

**REPORT TO GEORGES RIVER LOCAL PLANNING PANEL
ELECTRONIC REPORT – 7 RICKARD ROAD SOUTH HURSTVILLE**

LPP Report No		Development Application No	DA2020/0358
Site Address & Ward Locality	7 Rickard Road South Hurstville Blakehurst Ward		
Proposed Development	Change of use from a dwelling house to a place of public worship with associated works		
Owners	H M Australia Holdings Pty Ltd		
Applicant	H M Australia Holdings Pty Ltd		
Planner/Architect	Planner: Planning Ingenuity		
Date Of Lodgement	16/09/2020		
Submissions	Fifty nine (59) submissions – Three (3) additional submissions following LPP Meeting		
Cost of Works	\$80,000.00		
Local Planning Panel Criteria	The number of unique submissions exceeds 10 in accordance with the Ministerial Direction		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy (Infrastructure); Kogarah Local Environmental Plan 2013, Kogarah Development Control Plan 2013, Draft Georges River Local Environmental Plan 2020, Draft Georges River Development Control Plan 2020		
List all documents submitted with this report for the Panel’s consideration	Architectural Plans, Statement of Environmental Effects		
Report prepared by	Independent Assessment		

Recommendation	THAT the application be refused in accordance with the reasons referenced at the end of this report.
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Summary of matters for consideration under Section 4.15 Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes
Clause 4.6 Exceptions to development standards	Not Applicable

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not applicable
Conditions Have draft conditions been provided to the applicant for comment?	No, draft conditions have been prepared.

Site Plan

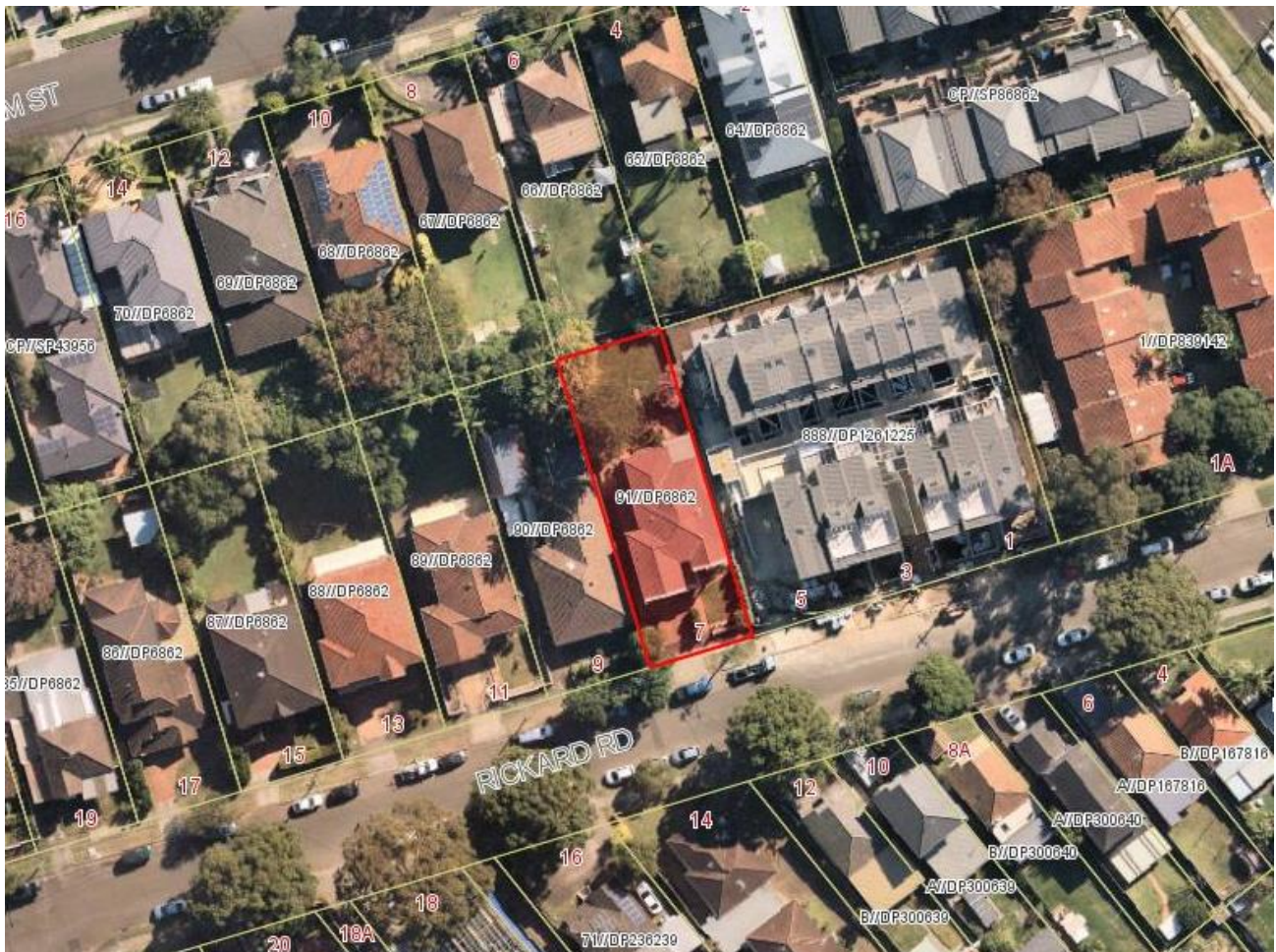


Figure 1: Aerial Photograph of subject site outlined in red, 7 Rickard Road, South Hurstville and surrounding area. (Source: GRC, 2020).

EXECUTIVE SUMMARY

1. This report has been prepared following the deferral of the subject development application (DA) (DA2020/0358) by the Local Planning Panel on 3 June 2021. The development proposes a change of use from a dwelling house to a place of public worship with associated works on land at 7 Rickard Road, South Hurstville.
2. The DA was considered by the Georges River Local Planning Panel (LPP) on 3 June 2021. The Panel resolved to defer consideration of the DA for Council to provide a supplementary report to outline onsite operations of the proposal. The applicant has submitted additional information following the LPP Meeting which details onsite operations including information

related to the number of patrons proposed on the premises, use of instruments and travel and parking requirements of patrons to the site.

3. This report has been prepared as an addendum to the original assessment report and addresses specifically the onsite operations of the proposal and additional information provided by the applicant following the Panel Meeting.
4. In detail, the proposal is described as follows:
 - Internal works to meet the requirements of the BCA and accessibility standards.
 - Change of use to a Place of Public Worship with the following layout:
 - o Basement floor – three (3) areas of storage.
 - o Ground floor – double garage, entry porch, accessible bedroom, laundry, accessible bathroom, dining room, kitchen, resting area/sunroom, meditation area and worship room.
 - o First floor – meditations room with ensuite and storage area, bathroom, sutra/script study and transcribe room and four (4) bedrooms.
 - Activities on the site include meditation, script writing and learning. The site will also provide accommodation for a maximum of nine (9) Venerable (Reverends or Monks) visiting the site and staying for short or long term periods.
 - The maximum capacity proposed for the premises is twenty (20) people (Venerable and Devotees)
 - Visiting hours are proposed between 8am and 6pm, 7 days a week.
 - Parking on the site is proposed to use the existing garage (double) and at-grade driveway with a total of four (4) x car spaces provided in a stacked arrangement.
5. The site is zoned R2 Low Density Residential pursuant to the Kogarah Local Environmental Plan 2012. A *place of public worship* is permitted with consent in the zone. The proposal predominantly meets the definition of a place of public worship; however, the accommodation component is considered to be a Boarding House which is also permitted in the zone.

BACKGROUND

6. At its meeting on 3 June 2021, the Local Planning Panel considered the subject Development Application and resolved the following:

Determination

Deferral

Development Application No. DA2020/0358 for the change of use from a dwelling house to a place of public worship with associated works at 7 Rickard Road, South Hurstville, be deferred for Council to provide a supplementary report to outline onsite operations. The matter is to be returned to the Panel within 14 days for electronic determination.

7. The below provides a summary of the onsite operations of the premises as proposed under the Development Application DA 2020/0358.

OPERATIONAL DETAILS

8. The proposal seeks conversion of the existing dwelling on the subject site for use as a Buddhist *place of public worship*. It is noted that the submitted SEE seeks 'continued use of the site' as a place of worship, with objections raised during the notification/exhibition period that the proposed use has operated on the site without development consent.

9. The proposal also seeks internal works to meet accessibility requirements. The ground floor of the existing building is largely retained with minor internal works central to the ground floor to create a meditation area (Area – 5sqm), new laundry room, and convert an existing bathroom to an accessible toilet. Further, the ground floor level will retain the existing double garage, worship room (Area – 36sqm), kitchen, dining area, accessible bedroom, and sunroom. No works are proposed at the first-floor level. The existing first floor level is to contain a meditation room (Area – 22.5sqm), Sutra/Script Study and Transcribe Room (Area – 16sqm), three (3) bedrooms (Areas – 14sqm – 17sqm), and two (2) bathrooms.
10. Pursuant to the submitted operational plan of management, the proposed activities on the site include meditation, script writing and learning. The site will also provide accommodation for a maximum of nine (9) Venerable (Reverends or Monks) visiting the site and staying for short and/or long-term periods. Venerable are invited to the premises and reside for a maximum of 3 months at one time.
11. The maximum capacity proposed for the premise is twenty (20) people (Venerable and Devotees). The submitted additional information states that since the operation of the premises only one occasion resulted in twenty (20) people on the site. Further, the applicant provides that visitors/patrons are by invitation only and a visitor register is kept on site.
12. Operating hours are proposed between 8.00am and 6.00pm, 7 days a week. The additional information confirms a once monthly committee meeting is held from 6pm-9pm. The committee consists of five (5) members.
13. Parking on the site is proposed to use the existing garage and at-grade driveway and some of the landscaped area within the front setback with a total of four (4) car spaces, including an accessible space provided in a stacked arrangement. Permeable pavers are proposed within the front setback to provide for the additional parking proposed.
14. No works are proposed to the external elements of the existing building or rear yard. The ground floor worship room and accessible bedroom have windows orientated towards side boundaries. The first floor front bedroom, meditation room, and script study room each have access to balconies orientated towards the street and rear yard.
15. The use and capacity of primary areas within the site are detailed as follows (from submitted operational plan of management):
 - a. The submitted application states that bedrooms will be set up with a minimum of 2 x beds each, with a maximum capacity of up to 9 Venerable on the site. Generally only 5-6 Venerable stay on the site at any one time. During the Panels/Council Officer site visit to the subject premises prior to the Meeting, there was one (1) room with three (3) sets of bunks indicating a greater capacity of beds on site than that referenced by the application.
 - b. The Worship hall has a maximum capacity of 20 people. Activities to be carried out include daily rituals and chanting once in the morning and once in the afternoon. Occasional day time worship/chanting by devotees and talks given by Venerable for the teaching of Buddhist practices is proposed.
 - c. Meditation room used for quiet meditative purposes with a maximum capacity of 6-10 people.

- d. Script study room to be used for quiet study and transcription of scripts with a maximum capacity of 6-8 people.
 - e. Sunroom to be used as a resting area for visitors and Venerable with a maximum capacity of up to 3-5 people.
 - f. Kitchen and Dining Room to be used for preparing and eating meals for up to 20 people. It is noted that following a site inspection by Council, it is considered that the kitchen / dining area is of a standard domestic size with insufficient seating space for dining of up to 20 people.
16. Any key religious dates will not exceed the above visiting hours or maximum proposed capacity of 20 people. Attendees will be encouraged to travel to the premises during special events via car, car-pooling is encouraged, public transport, bicycle or walking. The additional information submitted states that visitors are by invitation only and that the number of vehicles visiting the site can be coordinated to minimise impacts upon the neighbourhood. Further, the Venerable would not drive to the site.
17. The premise is proposing to provide four (4) onsite car spaces. The submitted plan of management states that visitors are encouraged to car-pool, use public transport or use other means of transport such as bicycles and walking. The additional information submitted states that visitors are by invitation only and that the number of vehicles visiting the site can be coordinated to minimise impacts upon the neighbourhood.

OPERATIONAL IMPACTS

18. It is noted that the Panel were given a demonstration of instruments used during worship as part of the site inspection on 3 June 2021. A total of 4 x non melodic percussion instruments were used to maintain rhythm during the practice of chanting.
19. Members of the public addressed the Panel meeting regarding concerns resulting from traffic and noise impacts from the proposal. The applicant emphasised that the worship room was on the eastern side of the building and further away from the objector in number 9, this room is adjacent to the basement access to the townhouse development to the east. It is accepted that acoustic impacts could be managed. Car parking is limited on site with only four spaces proposed and two inside a garage and therefore unlikely to present unacceptable acoustic impacts from car doors or visitors in the car park area.
20. Considering the verbal submissions made to the Panel, unacceptable acoustic impacts did not appear to be regular or ongoing from a premise that has been in operation for some 3.5 years as detailed in the applicant's correspondence. Along with the instrument demonstration provided to Panel members on the day of inspection, it is considered that where the premises is managed in accordance with the submitted POM of which the acoustic report is based, acoustic impacts would be minimised and acceptable.
21. The previous report benchmarked the temporary residential component of the use against the boarding house controls contained within the SEPP (Affordable Rental Housing). The applicant objected to the categorisation of boarding house, stating that the lodging was not a commercial business. While accepting that this proposal is not a commercial Boarding House, it was considered necessary that these standards were considered in terms of meeting basic standards for amenity and reasonable facilities for residents / lodgers. The room configurations with four (4) bedrooms of sizes 1 x 14sqm and 3 x 16 – 17sqm are sufficient to accommodate a maximum of seven (7) lodgers only and no room should accommodate more than two beds/lodgers. It is noted that during the site inspection by the Panel and Council staff it was confirmed that one (1) room within the premises contained

three (3) bunk beds capable of accommodating up to six (6) lodgers. In this regard the proposal failed the standards, particularly in relation to room sizes and numbers of residents / lodgers and car parking.

22. The Maclaren traffic engineering peer review noted that the application “*has not undertaken a compliance assessment of the proposed car parking and access arrangements with respect to relevant Australian Standards, including the provision of car parking and bicycle parking*”.

If the application was to be supported a *condition of consent is recommended that there be a minimum of 15 minutes between each service at any given day to ensure visitors leave the site and vacate on-street parking spaces before the next group of worshippers arrive.*

ADDITIONAL SUBMISSIONS

23. Following from the Local Planning Panel meeting on 3 June 2021, Council has received three (3) additional submissions in relation to the application. The key issues raised within the submissions have been addressed below.

Traffic and Congestion Impacts

24. Comment: Two submissions raised concerns with traffic and parking impacts of the proposal, including additional traffic movement and congestion within the street. This issue has been previously considered within the original assessment report.

Noise Impacts

25. Comment: The additional submissions raised concern with noise impacts from the proposal. This issue has been previously considered within the original assessment report.

CONCLUSION

26. Development consent is sought for the continued use of an existing dwelling as a place of public worship. The application, including information provided verbally to the Panel meeting and demonstration of worshipping instruments on site has been assessed having regard to the Matters for Consideration under part 4.15 of the Environmental Planning and Assessment Act 1979, the provision of relevant State Environmental Planning Policies, Local Environmental Plans and Development Control Plans. It is accepted that the proposed development could be managed in terms of mitigating acoustic impacts where the Plan of Management (POM) is adhered to. However, the proposed development is considered unacceptable where it operates at maximum capacity that would include 9 temporary residents along with up to 11 visitors for a maximum total of 20 people. This number is considered too great for the adaptation of an existing 4 bedroom dwelling with undersized bedrooms and insufficient carparking proposed in an unsatisfactory arrangement.
27. Notwithstanding the additional information submitted by the application and suggested reduction in number of onsite lodgers, Council’s site inspection indicated that bedrooms within the premises contained bunk beds to potentially accommodate more lodgers than proposed under the application. Further, suggestions that visitors are by invitation only and that the applicant can coordinate the number of vehicles on the site would be difficult to monitor during operation of the premises and the shortfall in parking and the unsatisfactory arrangement of spaces is still a concern.

28. If the application is ultimately determined favourably by the Panel, it is suggested that a condition be placed restricting resident/ lodger numbers to a maximum of seven.

DETERMINATION

29. That pursuant to Part 4.16(1) of the Environmental Planning and Assessment Act 1979, as amended the Panel REFUSE Development Application DA2020/0358 for a change of use from a dwelling house to a place of public worship with associated works at 7 Rickard Road South Hurstville as per the original assessment report and the additional issues addressed in this report. Draft conditions have been included if the Panel are of a mind to favourably determine the application. The reasons for refusal are below:

1. The proposed development does not satisfy the following Objects of the Act:
 - (b) *to facilitate ecologically sustainable development by integrating relevant economic, environmental, and social considerations in decision-making about environmental planning and assessment,*
 - (c) *to promote the orderly and economic use and development of land,*
 - (g) *to promote good design and amenity of the built environment*
2. **Environmental Planning Instrument** – Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy the objectives of the R2 Low Density Residential zone of the Kogarah Local Environmental Plan 2012.
 - (a) The proposal fails to satisfy The Aims of the Plan, including:
 - (a) *to guide the orderly and sustainable development of Kogarah,*
3. **Development Control Plan** – Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the objectives and provisions of Part B4 – Parking and Traffic contained within the Kogarah Development Control Plan 2012.
4. **Impacts on the Environment** – Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is likely to have an adverse impact on the following aspects of the built environment:
 - (a) The cumulative parking and traffic impacts of the *place of public worship* and residential components being a *boarding house* with a total of twenty (20) patrons on site will have an adverse impact upon on-street parking availability.
 - (b) The proposed residential component cannot adequately accommodate the proposed maximum nine (9) Venerable staying on the site. The parking arrangement within the front setback will have an adverse visual impact and will likely result in pedestrian/vehicle conflicts at the front boundary.
 - (c) The proposed development will likely result in an adverse acoustic impact upon adjoining properties noting insufficient/inconsistent information has been provided with respect to the acoustic impacts of the proposal.
5. **Suitability of Site** – Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the site is not considered suitable for the proposed development as:

- (a) The proposal is likely to result in unacceptable parking impacts upon the street and broader locality.
- (b) Appropriate vehicular access and parking and pedestrian access to and from the site has not been demonstrated.
- (c) The existing accommodation does not meet the minimum requirements of the Affordable Rental Housing State Environmental Planning Policy to support nine (9) venerable as proposed.
- (d) It is anticipated that the proposed use is likely to result in acoustic impacts upon the adjoining properties.

6. **Public Interest** - Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not considered to be in the public interest for the reasons contained within this report. The proposed use contravenes the relevant planning instruments and development controls, is not suitable for the subject site, and the cumulative impacts of the proposed use and associated activities including residential accommodation are likely to adversely affect the adjoining properties and surrounding locality.