3 – Street view of subject site



Figure 4 – Perspectives of proposed new mosque



Figure 5 – 3D view of proposed new mosque



DESCRIPTION OF THE PROPOSED DEVELOPMENT

Council has received a development application for demolition of existing structures and construction of a place of public worship (mosque) with two levels of basement car parking.

Specific details of the proposed development are sought for:

Site and infrastructure works including drainage and associated landscaping and the construction of the following:

Lower basement:

- 37 car spaces (inclusive of 4 tandem spaces)
- Mechanical car lift, storage, 2 stairs and lift access

Upper basement:

- 29 car spaces (inclusive of 2 accessible, and 4 tandem spaces) plus waiting bays
- Mechanical car lift, storage, 2 stairs and lift access

Level 1 (Ground level):

- Coffee/Bookstore
- Main foyer
- Imam's Room
- Male Prayer Hall
- Lecture Hall

- Kitchen, cold store, Men's toilets, men's Wudu, Ladies and Accessible toilets
- Stairs and lift access to other levels
- Colonnade

Level 2:

- Female prayer hall
- Board room and 2x offices
- Ladies room
- 4 x class rooms
- Female Wudu/Washroom/WC and Female (students) WC & Male (students) WC
- Lift and stairs and balcony

Level 3:

- 2 x guest rooms (with ensuites) and connecting balconies
- Youth room with balcony
- Kitchen, store, plant room, 2 x accessible toilets

The proposed public place of worship is to be known as Guildford Mosque is proposed to offer different weekly services such as prayers, meetings and other associated activities are staggered across the week. According to the Plan of Management prepared by ICMG, a summary of the details of the proposed weekly schedule, staffing and hours of operation for the mosque are as follows:

1. Daily prayers:

Five (5) prayer services per day, each of which operates for a maximum of 15 minutes that are related to the cycle of the sun and accordingly varying slightly throughout the year from summer to winter:

- Sunrise (dawn) prayer between 6am – 7am (30-40 people)
- Lunch time prayer between 12 noon – 1pm (40-50 people)
- Afternoon prayer between 3pm – 4pm (20-30 people)
- Sunset prayer between 5pm – 7pm (30-40 people)
- Evening prayer between 7pm – 10pm (60-70 people)

In addition, the proposed mosque will also hold regular Association Committee meetings on site, attracting an average of 8-10 people with a maximum of 15 people to be held in the meeting/boardroom and which will conclude by 9pm.

2. Events (weekly and yearly):

The number of cultural events during the religious (Lunar) calendar attracting larger numbers of worshippers include:

- Weekly Friday prayers for 30-40 minutes duration, between the hours of 12:30pm – 2pm with a maximum of 450 people in attendance.
- Ramadan (30 days per calendar year) prayers running for 40 minutes duration between 7pm – 9pm daily with a maximum of 250 people in attendance.
- First Eid Prayers (Ramadan Eid Prayers – the following day after the end of Ramadan) running for 30 minutes duration between 6am – 8am with a maximum of 300 people.

- Second Eid Prayers (Eid of Adha Prayers – 70 days after the first Eid Prayers) running for 30 minutes duration between 6am – 8am with a maximum of 300 people.

3. *Weekly activities:*

Seminars and workshops –

Seminars and workshops are proposed to be held on site in the lecture hall which can accommodate a maximum of 190 people at any given time. Some of these seminars and workshops will occur during business hours and others will occur during evening hours and will conclude at 9pm, Monday to Thursday and 11pm on Friday and Saturday nights. The seminars and workshops are estimated to attract an average of 150 people.

Saturday school –

Saturday community language school will be held in classrooms which can accommodate a maximum of 80 students at any one time. Saturday school is estimated at attracting an average attendance of 60 students in all classrooms and will run between the hours of 9am – 2pm during NSW school terms.

Youth activities –

There are youth gatherings every Saturday evenings between 6pm – 9pm which will occur in the main prayer hall and with the maximum attendance of 40 people.

4. *Bookshop and café*

The proposed mosque also includes a bookshop and café located at the front of the site with trading hours of 9am – 6pm Monday to Friday and 9am – 4pm on Saturdays. The bookshop/café will be managed by 2 staff and the café is proposed to serve mostly light refreshments and coffee to the community.

HISTORY

A place of public worship is currently operating at the site. Details of the relevant records relating to the application are summarised below:

- DA163/1009 – Consent was granted on 15th June 1961 for a place of public worship (Church) with a seating capacity of 250 people and the provision of 14 car spaces at the subject property. Council's records indicate that the site was previously occupied by a Methodist Church with the place of public worship use continuing as a mosque.
- PL2019/44 – A meeting was held between Council Officers and the applicant on the 2 November 2018 for demolition of existing place of worship and construction of a new place of public worship over basement parking. The meeting concluded that the most significant issue affecting the development is the ability for the site to provide an adequate number of car parking spaces and therefore the development proposal could not be supported in its current form.

APPLICANTS SUPPORTING STATEMENT

The applicant has provided a Statement of Environmental Effects prepared by JV Urban dated December 2019 and was received by Council on 19 February 2020 in support of the application.

CONTACT WITH RELEVANT PARTIES

The assessing officer has undertaken a site inspection of the subject site and surrounding properties and has been in regular contact with the applicant throughout the assessment process.

INTERNAL REFERRALS

Development Engineer

The development application was referred to Council's Development Engineer for comment and the written advice received provided that the development proposal is unsatisfactory and cannot be supported in its current form due to the following:

Traffic / Parking

1. The parking requirements, as per Parramatta DCP 2011, is based on the floor space and not the number of user. Hence, the amended provision of 66 car spaces fall well short of required 296 spaces as raised previously in the initial request for information referral.
2. The traffic generation is also underestimated by proportionate amount as previously raised in the initial request for information referral.
3. Provision of car lift to access car parks for between lower and upper basement car parking area is not acceptable. Further, this aggravates the disruption of traffic flow.
4. The requirement to reverse entry into the car lift from upper level to lower level results in further aggravated disruption of traffic flow.
5. The floor level (RLs) of the lower basement car park has not been provided.
6. Each of the swept path diagram need to be labelled appropriately including the parking level location (e.g. upper/lower) for clarity.
7. Access and manoeuvring to the car spaces 25 to 29 are poorly arranged and requires more than a 3 point turn causing traffic disruption and will therefore affect access to those car spaces as shown in the diagram of Addendum traffic statement.
8. The car spaces in tandem are not acceptable as raised previously in the initial referral. It is noted the numbers of car spaces in tandem have increased in number from 5 to 8 spaces

Stormwater/OSD

It is noted that the Design of OSD system is based on Holroyd controls and must be based on Parramatta requirements (former council), which the amended plan fails to demonstrate. Therefore, insufficient information has been provided with respect to:

- a. The basement pump-out tank storage tank and the aboveground ponding have not been designed in accordance with the council's requirements and does not comply.

- The adopted parameters are inconsistent and underestimates the storage requirements.
- b. Excessive area of the driveway ramp is exposed and will generate excessive runoff. The base of the OSD tank that hangs below the ground level protrudes down the ceiling and is likely to obstruct the access to the circular ramp between the upper and lower basement. It must either be relocated away from current location unless demonstrated by a detailed cross-section with the levels shown in critical locations and the minimum clearance as required by AS 2980.1-2004.
 - c. The OSD design is not acceptable and need to be re-designed with the correct OSD parameters (SSR= 470m³/ha and PSD= 80 l/s/ha). Due to the incorrect OSD parameters the storage volume are under estimated while the site discharge is overestimated. The orifice size is also overestimated. A revised OSD design and calculation must be prepared.
 - d. The OSD storage volume provided is insufficient (just 40%) and does not comply with the minimum requirements. An OSD storage volume of approximately 95m³ will be required as a part of management of site stormwater.
 - e. The runoff from strip of land behind the OSD must be managed appropriately. The stormwater plan must demonstrate how it is being undertaken.

Water sensitive urban design measures

- i. Parramatta DCP 2013 requires the development to incorporate a water sensitive urban design measures in accordance with the section 3.3.6 of the DCP. The development must provide such measures and must achieve the stormwater treatment target for the pollution removal as outlined in Table 3.3.6.1 under Section 3.3.6 of Parramatta DCP 2013(Part 3). Appropriate measure must be employed demonstrating compliance with the treatment targets for the pollution removal.

Having regard to the above issues and insufficient information, the amended proposal is not supported.

Environment and Health

The development application was referred to Council's Environment and Health Officer for comment and the written advice received provided that the development proposal is unsatisfactory and cannot be supported in its current form due to the following:

The Acoustic report prepared by Day Design P/L, reference 6730-2.1L initially recommended a number of noise attenuation measures, including the need for installation of acoustic treatments on one of the affected residential dwellings nearby. The advice provided by Council's Environmental Health Officer indicated that this was not an appropriate mitigation measure as it required the existing neighbour to modify their dwelling to shield them from noise from a new proposed development. Furthermore, installing glazing and acoustic seals on the dwelling only reduced noise from entering the dwelling itself and did not address the issue of excessive noise in other parts of the residential premises, such as their respective private open space. Project specific noise criteria generally apply at the boundary of receivers as it is assumed that existing receivers have a reasonable expectation to not be unduly affected by noise from new developments in their premises, whether that be in their external yard or inside their dwelling. The proposed mitigation measure does not provide any solution to the exceedance of the criteria predicted at the boundary and in the external areas of the neighbouring premises. A request for further information was therefore required by the applicant to provide a more appropriate noise mitigation solution for the

affected residential receiver/s that will address the noise impacts in both the external and internal areas of the receiver.

Consequently, the acoustic report was amended with a supplementary statement provided recommending an alternative solution being a solid 2.8m sound barrier wall along the entire western boundary of the site, where currently a 1.8m high side boundary fence is located. The effectiveness of the proposed measure is questioned as to whether the sound barrier fence is of sufficient height to eliminate line of sight with, and therefore provide noise attenuation for the upper storey of the villas, as the residential premises at 66-68 Mountford Avenue are two storeys high. In addition the proposed height of the sound barrier wall is likely to further diminish the amenity of the neighbouring residents as the height of the structure will result in overshadowing and visual impacts.

Resource Recovery Officer

The development application was referred to Council's Waste Management Officer for comment and the written advice received provided that the development proposal is satisfactory subject to conditions incorporating ongoing waste management considerations in the supporting waste management plan submitted.

EXTERNAL REFERRALS

NSW Police

The development application was referred to NSW Police Force for comments and the advice provided raised no objection to the proposed development.

Endeavour Energy

The development application was referred to Endeavour Energy for comments and the advice provided raised no objection to the proposed development.

PLANNING COMMENTS

The provisions of any Environmental Planning Instruments (EP&A Act s4.15 (1)(a)(i))

The following Environmental Planning Instruments are relevant to the subject application:

(a) State Environmental Planning Policy (State and Regional Development) 2011

Development of a type that is listed in Schedule 7 of SEPP (State and Regional Development) 2011 is defined as 'regional significant development'. Such applications require a referral to a Sydney District Panel for determination as constituted by Part 3 of Schedule 2 under the Environmental Planning and Assessment Act 1979. The proposed development constitutes 'Regional Development' under schedule 7 of cl. 5(b) as the development relates to a place of public worship with a Capital Investment Value (CIV) of \$ 6,822,512.22 which exceeds the \$5 million threshold. While Council is responsible for the assessment of the DA, determination of the Application will be made by the Sydney Central City Planning Panel.

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

Clause 7 of SEPP 55 requires Council to be satisfied that the site is suitable or can be made suitable to accommodate the proposed development. The matters listed within Clause 7 have been considered in the assessment of the development application.

Matter for Consideration	Yes/No
Does the application involve re-development of the site or a change of land use?	☒ Yes ☐ No
Does the application involve re-development of the site or a change of land use?	☒ Yes ☐ No
In the development going to be used for a sensitive land use (e.g.: residential, educational, recreational, childcare or hospital)?	☒ Yes ☐ No
Does information available to you indicate that an activity listed below has ever been approved, or occurred at the site? acid/alkali plant and formulation, agricultural/horticultural activities, airports, asbestos production and disposal, chemicals manufacture and formulation, defence works, drum re-conditioning works, dry cleaning establishments, electrical manufacturing (transformers), electroplating and heat treatment premises, engine works, explosive industry, gas works, iron and steel works, landfill sites, metal treatment, mining and extractive industries, oil production and storage, paint formulation and manufacture, pesticide manufacture and formulation, power stations, railway yards, scrap yards, service stations, sheep and cattle dips, smelting and refining, tanning and associated trades, waste storage and treatment, wood preservation	☐ Yes ☒ No
Is the site listed on Council's Contaminated Land database?	☐ Yes ☒ No
Is the site subject to EPA clean-up order or other EPA restrictions?	☐ Yes ☒ No
Has the site been the subject of known pollution incidents or illegal dumping?	☐ Yes ☒ No
Does the site adjoin any contaminated land/previously contaminated land?	☐ Yes ☒ No
Has the appropriate level of investigation been carried out in respect of contamination matters for Council to be satisfied that the site is suitable to accommodate the proposed development or can be made suitable to accommodate the proposed development?	☐ Yes ☒ No
Details of contamination investigations carried out at the site: Notwithstanding, a Hazardous Materials Audit Report reference # N1908018 V1, prepared by CETEC Professional Scientific Solutions dated 21 August 2019 has been submitted to accompany the development application. The report identified a number of hazardous materials located in the existing structures on site and provides recommendations to be adopted relating to asbestos, lead and other asbestos containing materials for the demolition of these buildings and structures. The report has been reviewed by Council's Environmental Health Officer and the advice provided required the report to be amended to address and include measures for 'any unexpected finds to be reported' as well as an asbestos clearance certificate once demolition and removal has been carried out. In the event that the application is determined by way of approval, it is considered that appropriate conditions could be imposed to ensure compliance with the above.	

(c) State Environmental Planning Policy 64 – Advertising and Signage

The provisions of the SEPP 64 have been considered in the assessment of the development application. The proposal includes a building identification signage that is proposed to be located on the Minaret which reads 'Guildford Mosque'.

"Building identification sign means a sign that identifies or names a building and that may include the name of a building, the street name and number of a building, and a logo or other symbol but does not include general advertising of products, goods or services."

The proposed signage is considered to be consistent with the provisions under Schedule 1 assessment criteria of the SEPP.

(d) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The subject site is identified as being located within the area affected by the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposed development raises no issues as no impact on the catchment is envisaged.

(Note: - the subject site is not identified in the relevant map as 'land within the 'Foreshores and Waterways Area' or 'Wetland Protection zone', is not a 'Strategic Foreshore Site' and does not contain any heritage items. Hence the majority of the SREP is not directly relevant to the proposed development).

(e) Parramatta Local Environmental Plan 2011 (PLEP 2011)

The provision of the PLEP 2011 is applicable to the development proposal. It is noted that the development achieves compliance with the statutory requirements of the PLEP 2011.

- Permissibility:

The proposed development is defined as a 'Place of public worship' and is permissible in the R4 High Density Residential zone with consent.

"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."

In addition, to the primary use of the site as a place of public worship, it is noted that the development also proposes a coffee/bookstore measuring 40.5m². Concerns were raised by Council Officers with regard to permissibility of this use and insufficient information has been provided to Council to demonstrate how the café/bookstore is ancillary or related to the primary use of the land as a place of public worship.

The development standards to be considered under PLEP 2011 are summarised below.

DEVELOPMENT STANDARD	PROPOSED	COMPLIANCE
4.3 Height of Buildings Max. permitted 11m	Minaret: 19.3 m Dome: 12m Lift o/run: 11.5m	No. However, it is noted that the useable floor levels of the building comply with the 11m height limit and only a portion of the lift overrun, top of the Dome and Minaret is identified as breaching the building height line. The Dome and Minaret is considered to be a decorative element of which clause 5.6 – Architectural roof features applies. This is discussed in further detail below.
4.4 Floor Space Ratio Max. permitted 0.8:1	0.79:1	Yes – the area of the site is 1657m ² and a maximum GFA of 1325.6m ² applies to the site. The proposed GFA for the development is 1313.58m ² which complies.
4.6 Exceptions to development standards	No justification provided by applicant re exceedance in height relating to Lift overrun: 11.5m	No. The applicant's supporting Statement of Environmental Effects has not addressed the non-compliance in relation to the portion of the lift overrun that exceeds the maximum height limit of 11m and clause 4.6 variation request to the LEP for the height of buildings development standard has not been provided.
5.6 Architectural roof features	Minaret: 19.3 m Dome: 12m	Yes. The portion of the building exceeding the maximum height also comprises a decorative element of the building, which is not an advertising structure and does not include floor space and is not capable of being converted into floor space. Therefore, the use of this clause for the height exceedance which relates to the decorative element is considered to be appropriate and acceptable in this instance. Further, the height exceedance resulting from the decorative element does not contribute to any additional overshadowing impacts on the adjoining properties.
5.10 Heritage	Proximity to Talbot Rd precinct	A Heritage Impact Statement prepared by Lara Goldstein (Mosaico Planning and Heritage

		Consulting) dated 30 June 2020 has been submitted to accompany the development application as the subject site is located in proximity to the Talbot Road Precinct – a heritage item of local significance. The conclusion of the report provides that <i>“the proposed development will replace an existing mosque with a new building for the same use. It will introduce a new high-quality built form element into the Mountford Avenue streetscape and the wider area... it will not have a detrimental impact on the established significance of the heritage items in the vicinity.”</i>
6.1 Acid Sulfate Soils	Class 5	The site comprises class 5 (nil impact) and is unlikely to lower the water table.
6.2 Earthworks	Basement excavation	Proposed earthworks relating to the basement excavation are not considered to disrupt existing drainage patterns and soil stability in the area. If the application were to be determined by way of approval, appropriate conditions could be imposed requiring a dilapidation report and appropriate underpinning works to minimise the impact on the surrounding adjoining properties.
6.3 Flood planning	Not affected	The site is not identified as being flood prone land.

The provisions of any proposed instrument that is or has been the subject (EP&A Act s4.15 (1)(a)(ii))

(a) Draft State Environmental Planning Policy (Environment)

The draft SEPP relates to the protection and management of our natural environment with the aim of simplifying the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property. The changes proposed include consolidating the following seven existing SEPPs:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
- State Environmental Planning Policy No. 50 – Canal Estate Development
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment

- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.

The draft policy will repeal the above existing SEPPs and certain provisions will be transferred directly to the new SEPP, amended and transferred, or repealed due to overlaps with other areas of the NSW planning system.

Changes are also proposed to the Standard Instrument – Principal Local Environmental Plan. Some provisions of the existing policies will be transferred to new Section 117 Local Planning Directions where appropriate.

(b) Draft Cumberland Local Environmental Plan 2020 (Draft CLEP)

The Draft Cumberland Local Environmental Plan 2020 (Draft CLEP) has been prepared by Cumberland Council to provide a single planning framework for the future planning of Cumberland City. The changes proposed seek to harmonise and repeal the three existing LEPs currently applicable to the Cumberland local government area, those being:

- Holroyd Local Environmental Plan 2013,
- Parramatta Local Environmental Plan 2011, and
- Auburn Local Environmental Plan 2010.

The current planning controls for the subject site, as contained within the PLEP 2011, are not proposed to change under the Draft CLEP. Under the Draft CLEP, places of public worship are permitted with consent in the R4 High Density Residential Zone. The site also benefits from an existing development consent for a place of public worship as discussed earlier in the report.

The provisions of any Development Control Plans (EP&A Act s4.15 (1)(a)(iii))

The following Development Control Plans are relevant to the assessment of the subject application:

a) Parramatta Development Control Plan 2011 (PDCP 2011)

The PDCP 2011 applies to the subject site. The proposed development has been assessed against part 5 of PDCP 2011 in relation to a Place of public worship, where several non-compliances have been identified. The non-compliances primarily relate to the provision of carparking where a considerable departure is noted, traffic, locational requirements and acoustic privacy which is discussed below.

- Traffic, parking and access: - Part 5, Clause 5.3.3.5, states the following:

Objectives:

1. To ensure that pedestrian safety is maintained and protected
2. To ensure that the surrounding street network and intersections continue to operate effectively and within design parameters.
3. To minimise the impact of parking on the local streets.
4. To minimise impact upon the amenity of the neighbourhood

Design principles:

On-site parking shall be provided at the rate determined by the traffic impact statement having regard to the objectives of this clause. As a general guide for places of public worship, new development shall provide 1 car parking space per 5m² of usable floor space for the first 100m² and 1 car parking space per 3m² of usable floor space thereafter. (Usable floor space not being corridor space, stairways, storage areas, toilets and other floor space that will not increase the capacity of the development.)

The application submitted to Council proposes a revised total of 66 car parking spaces to service the development, with the following justification:

“The proposed development provides a total prayer hall area for males and females over two levels of 505m².

The application of the above mentioned suggested parking rates in Council’s DCP, would require the provision of 155 car parking spaces, which is considered to be excessive for the subject mosque site in Mountford Avenue, Guildford, which is located in a residential area where a considerable number of existing worshippers are from the local neighbouring properties and area and often walk to and from the site, as demonstrated by the ‘mode of travel’ survey undertaken for the existing mosque congregation...

...the proposed activities within the subject development site are to be staggered and that during the prayer times, none of the other facilities will be used or occupied, in order to ensure that the site is not overcrowded and that parking on-site is sufficient and well managed. This is typical for places of worship where a Plan of Operational Management is developed, and Council usually place a condition on the applicant to abide by this Plan of Management. Therefore, in terms of traffic generation and parking demand during the peak prayer times, this will be generated by the prayer area only and not by other uses.

Comment:

The Parramatta DCP 2011 states that ‘floor space that will not increase the capacity of the development’ shall be excluded from the calculation of parking. In this regard, based on the extent of the useable space provided, that being 926.87m² (including prayer halls, lecture halls, classrooms and meetings rooms), 296 car parking spaces are required to service the development, resulting in a shortfall of 230 car parking spaces. The proposed development is therefore contrary to the above objectives 3 and 4 under Part 5 of Section 5.3.3.5, that is to minimise the impact of parking on the local streets and to minimise impact upon the amenity of the neighbourhood.

The proposed development is also contrary to objective 2 in relation to ensuring that the surrounding street network and intersections continue to operate effectively. The traffic generation and the impact on the local surrounding road network appears to have been underestimated, given that the traffic report underestimates the car parking space requirements. Concerns were raised with traffic impacts associated with the Friday prayers attracting a maximum of 450 people, Ramadan and Eid prayers attracting a maximum of 250 to 300 people and the weekly seminars and workshops that run until 9pm Monday to Thursday and 11pm Fridays and Saturdays, attracting an average of 150 people.

- Locational requirements: - Part 5, Clause 5.3.3.1, states the following:

Objective:

- 1. To prevent unacceptable impacts on the amenity of residential areas by encouraging the location of larger places of public worship within non-residential zones.*

Design principle:

Larger places of public worship (i.e. with a seating capacity of greater than 250) are to be located within lands zoned for business or industrial purposes.

The applicant rationalises that, whilst the DCP encourages places of public worship with a seating capacity in excess of 250 to be located in Business or Industrial zones, the land use is permissible with consent. Section 4.15 (3A) (b) provides in relation to provisions of a DCP, that: *if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development.* In the circumstances, the supporting documentation is able to demonstrate that any impacts on the surrounding residential amenity is not of such significance that it cannot be mitigated by conditions and proper management.

Comment:

The development proposal relates to a larger place of worship with associated uses including lecture hall, classrooms, meeting rooms and other ancillary functions that comprise a total useable floor space of 926.87m². The development also has the capacity to accommodate a maximum total of 450 worshippers at any one time within the prayer halls alone. As such, concerns were raised with regard to the scale and intensity of the proposed new place of worship being suitable in the area, noting that larger places of worship (capacity greater than 250) are more suitable to land zoned for business or industrial purposes as a result of the cumulative impacts associated with parking, increase traffic generation and noise.

Therefore, the proposed development is considered to be contrary to objective of clause 5.3.3.1 which aims to prevent unacceptable impacts on the amenity of residential areas by encouraging the location of larger places of public worship within non-residential zones.

- Acoustic privacy: - Part 5, Clause 5.3.3.3, states the following:

Objective:

- 1. To minimise noise levels from places of public worship that may impact upon neighbouring or nearby properties.*

Design principle:

The design of the proposed place of public worship or educational establishment should minimise the projection of noise from the various activities anticipated to occur within the site. Adjoining and nearby residents should not be exposed to unreasonable levels of noise arising from the proposed use.

Comment:

A number of concerns were raised by Council's Environmental Health Officer with respect to the original acoustic report and, in particular, the recommended measures for addressing the significant exceedances of the noise criteria at 66-68 Mountford Avenue – i.e, the proposed glazing and other attenuation works to the affected dwelling which was not considered to be an appropriate solution as this required the existing neighbour to modify their dwelling to shield noise sources from a new development. Consequently, the acoustic report has been amended with a proposed alternative solution, being the construction of a solid 2.8m high sound barrier/wall along the entire western boundary of the site.

The residential premises at 66-68 Mountford Avenue are two storeys high. Therefore, concerns are raised with regard to the effectiveness of the proposed 2.8m high sound barrier fence and whether it is of sufficient height to eliminate line of sight with, and therefore provide noise attenuation for the upper storeys of the townhouses. Additionally, the proposed height of the sound barrier wall is likely to further diminish the amenity of the neighbouring residents as height of the structure will result in overshadowing and visual impacts.

In addition, there are also concerns with respect to privacy impacts and overlooking resulting from the level 3 balcony attached to the proposed youth room/guest rooms.

The proposal is therefore considered to be contrary to objective 1 which is to minimise noise levels from places of worship that may impact upon neighbouring or nearby properties. In this regard, insufficient information has been submitted to demonstrate to Council that the proposed development will have no adverse noise/overlooking impacts on the adjoining developments.

The provisions of any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4 (EP&A Act s4.15(1)(a)(iia))

There is no draft planning agreement associated with the subject Development Application.

The provisions of the Regulations (EP&A Act s4.15 (1)(a)(iv))

The proposed development raises concerns with regard to the relevant matters arising from the *Environmental Planning and Assessment Regulations 2000* (EP&A Reg) as a clause 4.6 request to vary the development standard in relation to height has not been provided.

The Likely Environmental, Social or Economic Impacts (EP&A Act s4.15 (1)(b))

The likely impacts of the proposed development have been considered in the assessment of the application and are not considered acceptable, namely due to the limited number of parking spaces provided on site to service the development, and the impact on the local road network.

The suitability of the site for the development (EP&A Act s4.15 (1)(c))

The site is located within R4 High Density Residential zone, to which places of public worship are permitted with consent. However, due to the significant departure from the numerical compliance with Council's on-site car parking requirements, the site is not considered suitable for the proposed use.

Submissions made in accordance with the Act or Regulation (EP&A Act s4.15 (1)(d))

Advertised (newspaper) ☒

Mail ☒

Sign ☒

Not Required ☐

In accordance with Council's Notification requirements contained within the Parramatta DCP 2011, the proposal was publicly notified for a period of 21 days between 25 March 2020 and 15 April 2020. The notification generated total of two (2) submissions in respect of the proposal with nil submissions disclosing a political donation or gift. The issues raised in the public submissions are summarised and commented on as follows:

1. **Issue:** Concerns are raised with respect to the development resulting in a total building height of up to 18m (Minaret) which exceeds the maximum permitted height of 11m.

Planner's comment: Council acknowledges that the development exceeds the maximum building height of 11m by 0.5m resulting from the lift overrun and the lack of a clause 4.6 to justify the contravention. In relation to the Minaret, this is considered to be a decorative element of the building which satisfies the requirements of clause 5.6 of the PLEP 2011 as the decorative element is not an advertising structure and does not include floor space and is not capable of being converted into floor space. Therefore, the use of this clause for the height exceedance which relates to the decorative element is considered to be appropriate and acceptable in this instance.

2. **Issue:** Concerns are raised with respect to the exclusion of 'stairs, lift and common vertical circulation' in the GFA as the building is one single use and as such exceeds the maximum FSR permitted for the site.

Planner's comment: In calculating the GFA and FSR for the all developments, the definition of GFA excludes the stairs lift and common vertical circulation spaces. Council has verified the FSR and GFA calculations for the development which complies.

3. **Issue:** The deep soil nominated include areas that are less than the required 4x4m width, namely the front portion of the site.

Planner's comment: The development relates to a purpose built place of public worship and as such the deep soil requirement is considered to be limited application in this instance. The proposed development provides 37.3% (617.29m²) of landscaped area and a deep soil of 15.7% (260.88m²) and is noted as being an improvement to the existing situation as the site currently provides 19.2% (319.24m²) and 9.5% (157.22m²) respectively.

4. **Issue:** The basement protrudes above the external walls of the ground floor and there are concerns that these levels will be forced to be raised higher completely eliminating the proposed landscape areas.

Planner's comment: A review of the elevation and section AA and BB plans indicate that no part of the basement walls project above the existing ground level. The proposed basement walls will therefore have no impact on the amount of landscaping proposed on site.

5. Issue: The fin walls on either side of the building are built to the boundary and extend higher than anything anticipated by any of Council's DCP's and should be deleted.

Planner's comment: The proposed fin walls are considered to form part of the building's architectural feature. In the event that the application is determined by way of approval, standard conditions can be imposed for the construction of the building as a whole to be within the boundaries of the site with a boundary survey report.

6. Issue: The use suggests a place of public worship however there is also a commercial use such as the café/bookstore at ground level. This is prohibited in the R4 zone.

Planner's comment: Council acknowledges that the proposed coffee/bookstore is not permitted in the relevant zone and has sought further clarification with respect to the additional use proposed in relation to the primary use as a place of public worship which the applicant has not provided with this application.

7. Issue: The gross floor area of the site is 1444sqm and this means that $1444/20 = 73$ car parking spaces are required (excerpt from DCP is below). Only 59 spaces are proposed. This is a massive deficiency (14 spaces deficient)- A third basement level needs to be added or 280sqm of GFA removed from the development so that the local streets aren't impacted by the development. There is already massive traffic issues with the existing site. This is Council's only time to be able to rectify this issue, as once this is approved the locality will be permanently impacted. Furthermore the Operational Plan of Management suggest that there will be up to 450 patrons for weekly Friday prayers. This number is not an exception once a year event. This is weekly and this translates to $450 \text{ patrons} / 5 \text{ seats} = 90$ parking spaces required. The application proposed 35% less spaces than what is required.

Planner's comment: Council acknowledges that the development is significantly deficient in the provision of car parking spaces provided to service development by 230 spaces based on the useable floor space of 926.87m² which is based on the parking rate stipulated under part 5, clause 5.3.3.5 of the PDCP 2011.

8. Issue: Basement parking does not have any blind aisle extensions as required by AS2890.1. There is no U-turn bay proposed, so traffic will jam in the basement, discouraging people to use the basement and rely on on-street parking. U-turn bays must be added along with blind aisle extensions, further amplifying the deficiency with parking.

Planner's comment: Council's Engineer is not satisfied with the proposed development as a result of the traffic, parking, access and manoeuvring issues. Therefore, the proposal cannot be supported in its current form.

9. Issue: Tandem parking is proposed in the basement. How will the use of these spaces be policed? Patrons will simply park a single car in this space, blocking other space further amplifying the parking issues.

Planner's comment: Council's Engineers have recognised and identified the above issues with the applicant advising that tandem parking spaces are not acceptable for the development.

10. ***Issue:*** The operational plan of management has the same amount of information a consent authority would expect for a corner store application. Considering the intensity of the use, the PoM should be at least 50 pages, properly documenting the full and proper functioning of the site. The written consent won't be able to capture all the necessary conditions and accepting a PoM this basic exposes Council and the neighbouring community unnecessarily to a use they will have little control over.

Planner's comment: The operational plan of management does not adequately address the management of carparking and traffic. Therefore, the application is recommended for refusal.

11. ***Issue:*** Although 59 parking spaces are being proposed for the development, it is still not enough to accommodate the daily/weekly worship without disturbing local residents. Previous concerns have also been made to Council regarding the traffic conditions on Marian Street and the worshippers of Guildford Mosque disturbing local residents.

Planner's comment: Whilst the development provides a revised parking number of 66 spaces, Council acknowledges that the development is still significantly deficient in the provision of car parking spaces provided to service the development by 230 spaces based on the useable floor space of 926.87m².

12. ***Issue:*** Even if one sided parking is formalised by Council, there are still concerns with parking as both Masjid Alsalam and Assalam Mosque's are located on the corner of Marian Street and Oxford Road which also contribute to the parking disturbance. I don't understand how all Mosque's including Rahma Mosque located on Railway Street are all being approved within 1.0km of each other.

Planner's comment: There are no planning restrictions in regard to places of public worship and its proximity to one another. Notwithstanding, Council is aware of the parking and traffic issues surrounding the development of places of public worship and has therefore been consistent in the approach in the assessment of parking and traffic in accordance with Council's controls.

The public interest (EP&A Act s4.15(1)(e))

The public interest is served by permitting the orderly and economic development of land, in a manner that is sensitive to the surrounding environment and has regard to the reasonable amenity expectations of surrounding land users. In view of the information provided within this report, it is considered that the development, if carried out in its present form, will have an adverse impact on the public interest by virtue of the limited extent of parking provided on-site and the impacts on nearby intersection and local road network.

SECTION 7.12 (FORMERLY S94A) FIXED DEVELOPMENT CONSENT LEVIES

This part of the Act relates to the collection of monetary contributions from applicants for use in developing key local infrastructure.

If the application were to be determined by way of approval, the development would require the payment of contribution amount of \$68,225.00 in accordance with the Cumberland Local Infrastructure Contributions Plan.

DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

The applicant and notification process did not result in any disclosure of Political Donations and Gifts.

CONCLUSION

Having regard to the relevant matters of consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development is unacceptable for the reasons outlined in this report. It is recommended that the development application be refused.

RECOMMENDATION

- 1. That Development Application No. DA2020/0081 for Demolition of existing structures and construction of a place of public worship (mosque) with basement parking on land at 64 Mountford Avenue GUILDFORD NSW 2161 be refused for the reasons listed in Attachment 1.**
- 2. Persons whom have lodged a submission in respect to the application be notified of the determination of the application.**

ATTACHMENTS

1. Draft Notice of Determination
2. Architectural Plans including shadows & landscape plans
3. Stormwater/Engineering Plans
4. Submissions Received
5. PDCP compliance table
6. Plan of Management
7. Technical reports
 - Traffic report + Addendum
 - Acoustic report + supplementary statement
 - Hazmat Survey Audit report
8. Evacuation Diagram
9. Emergency Evacuation Plan
10. Heritage Impact Statement