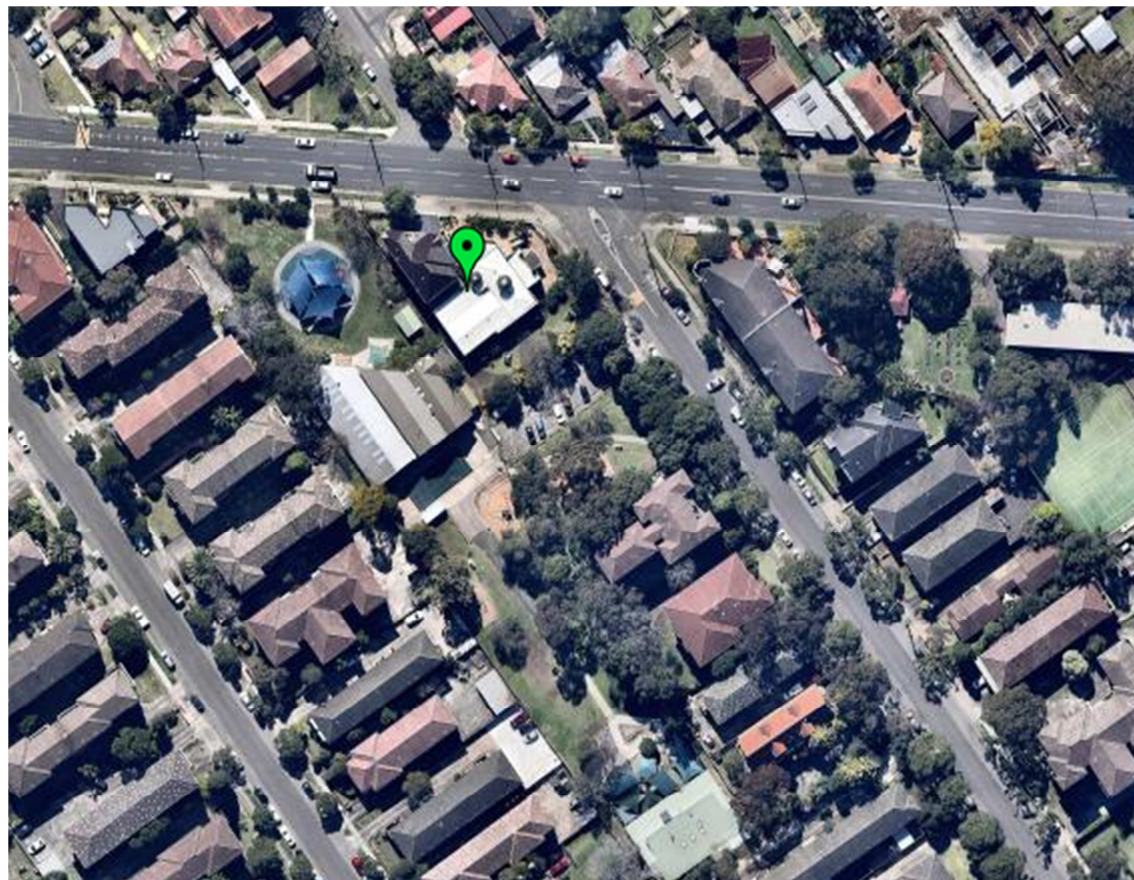


REPORT TO GEORGES RIVER COUNCIL IHAP MEETING OF 22 SEPTEMBER 2016

IHAP Report No	1	Development Application No	DA2015/0011
Site Address & Ward Locality	445-447 Forest Road Penshurst Mortdale Ward		
Proposal	Alterations and additions to existing place of worship (mosque) including first floor additions, new domed roof, ground floor additions, internal alterations and 16m high minaret attached to the north east of the building		
Report Author/s	Team Leader Major Projects, Laura Locke		
Zoning:	Zone SP2 - Infrastructure		
Date of Lodgement	27 January 2015		
Owner	Trustees Islamic Society		
Applicant	Trustees Islamic Society		
Submissions	1531 Submissions and petition with 608 signatures		
Cost of Works	\$580,000.00		
Reason For Referrals to IHAP	Number of submissions		
Recommendation	THAT the application be approved in accordance with the conditions in the report		

Site Plan



EXECUTIVE SUMMARY

1. Development consent is sought for alterations and additions to the existing place of public worship (mosque) including first floor mezzanine addition, three (3) dome structures on the roof and a minaret
2. The subject site has been used as a place of public worship for several years and has been used as a mosque since 1987.
3. The proposal is permissible with consent under the Hurstville Local Environmental Plan 2012. The site has an existing and proposed non-compliance with Development Control Plan No 1 – LGA Wide in terms of car parking.
4. The application was advertised and notified in accordance with the Development Control Plan. A large number of submissions were received.

AUTHOR RECOMMENDATION

THAT the application be approved in accordance with the conditions included in the report.

REPORT DETAIL

DESCRIPTION OF THE PROPOSAL

1. The application seeks approval for alterations and additions to the existing place of public worship. The proposal includes the following works:

Ground Floor Level

- Additions to the building by extending the front towards St Georges Road and creating a new entrance foyer and entry porch;
- New disabled access ramp providing access from the Forest Road entrance to the site; and
- Demolition of internal walls and reconfiguration of existing floor plate.

First Floor Mezzanine Level

- Creation of a mezzanine with lift and stair access from the ground floor;
- Adding Women's scripture room and amenities;
- Balcony over new ground floor entrance; and
- New proposed floor area of 91.1sqm in total.

Roof Domes

- Three (3) roof domes are proposed to be added to the new roof.
- These domes measure 6m, 4m, and 2.8m from the roof level resulting in an overall height above ground for these features of 15.33m, 13.33m and 12.13m respectively.

Minaret

- Located adjacent to the front entry on the corner of Forest Road and St Georges Road;
- Proposed height of 16m and diameter of 1.55m;
- Accessed via stairs located external to the main building and can also be accessed via new mezzanine level; and
- Proposed 'low wattage' lighting at the top of the minaret.
- No 'call to prayer' or other broadcasting is proposed from the minaret.

Proposed Patronage

The purpose of the proposal is to refurbish the existing building which is required to be remodelled and modernised to improve functionality. The applicant has stated that the proposed works are not aimed at increasing the existing level of patronage at the mosque. The applicant has provided the following approximate patron numbers:

- Friday afternoon (primary prayer day) – 50 people on average although the maximum that has been accommodated in the past is 270
- Festival days (being generally 12 days per year only) – approximately 100 people with a maximum of 200
- Saturday (general prayer and children’s classes) – 50 –100 people

The applicant has also stated that:

“The Mosque, as would be the case with most religious orders, is open to the public 24 hours a day for counselling and prayer, however, in practice the Mosque is locked during evenings for security reasons but can be opened by the Iman upon request. This is standard practice aimed at providing a community service and is not intended to accommodate on-going prayer services but rather accommodate individual needs for counselling.

The Mosque, as with most religious orders, provides additional services to worshippers, including children scripture classes and counselling services. These services currently exist and will be on-going as part of the operations of the Mosque and are not affected by the proposed application. These operations are minor in nature and attendance, being less than the patronage identified for the prayer meetings, being less than 50 persons.”

The applicant has also submitted a Plan of Management that deals with the operation of the mosque and the amenity of the surrounding area.

HISTORY

- | | | |
|----|-----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2. | 13 Jan 88 | Council granted development consent for alterations and additions to the building including an increase in floor area and alterations to the external appearance of the building to be used as a mosque. This development consent included a condition that five (5) parking spaces were to be provided on the site (87/DA-530) |
| | 12 Jul 89 | Council approved a building application for works approved in the development application above. The building application also included internal amendments and the introduction of domes on the roof (88/BA-282). |
| | 28 Dec 06 | Development consent was granted for the demolition of an existing rectory/dwelling and the construction of a |

three (3) storey rectory/dwelling in association with the adjoining mosque. The approved plans indicated that six (6) parking spaces were available within the garage.

7 May 14

Development application DA2013/0315 was refused by Council. This application proposed alterations and additions to the existing building including a first floor mezzanine area to be used for prayer and a 21m high minaret. This DA was refused for the following reasons:

1. *Pursuant to Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development will result in adverse amenity impacts due to the number of persons attending the site, the lack of on-site and off-street parking to accommodate any increase in patronage, and resulting traffic and parking congestion in neighbouring streets.*
2. *Pursuant to Section 79C(1)(e) the proposed development is not considered to be in the public interest given submissions received and concerns raised over this development.*

27 Jan 15

Current development application DA2015/0011 lodged with Council

13 Feb – 13 Mar 15 Development application on public exhibition

30 Jul 15

Additional information submitted by applicant in response to Council request

21 Jul 16

Additional information requested

23 Aug 16

Additional information and Plan of Management received

DESCRIPTION OF THE SITE AND LOCALITY

3. The site is located on the southern side of Forest Road on the corner with St Georges Road. The site comprises a single storey place of public worship – mosque and a three (3) storey building used as a rectory/dwelling.

The site has a total area of approximately 1,060sqm and has a frontage of 45.69sqm to Forest Road and a frontage of 15m to St Georges Road.

The main entrance to the existing mosque building is via gates on the corner of Forest Road and St Georges Road.

The existing single storey building has been used as a mosque for at least the last twenty eight (28) years. The building comprises an entrance foyer fronting St Georges Road, two (2) areas used for prayer, a separate

scripture room, storage and amenities such as toilet facilities, tea room and caretakers room.

Surrounding the site to the south and west is public reserve partly occupied by the Pole Depot Community Centre and adjacent car park. The Pole Depot contains a building that is approximately 8.3m in height.

Immediately adjoining the site on St Georges Road is a playground that forms part of the Pole Depot Site. There is a recent approval for a one (1) storey building on this site as part of an extension to the Pole Depot.

On the opposite side of St Georges Road there are three (3) and four (4) storey residential flat buildings of various architectural styles. To the west, the site is separated from the nearest residential building by Council open space by approximately 45m.

The area north of the site, on the opposite side of Forest Road is characterised by single dwelling houses although there is a recent approval for multi dwelling housing on 528 Forest Road. On this side of Forest Road and further to the west, a mixed use retail and residential development has recently been completed.

COMPLIANCE AND ASSESSMENT

4. The development has been inspected and assessed under the relevant Section 79C(1) "Matters for Consideration" of the Environmental Planning and Assessment Act 1979.

Environmental Planning Instruments

HURSTVILLE LOCAL ENVIRONMENTAL PLAN 2012

Clause	Standard	Proposal	Complies
1.2 – Aims of the Plan	In accordance with Clause 1.2 (2)	Consistent with the aims of the plan	Yes
1.4 - Definitions	Place of Public Worship	The proposed development is defined as a place of public worship	Yes
2.3 - Zone objectives and Land Use Table	Meets objectives of SP2 Zone Development must be permissible with consent	Meets objectives and is a permissible development with consent	Yes
4.3 – Height of Buildings	There are no height controls in the LEP for this site	15.89m to top of minaret 14.28m to top of dome	N/A
4.4 – Floor Space Ratio	There are no FSR controls in the LEP for this site	Approximately 0.8:1	N/A

5.9 – Preservation of Trees or Vegetation	Trees to be removed are specified in DCP1	The site has no trees of significance	Yes
5.10 – Heritage Conservation	(5) <u>Heritage assessment</u> The consent authority may, before granting consent to any development: (a) on land on which a heritage item is located, or (b) on land that is within a heritage conservation area, or (c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.	There are heritage items located at 469 Forest Road (180m from the site) and 55 Peshurst Street (150m from the site). The subject site is sufficiently removed from these heritage items to have an impact on their significance.	Yes
6.7 – Essential Services	The following services that are essential for the development shall be available or that adequate arrangements must be made available when required: * Supply of water, electricity and disposal and management of sewerage * Stormwater drainage or on-site conservation * Suitable vehicular access	Adequate facilities for the supply of water and for the removal of sewage and drainage are available to this land. Development can drain to the street No change in existing vehicular access is proposed	Yes

STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

5. Clause 101 of this SEPP states:-

- “(1) The objectives of this clause are:*
- (a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
 - (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*
- (2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:*
- (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and*
 - (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) the design of the vehicular access to the land, or*
 - (ii) the emission of smoke or dust from the development, or*
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
 - (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.”*

The subject development proposes extensions, additions and alterations to an existing place of public worship. There is no change proposed to the current access arrangements and the proposal will not interfere with the ongoing operation of Forest Road or result in any adverse impact in terms of safety, efficiency or other traffic related issues.

The applicant has indicated that patronage is expected to remain the same and conditions are recommended to this effect, therefore it is not likely to be any additional adverse impact on traffic or parking in the locality.

For this reason the proposal is also considered to be satisfactory in relation to Clause 104 of the Policy regarding traffic generating development.

STATE ENVIRONMENTAL PLANNING POLICY NO 55 – REMEDIATION OF LAND

6. Based on Council’s records, the subject site has not been used for any potentially contaminating activities. Further to this, the site has been used for a place of worship for a long period and no excavation is proposed.

Development Control Plan and Car Parking

7. The applicant submitted a parking traffic report and parking study that concludes that there is adequate on-street parking to meet the demand of the mosque.

As part of the previous development application on the site Council’s Traffic Engineers conducted a traffic survey of the residential streets surrounding the mosque.

Council’s study concluded that the on-street capacity in the streets surrounding the mosque were at high capacity (up to 113% on St Georges Road – including illegal/unauthorised parking) and that at peak times for the mosque there was limited capacity in the surrounding streets for any additional parking.

DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE – SECTION 3.1 CAR PARKING

8. Section 3.1 of Development Control Plan No 1 – LGA Wide specifies the following rates for car parking.

Section 3.1	Standard	Existing and Proposed	Complies
Place of Public Worship: 1 space per 10 seats or 1 space per 10sqm GFA (whichever is greater)	GFA for prayer hall = 250sqm (existing “prayer” area = 190sqm) 1 space per 10sqm GFA = 25 spaces require	No parking available on the site for public use	No – see below

The Development Control Plan specifies that parking be calculated based on either gross floor area (GFA) or number of seats, whichever is greater. For the purposes of assessment for this application gross floor area (GFA) calculation has been used as no formal seating is used for prayer in the mosque. Using a GFA of the prayer hall twenty five (25) spaces are required in total.

Nevertheless, if the maximum capacity of 270 as stated by the applicant is applied the parking requirement would be for twenty seven (27) spaces, so it is commensurate.

The existing prayer hall has a GFA of approximately 190sqm, therefore these new additions require an additional six (6) parking spaces.

In calculating gross floor area for the purposes of car parking demand, only the area used for prayer has been taken into consideration. This is because the other ancillary areas such as amenities, scripture rooms, entrance foyer,

circulation areas are not used during the main prayer times. The GFA of the prayer hall has been used to calculate parking as this is the highest yielding area of use of the building at peak times.

This assessment is consistent with Council's assessment of other places of public worship where offices, meeting rooms, kitchens etc are excluded from the GFA calculations for the purposes of calculating car parking requirements.

Council has applied this approach in the following development applications:

- 33 Baumans Road, Peakhurst - Alterations and additions to interior and exterior of ground and first floor levels including new meeting rooms, expanded foyer and relocation of administrative offices (12/DA-197)
- 800 Forest Road Peakhurst - Demolition of structures on site, retention and conservation of existing heritage chapel, construction of a new place of public worship and ancillary buildings with basement car park – JRPP item (DA2014/1169)
- 1/159 Penshurst Street Beverly Hills - Alterations to an existing industrial unit and use the premises as a place of public worship with associated signage (DA2013/0237)
- 25-31 Carrington Avenue Hurstville - Demolition of existing structures on 27, 29, and 31 Carrington Avenue, construction of a place of worship, basement car parking area, three (3) residential units, and refurbishment of existing toilets, kitchen and entrance of existing church hall (09/DA-395)

In the Statement of Environmental Effects submitted with the application, and in further correspondence with Council, the applicant has stated that the intention of the proposed works was not to increase the capacity of the existing place of worship but to refurbish and remodel the floor layout.

The applicant has stated that the previous maximum capacity of the site was 270 worshippers.

The applicant has indicated as follows:

"We contend that for all practical purposes the functional area of the ground floor of the Mosque remains the same as is currently used, with foyers and tea room at various times being used by the worshippers for prayers and for children class areas. On this basis we would put to Council that the proposal is, as has been previously discussed, that the additions are simply a rationalisation of an existing situation and will not result in any purposely projected increase in patronage but rather provides for a more relaxed and open prayer area for the Mosque."

Given that the applicant is not anticipating an increase in patronage and considering Council's own traffic study and the significant concern from the community in terms of parking, it is recommended that a condition is placed on any consent to limit patronage to ensure that there is no additional parking demand created by the development.

In this regard, the following conditions are proposed:

“The maximum number of people on the premises at any one time shall not exceed two hundred and fifty (250).”

A further condition is also recommended to ensure that the first floor mezzanine is not used for prayer services in conjunction with the ground floor prayer hall.

“During any prayer/worship service, the main hall is to be used only with no other areas within the building being used to conduct separate/additional meeting or gatherings. The first floor mezzanine is not to be used for prayer services.”

The applicant has also submitted a Plan of Management that incorporates a “Green Travel Plan” and aims to encourage ride sharing and other transport options for festival days.

Impacts

Natural Environment

9. The proposal is for alterations and additions to an existing building including new ground floor works over existing hard surface areas, therefore there are no additional impacts to the natural environment.

Built Environment

Built Form, Bulk and Scale

10. As indicated previously there are no statutory height or floor space ratio controls that apply to this site under the Hurstville Local Environmental Plan 2012. This is common on land zoned SP2 within the Hurstville Local Environmental Plan 2012.

The adjoining land to the east and south of the site zoned RE1 – Public Recreation. Land zoned RE1 has no height and floor space ratio prescribed to it under the Hurstville Local Environmental Plan.

The land on the opposite side of St Georges Road and between Forest Road and Austral Street is zoned R3 – Medium Density Residential. The R3 zone has a height limit of 12m and a FSR of 1:1 in Hurstville Local Environmental Plan 2012. The closest residential building is located directly opposite the site on the corner of St Georges Road and Forest Road and has a maximum height of 12.5m.

The land on the opposite (northern) side of Forest Road is zoned R2 – Low Density Residential. This land has a height of 9m and a FSR of 0.6:1 under the Hurstville Local Environmental Plan 2012.

By comparison the proposed external wall height of the mosque building is 9.33m and the heights of the domes are proposed to be 12.13m, 13.33m and 15.33m.

The domes will add to the appearance of increased height on the roof, however these do not present as a solid wall given their spacing across the roof and convex finish. Whilst the height of the domes exceeds the maximum height of the adjoining residential zones, the largest of these is located at the rear of the building and will not have an impact on any surrounding development.

It is considered that the domes do not contribute significantly to the overall visual bulk of the proposed building.

The main wall of the building is of a height that is commensurate with what would be expected in a two (2) – three (3) storey residential building, and is similar to the height of the adjoining Pole Depot building (8.3m), and adjoining rectory. The proposed floor space ratio of the development is also below the maximum permitted in the adjoining R3 Medium Density Residential zone.

The proposed minaret has a maximum height of 16m from the existing ground level. Whilst the minaret is a higher structure than any surrounding structures it is narrow in width (approximately 1.55m in diameter) and consequently is not considered to have any significant impact on amenity arising from shadowing or view loss.

The minaret is a common architectural element associated with mosques and not unlike other places of public worship where towers or steeples may occur.

The previous planning report for this site included a survey of places of public worship with the following building/steeple heights as follows:

- Regina Coeli Memorial Church (Ponyara Road Beverly Hills) - 23m to top of steeple - 26.5m top of cross;
- Penshurst Anglican Church (Carrington Street Penshurst) Note: Proposed steeple not in place - 28.37m top of steeple;
- Wesley Penshurst Uniting Church (Cnr Penshurst and Percival Streets) - 16.3m top of steeple - 17.8m top of cross;
- Narwee Baptist Church which has a cross that is approximately 22m above the ground level; and
- The Coptic Church at Forest Road Peakhurst, which Council recently granted development consent to, which involved roof domes to a maximum height of 13.48m.

While being representative of a different architectural style, it is not unreasonable to expect that places of public worship belonging to differing denominations have their own distinctive architectural style with building elements designed to make them easily identifiable. This can be seen depicted in other places of worship in Hurstville region including those sites mentioned above.

The bulk, scale and design of the building is therefore not considered unacceptable in terms of the surrounding context and for this form of development.

Shadow Impact

11. The applicant has submitted a shadow diagram which indicates minimal impact on adjoining areas as a result of the distance to nearby dwellings and adjacent non-residential uses (see Shadow Diagram attached).

Noise

12. The proposed minaret is not intended to be used for “call to prayer” or any other broadcasting.

There is a first floor balcony located on the St Georges Road frontage of the site. The applicant has stated that *“the intent of the balcony is solely to provide fresh air to the upper level for worshippers as part of the original building form and was not intended to accommodate worshipper gatherings”*.

To ensure that there are no acoustic impacts from the development a condition is recommended prohibiting gathering of people on the balcony.

A further condition is recommended for an acoustic report to be submitted with the Construction Certificate to address any noise impact from the ongoing use of the building.

Social Impact

13. As the mosque has been operating for several years from this location and the alterations and additions are not considered to support additional visitation or further affect the amenity of the area, the social impact of the development is not considered to be altered as a result of this application.

During the exhibition of the proposal Council received a number of objections relating to the use of the site as a mosque and that this religious use was not compatible with the area.

In House of Peace v Bankstown City Council (2000) the Court determined: “Planning law is concerned with the use of land - not with the identity of the user”; per Cripps J in Moslem Alawy Society Ltd v Canterbury Municipal Council (1983) 51 LGRA 79 at 82. This means that it is not part of the court's function to seek as such to ensure that the pattern of worship adopted by the Presbyterians in 1954 continues. Nor is it open to favour or disfavour any pattern of religious expression. Equality before the law requires judicial agnosticism in this area.

...

Cripps J's statement that planning law is concerned with the use of land, not with the identity of the user also focuses attention upon the functions of environmental planning instruments and consents. They are concerned with physical use, environmental impact and amenity.”

In *New Century Developments Pty Ltd vs Baulkham Hills Shire Council* (2003) the Court considered a development application for a new mosque that had a large number of submissions opposing the development. In that case Justice Lloyd stated:

“In circumstances such as the present case, however, the consent authority must not blindly accept the subjective fears and concerns expressed in the public submissions. Whilst such views must be taken into consideration, there must be evidence that can be objectively assessed before a finding can be made of an adverse effect upon the amenity of the area (Dixon at [53]). In Broad, de Jersey J explained (at 304) that whilst the court is clearly entitled to have regard to the views of residents of the area, those views will be accorded little, if any, weight if there is no objective, specific, concrete, observable likely consequence of the establishment of the proposed use.”

As previously outlined in this report, with the imposition of conditions relating to the capacity of the mosque remaining as is and other conditions such as not allowing any broadcasting outside the building, the amenity of the area will not be further adversely impacted upon because of this application.

Economic Impact

14. It is considered that given the proposal seeks alterations and additions to an existing place of worship, no adverse economic impacts are anticipated.

Suitability of the Site

15. The site has been operating as a place of public worship for several years. This application does not seek to alter that use.

5. REFERRALS, SUBMISSIONS AND THE PUBLIC INTEREST

Resident

16. The proposed development was notified to 1326 neighbouring owners and occupiers. In response 1531 submissions were received along with a petition with 608 signatures.

The following is a summary of issues that were raised during the exhibition of the proposal directly and relevantly related to the planning issues arising from this application.

A number of submissions raised issues that are outside of the scope of the Environmental Planning and Assessment Act and as such these are not further discussed in this report.

Traffic and parking issues

17. This was the main concern from the submitters. There is concern that the lack of parking for the current mosque results in widespread congestion of neighbouring residential streets and illegal parking, cars parked across driveways, too close to intersections and parking infringements.

Comment: An assessment of the parking and traffic impacts of the development is contained in this report above. Given that the area of building being used for worshipping purposes is not significantly increased over the existing area, it is considered that the parking impacts arising from this extension application are not unacceptable. The applicant has also provided a Plan of Management which proposes a Green Travel Plan which may assist alleviate local conditions.

Permissibility/compliance with planning controls/zoning

18. There was concern raised the proposal was contrary to the zoning of the site and that the height and floor space proposed does not comply with Council's planning controls. There was a misconception amongst many submissions that the site was zoned Residential.

Comment: The site is zoned SP2 - Infrastructure and the zoning maps that accompany Hurstville Local Environmental Plan 2012 show the use of the land as "church". The existing use is consistent with the use indicated on the zoning map.

The SP2 zone does not have height or floor space ratio development standards that apply. The directly adjoining zone is RE1 - Public Recreation. This zone also does not have development standards for height and floor space.

The closest zone with development standards is the R3 - Residential Zone. As discussed in this report above, the height to the upper external wall (excluding the domes) and the floor space ratio of the development are not inconsistent with the development standards in the R3 zone.

The design of the mosque is incompatible with the surrounding area

19. Comment: There is no coherent architectural style in the surrounding area which is characterised by a mixture of older style and more contemporary three (3) - four (4) storey residential flat buildings and the existing two (2) storey Pole Depot building to the rear.

Although the design of the building is different architecturally from these surrounding uses, it is not considered to have any significant detrimental impact on amenity. The proposal seeks to use similar materials to those existing on site and while the building is increased in height, with an additional level, three (3) domes and minaret, it will continue to function and have the appearance of a place of public worship.

The use is not compatible with the surrounding area

20. Comment: The site has been used as a mosque for at least twenty eight (28) years and prior to that was used as by a different denomination as a place of public worship. This application does not seek to alter the use that has been established at the site for a number of years.

The height of the minaret is excessive and will dominate the streetscape

21. Comment: It is not uncommon for places of public worship to have distinctive architectural features that have a greater height than surrounding buildings. Although the height of the minaret is greater than surrounding buildings, it does not have a detrimental impact on any surrounding property.

The building will result in overshadowing to the neighbouring open space and the Pole Depot

22. Comment: The existing building is located due north of the entrance to the Pole Depot and the adjoining playground. This proposal seeks to use the existing walls that are located very close to the boundary of the site and therefore some overshadowing to the Pole Depot will occur.

It should be noted however that since the time that this application was placed on public exhibition that Council has granted development consent for a building on the adjoining playground.

There are nearby heritage items at 469 Forest Road and 55 Penshurst Street. The design is not compatible with these items.

23. Comment: The building is located over 180m from the item at 469 Forest Road and 150m from the item at 55 Penshurst Street. Further to this, there are existing buildings located within the view corridor of the mosque to these heritage items. The proposed additions are not considered to detract from the significance of these heritage items.

General concerns regarding the minaret

24. Concerns that the minaret was going to be used for "call to prayer". This will be distraction for drivers on Forest Road, would create a privacy impact, and is not suited to a residential area.

Comment: The Statement of Environmental Effects clearly states that there is no intention to use the minaret for broadcasting of any nature including the call for prayer. To further ensure this, a condition has been recommended that the minaret is not used for any purpose.

There is access to the top of the minaret through an internal staircase. The staircase is required so that the minaret can be maintained. Although there are window openings in the minaret, given the location of the minaret on the site and the narrow internal staircase, any impact on privacy is limited.

As discussed in this report above, the minaret is an architectural feature that is common with mosques. Many other places of public worship have distinctive architectural features so that they are clearly identified as places of prayer.

24 hour use

25. Submitters were concerned with the fact that the mosque may be in operation 24 hours a day as specified in the submitted Statement of Environmental Effects.

Comment: The applicant has provided the following response “*The Mosque, as would be the case with most religious orders, is open to the public 24 hours a day for counselling and prayer, however, in practice the Mosque is locked during evenings for security reasons but can be opened by the Iman upon request. This is standard practice aimed at providing a community service and is not intended to accommodate on-going prayer services but rather accommodate individual needs for counselling.*”

This position is considered reasonable.

Council Referrals **Senior Traffic Engineer**

26. “*In light of the fact that the application has not changed in its proposal from the last time I reviewed this, please be advised that the Traffic Section has the same stand on the traffic situation which is:*

1. *As stated before the Traffic section carried out parking occupancy of the streets within a 500m radius of the development and it was found that streets in the immediate vicinity of the development site are at 100% capacity as reflected in the count carried out by the traffic section.*
2. *While the study also showed that the other side streets further away from the development have space to accommodate extra on street parking, it is doubtful if this will be utilised by the patrons of the mosque due to normal habits of wanting to park as close as possible to the desired location. This in turn can lead to illegal parking taking place.*
3. *Finally while visiting the site, a safety concern was observed where, elderly patrons parked along the side streets and ran across four lanes of traffic in Forest Road, Penshurst to get to the Mosque.*
4. *It is also worth noting that Hurstville’s CBD is getting more and more congested with all the new developments currently taking place, and while Council is doing all it can to cater for that, but still the demand for parking has increased and will further increase in the immediate vicinity of Hurstville CBD which will in turn have an overflow effect on the surrounding streets, accordingly it is very hard for the traffic section to support any development so close to the Hurstville CBD that generates traffic without at least meeting parking requirements on site.”*

As noted previously in this report it is considered that this proposal will not add significantly, if at all, to increased demand for visitation to the site and it is therefore anticipated that there will not be any significant change to local traffic and parking conditions.

CONCLUSION

27. Having regard to the matters of consideration under Section 79C of the Environmental Planning and Assessment Act 1979, although there are variations to the car parking requirements of Development Control Plan No 1,

the proposal is considered satisfactory and acceptable for the reasons stated in this report.

The application was notified in accordance with the Development Control Plan, and a large number of submissions were received. The issues raised have been summarised in this report and are not considered to warrant refusal of the application.

Accordingly, it is recommended that development consent be granted subject to the conditions below.

DETERMINATION

28. THAT pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act, 1979, as amended, the Council, grants development consent to Development Application DA2015/0011 for alterations and additions to existing place of public worship (mosque) - first floor addition to existing building including dome structures on roof and construction of 16m high minaret on Lots 2 and 3 DP 14475 and known as 445-447 Forest Road Penshurst, subject to the attached conditions:

Schedule A – Site Specific Conditions

GENERAL CONDITIONS

These conditions have been imposed to ensure that the development is carried out in accordance with the approved plans and to ensure that the appropriate fees and bonds are paid in relation to the development.

1. GEN1001 - **Approved Plans** - The development must be implemented in accordance with the approved plans and supporting documentation listed below which have been endorsed by Council's approved stamp, except where marked up on the plans and/or amended by conditions of this consent:

Reference No.	Date	Description	Revision	Prepared by
A-02	25/11/2014	Site Plan + Site Analysis	A	AB Building Design
A-03	25/11/2014	Existing Plan	A	AB Building Design
A-04	25/11/2014	Demolition Plan	A	AB Building Design
A-05	16/02/2014	Proposed Floor Plans	C	AB Building Design
A-06	16/02/2014	Roof Plan	B	AB Building Design
A-07	16/02/2014	Section	C	AB Building Design
A-08	25/11/2014	Elevations	A	AB Building Design
A-09	25/11/2014	Elevations	A	AB Building Design

2. GEN1002 - **Fees to be paid to Council** - The fees listed in the table below must be paid in accordance with the conditions of this consent and Council's adopted Fees and Charges applicable **at the time of payment**.

Payments must be made prior to the issue of the Construction Certificate or prior to the commencement of work (if there is no associated Construction Certificate).

Please contact Council prior to the payment of Section 94 Contributions to determine whether the amounts have been indexed from that indicated below in this consent and the form of payment that will be accepted by Council.

Form of payment for transactions \$500,000 or over - Council will only accept Bank Cheque or Electronic Funds Transfer (EFT) for transaction values of \$500,000 or over. Council must be contacted prior to payment to determine correct total amount to be paid and bank account details (if applicable)

(a) Fees to be paid:

Fee types, bonds and contributions

Fee Type
Long Service Levy (to Long Service Corporation)
Builders Damage Deposit
Inspection Fee for Refund of Damage Deposit

The following fees apply where you appoint Council as your Principal Certifying Authority (PCA). (If you appoint a private PCA, separate fees will apply)

PCA Services Fee	\$1,654.00
Construction Certificate Application Fee	\$1,654.00
Construction Certificate Imaging Fee	\$143.00

Fees and charges above are subject to change and are as set out in the version of Council's Schedule of Fees and Charges or as required by other Government Authorities, applicable at the time of payment.

3. GEN1014 - **Long Service Levy** - Submit evidence of payment of the Building and Construction Industry Long Service Leave Levy to the Principal Certifying Authority. Note this amount is based on the cost quoted in the Development Application, and same may increase with any variation to estimated cost which arises with the Construction Certificate application. To find out the amount payable go to www.lspc.nsw.gov.au or call 131441. **Evidence of the payment of this levy must be submitted with the Construction Certificate application.**
4. GEN1016 - **Damage Deposit - Major Works** - In order to insure against damage to Council property the following is required:
 - (a) Payment to Council of a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: **\$1,900.00.**
 - (b) Payment to Council of a non refundable inspection fee to enable

assessment of any damage and repairs where required: **\$145.00.**

(c) At the completion of work Council will:

- (i) review the dilapidation report prepared prior to the commencement works;
- (ii) review the dilapidation report prepared after the completion of works;
- (iii) Review the Works-As-Executed Drawings (if applicable); and
- (iv) inspect the public works.

The damage deposit will be refunded in full upon completion of work where no damage occurs and where Council is satisfied with the completion of works. Alternatively, the damage deposit will be forfeited or partly refunded based on the damage incurred.

(d) Payments pursuant to this condition are required to be made to Council before the issue of the Construction Certificate.

(e) Fees and charges above are subject to change and are as set out in the version of Council's Schedule of Fees and Charges or as required by other Government Authorities, applicable at the time of payment.

SEPARATE APPROVALS UNDER OTHER LEGISLATION

These conditions have been imposed to ensure that the applicant is aware of any separate approvals required under other legislation, for example: approvals required under the Local Government Act 1993 or the Roads Act 1993.

5. APR6001 - Engineering - Section 138 Roads Act and Section 68 Local Government Act 1993

Unless otherwise specified by a condition of this consent, this Development Consent does not give any approval to undertake works on public infrastructure.

A separate approval is required to be lodged and approved under **Section 138 of the Roads Act 1993** and/or **Section 68 of the Local Government Act 1993** for any of the following activities carried out in, on or over a public road (including the footpath):

- (a) Placing or storing materials or equipment;
- (b) Placing or storing waste containers or skip bins;
- (c) Erecting a structure or carrying out work
- (d) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- (e) Pumping concrete from a public road;
- (f) Pumping water from the site into the public road;
- (g) Constructing a vehicular crossing or footpath;
- (h) Establishing a "works zone";
- (i) Digging up or disturbing the surface of a public road (e.g. Opening the road for the purpose of connections to utility providers);

- (j) Stormwater and ancillary works in the road reserve; and
- (k) Stormwater and ancillary to public infrastructure on private land
- (l) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council's roadways/footways.

These separate activity approvals must be obtained and evidence of the approval provided to the Certifying Authority prior to the issue of the **Construction Certificate**.

The relevant Application Forms for these activities can be downloaded from Georges River Council's website at www.georgesriver.nsw.gov.au

For further information, please contact Council's Customer Service Centre on (02)9330 6400.

6. **APR7001 - Building - Hoarding Application** During the erection of the tower portion/part of the buildings that is in exceeds the height on the proposed building, either, a separate application for the erection of a B class (overhead type) hoarding or a C type scaffold, in accordance with the requirements of Work Cover Authority of NSW, must be erected

For a Hoarding that is required to be erected on the street or footpath. The following information is to be submitted with a Hoarding Application under Section 68 of the Local Government Act and Section 138 of the Roads Act 1993:

- (a) A site and location plan of the hoarding with detailed elevation, dimensions, setbacks, heights, entry and exit points to/from the site, vehicle access points, location of public utilities, electrical overhead wire protection, site management plan and builders sheds location; and
- (b) Hoarding plan and details that are certified by an appropriately qualified engineer; and
- (c) The payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges (available on our website) before the commencement of work; and

A Public Risk Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained a copy provided to Council. The Policy is to note Council as an interested party.

REQUIREMENTS OF OTHER GOVERNMENT AGENCIES

These conditions have been imposed by other NSW Government agencies either through their role as referral bodies, concurrence authorities or by issuing General Terms of Approval under the Integrated provisions of the Environmental Planning and Assessment Act 1979.

7. **GOV1008 - Sydney Water - Section 73 Certificate** - A Section 73

Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Coordinator. Please refer to the Plumbing, Building and Developing section of Sydney Water's website to locate a Water Servicing Coordinator in your area. Visit: www.sydneywater.com.au

A "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, as it can take some time to build water/sewer pipes and this may impact on other services and building, driveway or landscape design.

The "Notice of Requirements" must be submitted prior to the commencement of work.

8. GOV1009 - **Sydney Water - Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the Sydney Water Act must be submitted to the Principal Certifying Authority prior to the issue of the Occupation/Subdivision or Strata Certificate.

PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

These conditions either require modification to the development proposal or further investigation/information prior to the issue of the Construction Certificate to ensure that there is no adverse impact.

9. CC7007 - **Building - Engineer's Certificate** - A certificate from a practicing qualified Structural Engineer certifying the structural adequacy of the existing structure, to support all proposed additional superimposed loads shall be submitted to the Certifying Authority **prior to the issue of the Construction Certificate.**
10. Prior to the issue of a Construction , submit to Council for approval, detailed acoustic noise attenuation report from a suitably qualified and experienced acoustical consultant addressing the sound level output for all activities associated with the use and running of the premise . The report shall address; report shall demonstrate the sound level output not exceeding 5dB(A) above the ambient background level at the closest neighbouring boundary between the hours of 8.00am-7.00pm on weekdays and Saturdays, 8.00am-8.00pm on Sundays and Public Holidays; and

Outside the above specified hours, the sound level output for all activities associated with the use and running of the premise shall not exceed the ambient background noise level.

11. CC2003 - **Development Assessment - Construction Site Management Plan** - A Construction Site Management Plan must be submitted with the application for the Construction Certificate, and must include the following measures:
 - location of protective site fencing;
 - location of site storage areas/sheds/equipment;

- location of building materials for construction, e.g. stockpiles
- provisions for public safety;
- dust control measures;
- method used to provide site access location and materials used;
- details of methods of disposal of demolition materials;
- method used to provide protective measures for tree preservation;
- provisions for temporary sanitary facilities;
- location and size of waste containers/skip bins;
- details of proposed sediment and erosion control measures;
- method used to provide construction noise and vibration management;
- construction traffic management details.

The site management measures are to be implemented prior to the commencement of any works including demolition and excavation. The site management measures are to be maintained throughout the works, to maintain reasonable levels of public health, safety and amenity. A copy of the Construction Management Plan must be retained on site and is to be made available upon request.

12. CC7008 - **Building - Access for Persons with a Disability** - Access to and throughout the premises and sanitary facilities for persons with disabilities must be provided in accordance with the requirements of the Premises Standards, the Building Code of Australia, and AS 1428.1. Details must be submitted with the Construction Certificate Application.
13. CC7002 - **Building - Fire Safety Measures prior to Construction Certificate** - Prior to the issue of a Construction Certificate a list of the essential fire safety measures that are to be provided in relation to the land and any building on the land as a consequence of the building work must accompany an application for a construction certificate, which is required to be submitted to either Council or a Certifying Authority. Such list must also specify the minimum standard of performance for each essential fire safety measure included in the list. The Council or Certifying Authority will then issue a Fire Safety Schedule for the building.
14. CC7004 - **Building - Structural details** - Structural plans, specifications and design statement prepared and endorsed by a suitably qualified practising structural engineer who holds the applicable Certificate of Accreditation as required under the Building Professionals Act 2005 shall be submitted along with the Construction Certificate application to the Certifying Authority for any of the following, as required by the building design:
 - (a) piers
 - (b) footings
 - (c) slabs
 - (d) columns
 - (e) structural steel
 - (f) reinforced building elements
 - (g) swimming pool design

- (h) retaining walls
- (i) stabilizing works
- (j) structural framework

15. **CC3001 - Development Engineering - Stormwater System** - The submitted stormwater plan has been assessed as a concept plan only and no detailed assessment of the design has been undertaken.

All stormwater shall drain by gravity to the existing drainage system in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2003 (as amended).

16. **CC7015 - Building - Alternative means of compliance with the BCA - Clause 94 EP&A Regulation 2000** - Pursuant to Clause 94 of the Environmental Planning and Assessment Regulation 2000, the existing buildings must be brought into **total** conformity with the Building Code of Australia. In this regard, construction plans that demonstrate compliance with the Building Code of Australia must be submitted to the Principal Certifying Authority.

Alternatively, if it is found that full compliance cannot be achieved due to the age and/or construction of the existing building, and to achieve full compliance will involve major and costly structural alterations having to be carried out to the existing building, a fire assessment report, to determine an alternative and/or partial compliance with the BCA, must be prepared by an appropriately qualified and accredited fire safety engineer, justifying the non compliances and detailing an alternative method of compliance with the Building Code of Australia. The report must also detail the measures contained in the building to protect persons using the building, to facilitate their egress in the event of fire as well as protection of fire brigade personnel during fire fighting operations, and measures to restrict the spread of fire from the building to other buildings nearby.

In the event that full compliance with the BCA cannot be achieved and the services of a fire engineer are obtained to determine an alternative and/or partial level of compliance with the BCA, such report must be submitted to and endorsed by Council prior to issue of the Construction Certificate application.

PRIOR TO THE COMMENCEMENT OF WORK (INCLUDING DEMOLITION AND EXCAVATION)

These conditions have been imposed to ensure that all pre-commencement matters are dealt with and finalised prior to the commencement of work.

17. **PREC7002 - Building - Utility Arrangements** - Arrangements are to be made with utility authorities in respect to the services supplied by those authorities to the development. The cost associated with the provision or adjustment of services within the road and footway areas is to be at the developer's expense.

DURING WORK

These conditions have been imposed to ensure that there is minimal impact on the adjoining development and surrounding locality during the construction phase of the development.

18. **CON2001 - Development Assessment - Hours of construction, demolition and building related work** - Any work activity or activity associated with the development consent that requires the use of any tools (including hand tools) or any power operated plant and machinery that creates noise on or adjacent to the site shall not be performed, or permitted to be performed, except between the hours of 7.00 am to 5.00 pm, Monday to Saturday inclusive. No work or ancillary activity shall be permitted to be performed on any Sunday, Good Friday, Christmas Day or any Public Holiday. A penalty infringement notice may be issued for any offence.

In addition to the foregoing requirements, construction work on all buildings (except that on single dwelling houses and associated structures on the site of a single dwelling house) shall be prohibited on Saturdays and Sundays on weekends adjacent to a public holiday.

19. **CON6002 - Engineering - Obstruction of Road or Footpath** - The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste or skip bins, or any other matter is not permitted unless separately approved by Council under Section 138 of the Roads Act and/or under Section 68 of the Local Government Act 1993. Penalty Infringement Notices may be issued for any offences and severe penalties apply.

PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

These conditions have been imposed to ensure that all works have been completed in accordance with the Development Consent prior to the issue of the Occupation Certificate.

20. **OCC7001 - Building - Fire Safety Certificate before Occupation or Use** - In accordance with Clause 153 of the Environmental Planning and Assessment Regulation 2000 (the Regulation), on completion of building works and prior to the issue of an Occupation Certificate, the owner must cause the issue of a Final Fire Safety Certificate in accordance with Clause 170 of the Regulation. The Fire Safety Certificate must be in the form required by Clause 174 of the Regulation. In addition, each essential fire or other safety measure implemented in the building or on the land on which the building is situated, such a Certificate must state:
 - (a) That the measure has been assessed by a person (chosen by the owner of the building) who is properly qualified to do so.
 - (b) That as at the date of the assessment the measure was found to be capable of functioning at a standard not less than that required by the attached Schedule.

A copy of the certificate is to be given (by the owner) to the Commissioner of Fire and Rescue NSW and a further copy is to be displayed in a frame and fixed to a wall inside the building's main entrance.

ONGOING CONDITIONS

These conditions have been imposed to ensure that the use or operation of the development does not adversely impact on the amenity of the neighbourhood or environment.

21. During any prayer/worship service, the main hall is to be used only with no other areas within the building being used to conduct separate/additional meeting or gatherings. The first floor mezzanine is not to be used for prayer services.
22. The minaret shall not be externally illuminated, nor shall any lighting be attached to the external walls of the minaret.
23. The maximum number of people on the premises at any one time shall not exceed two hundred and fifty (250).
24. **ONG2010 - Development Assessment – Plan of Management** – The development is to operate at all times in accordance with the Plan of Management Plan dated August 2016, a copy of which is annexed to these conditions and marked “A” except. No change is to be made to the Operational Plan of Management without the prior written approval of the Council.
25. **ONG4049 - Noise - Restricted use** - No speakers are permitted to be installed on the outside parameter of the building or on the minaret. There shall be no music, or amplified noise of any kind broadcast outside the building.
26. Prior to an Occupation Certificate being issued, submit to Council for approval documentation from suitably qualified and experienced acoustic consultant certifying, that the noise control measures as recommended in the acoustic report submitted with the Construction Certificate addressing noise impacts

Comply with the following requirements;

- (a) The sound level output for all activities associated with the use and the running of the premise shall not exceed 5dB(A) above the ambient background level at the closest neighbouring boundary between the hours of 8:00am-7:00pm on weekdays and Saturdays, 8:00am-8:00pm on Sundays and Public Holidays.
 - (b) Outside the above specified hours, the sound level output for all activities associated with the use and running of the premise shall not exceed the ambient background noise level.
27. **ONG4011 - Health - Noise Control** - The use of the premises must not give

rise to the transmission of 'offensive noise' to any place of different occupancy. 'Offensive noise' is defined in the Protection of the Environment Operations Act 1997 (as amended).

28. ONG4017 - **Health - Lighting - General Nuisance** - Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill.
29. ONG4018 - **Health - Amenity of the neighbourhood** - The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, dust, waste water, waste products, grit, oil or other harmful products.
30. ONG4019 - **Health - Storage of goods outside buildings** - There shall be no storage of any goods external to the building with the exception of waste receptacles.
31. ONG4050 - **Use of sound system** - The use of any sound system must not give rise to offensive noise as defined under the Protection of the Environment Operations Act 1997 (as amended) and shall comply with the NSW Industrial Noise Policy published by the Environment Protection Authority. Within three (3) months from the issue of an Occupation Certificate, an acoustic assessment is to be carried out by a qualified acoustic engineer in accordance with the EPA's Industrial Noise Policy and submit to Council for consideration. This report should include but not be limited to details verifying that any noise control measures are effective in attenuating noise to an acceptable noise level and the use of the premises does not give rise to "offensive noise" as defined under the provision of the Protection of the Environment Operations Act 1997 (as amended).
32. ONG4051 - **Food - Restricted use** - The proposed food preparation areas shall not be used for the purpose of "selling" food as defined under the Food Act 2003 (as amended).
33. ONG7004 - **Building** - Noise levels emitted from any plant, machinery, mechanical exhaust system or any outdoor air conditioning unit must not exceed the background noise level in any octave band when measured at any point on the boundary of the site.
34. ONG7002 - **Building - Annual Fire Safety Statement** - In accordance with Clause 177 of the Environmental Planning and Assessment Regulation, 2000 the owner of the building premises must cause the Council to be given an annual fire safety statement in relation to each essential fire safety measure implemented in the building. The annual fire safety statement must be given:
 - (a) Within twelve (12) months after the date on which the fire safety certificate was received.

- (b) Subsequent annual fire safety statements are to be given within twelve (12) months after the last such statement was given.
- (c) An annual fire safety statement is to be given in or to the effect of Clause 181 of the Environmental Planning and Assessment Regulation, 2000.
- (d) A copy of the statement is to be given to the Commissioner of Fire and Rescue NSW, and a further copy is to be prominently displayed in the building.

ADVICE

This advice has been included to provide additional information and where available direct the applicant to additional sources of information based on the development type.

- 35. **ADV2002 - Development Assessment - Site Safety Fencing** - Site fencing must be erected in accordance with WorkCover Guidelines, to exclude public access to the site throughout the demolition and/or construction work, except in the case of alterations to an occupied dwelling. The fencing must be erected before the commencement of any work and maintained throughout any demolition and construction work.

For more information visit www.workcover.nsw.gov.au

Schedule B – Prescribed Conditions

Prescribed conditions are those which are mandated under Division 8A of the *Environmental Planning and Assessment Regulation 2000* and given weight by Section 80A (11) of the Environmental Planning and Assessment Act 1979.

Detailed below is a **summary** of all the prescribed conditions which apply to development in New South Wales. Please refer to the full details of the prescribed conditions as in force, at www.legislation.nsw.gov.au.

It is the responsibility of the beneficiary of this consent to determine which prescribed conditions apply.

- 36. **PRES1002 - Clause 98 – Building Code of Australia & Home Building Act 1989** - Requires all building work to be carried out in accordance with the Building Code of Australia. In the case of residential building work to which the *Home Building Act 1989* relates, there is a requirement for a contract of insurance to be in force before any work commences.
- 37. **PRES1003 - Clause 98A – Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the Principal Certifying Authority and the Principal Contractor.
- 38. **PRES1004 - Clause 98B – Home Building Act 1989** - If the development involves residential building work under the *Home Building Act 1989*, no work

is permitted to commence unless certain details are provided in writing to Council. The name and licence/permit number of the Principal Contractor or Owner Builder and the name of the Insurer by which work is insured under Part 6 of the *Home Building Act 1989*.

39. PRES1005 - **Clause 98C- Entertainment Venues** - Schedule 3A of the *Environmental Planning and Assessment Act 1979* outlines the prescribed conditions which apply to Entertainment Venues.
40. PRES1006 - **Clause 98D – Erection of sign for maximum number of persons** - This prescribed condition applies to entertainment venues, function centres, pubs, registered clubs and restaurants. This condition requires the erection of a sign which states the maximum number of persons (as specified in the consent) that are permitted in the building.
41. PRES1007 - **Clause 98E – Protection & support of adjoining premises** - If the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.

Schedule C – Operational & Statutory Conditions

These conditions comprise the operational and statutory conditions which must be satisfied under the Environmental Planning and Assessment Act 1979 and the Environmental Planning & Assessment Regulation 2000. Please refer to the full details of the Act and Regulations as in force, at www.legislation.nsw.gov.au.

It is the responsibility of the beneficiary of this consent to determine which operational and statutory conditions apply.

42. OPER1001 - **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited certifier.

An application form for a **Construction Certificate** is attached for your convenience.

43. OPER1002 - **Appointment of a Principal Certifying Authority** - The erection of a building must not commence until the beneficiary of the development consent has:
 - (a) appointed a Principal Certifying Authority (PCA) for the building work; and
 - (b) if relevant, advised the PCA that the work will be undertaken as an Owner-Builder.

If the work is not going to be undertaken by an Owner-Builder, then the beneficiary of the consent must:

- (a) appoint a Principal Contractor to undertake the building work. If residential building work (within the meaning of the *Home Building Act 1989*) is to be undertaken, the Principal Contractor must be a holder of a contractor licence; and
- (b) notify the PCA of the details of any such appointment; and
- (c) notify the Principal Contractor of any critical stage inspections or other inspections that are required to be carried out in respect of the building work.

An **Information Pack** is attached for your convenience should you wish to appoint Hurstville City Council as the Principal Certifying Authority for your development.

44. **OPER1003 - Notification of Critical Stage Inspections** - No later than two (2) days before the building work commences, the PCA must notify:
- (a) the consent authority and the Council (if not the consent authority) of his or her appointment; and
 - (b) the beneficiary of the development consent of the critical stage inspections and other inspections that are to be carried out with respect to the building work.

45. **OPER1004 - Notice of Commencement** - The beneficiary of the development consent must give at least two (2) days notice to the Council and the PCA of their intention to commence the erection of a building.

A **Notice of Commencement Form** is attached for your convenience.

46. **OPER1007 - Critical Stage Inspections** - The last critical stage inspection must be undertaken by the Principal Certifying Authority. The critical stage inspections required to be carried out vary according to Building Class under the Building Code of Australia and are listed in Clause 162A of the *Environmental Planning and Assessment Regulation 2000*.

47. **OPER1008 - Notice to be given prior to critical stage inspections** - The principal contractor for a building site, or the owner-builder, must notify the principal certifying authority at least 48 hours before each required inspection needs to be carried out.

Where Hurstville City Council has been appointed PCA, forty eight (48) hours notice in writing, or alternatively twenty four (24) hours notice by facsimile or telephone, must be given to when specified work requiring inspection has been completed.

48. **OPER1009 - Occupation Certificate** - A person must not commence occupation or use of the whole or any part of a new building unless an Occupation Certificate has been issued in relation to the building or part.

Only the Principal Certifying Authority appointed for the building work can issue the Occupation Certificate.

An **Occupation Certificate** Application Form is attached for your convenience.

If you need more information, please contact the Development Assessment Officer, below on 9330-6222 during normal office hours.