

**REPORT TO GEORGES RIVER COUNCIL  
LPP MEETING OF THURSDAY, 03 JUNE 2021**

<b>LPP Report No</b>	<b>LPP020-21</b>	<b>Development Application No</b>	<b>DA2020/0358</b>
<b>Site Address &amp; Ward Locality</b>	7 Rickard Road South Hurstville Blakehurst Ward		
<b>Proposed Development</b>	Change of use from a dwelling house to a place of public worship with associated works		
<b>Owners</b>	H M Australia Holdings Pty Ltd		
<b>Applicant</b>	H M Australia Holdings Pty Ltd		
<b>Planner/Architect</b>	Planner: Planning Ingenuity		
<b>Date Of Lodgement</b>	16/09/2020		
<b>Submissions</b>	Fifty six (56) submissions		
<b>Cost of Works</b>	\$80,000.00		
<b>Local Planning Panel Criteria</b>	The number of unique submissions exceeds 10 in accordance with the Ministerial Direction.		
<b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>	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		
<b>List all documents submitted with this report for the Panel's consideration</b>	Architectural Plans, Statement of Environmental Effects		
<b>Report prepared by</b>	Independent Assessment		

<b>Recommendation</b>	THAT the application be refused in accordance with the reasons included in this report.
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<b>Summary of matters for consideration under Section 4.15</b> Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	<b>Yes</b>
<b>Legislative clauses requiring consent authority satisfaction</b> 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?	<b>Yes</b>
<b>Clause 4.6 Exceptions to development standards</b> 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?	<b>Not Applicable</b>

<p><b>Special Infrastructure Contributions</b> Does the DA require Special Infrastructure Contributions conditions (under s7.24)?</p>	<p><b>Not applicable</b></p>
<p><b>Conditions</b> Have draft conditions been provided to the applicant for comment?</p>	<p><b>No, as the application is recommended for refusal. The refusal reasons can be reviewed when the application is published.</b></p>



**EXECUTIVE SUMMARY**

1. Council is in receipt of a development application seeking 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. 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.
3. 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.
  4. The site is zoned R2 Low Density Residential pursuant to the Draft Georges River Local Environmental Plan 2020, with *place of public worship* prohibited in the R2 zone under the Draft Plan, however a *boarding house* remains a permissible form of development.
  5. Whilst consideration is given to the provisions of the Draft Georges River LEP 2020, the provisions have no determining weight as a result of proposed operation of Clause “1.8A Savings provisions relating to development applications” which provides “*If a development application has been made before commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced*”.
  6. The proposal does not satisfy Section 1.3 Objects of the Act of the Environmental Planning and Assessment Act 1979 whereby the proposal does not satisfy objective (c) which is *to promote the orderly and economic use and development of land*, in this instance, the proposal seeks a maximum capacity of twenty (20) x patrons including up to nine (9) x Venerable (Reverends or Monks) who are proposed to be provided accommodation – short or long term stay on the site. The proposal fails to provide accommodation of a size and configuration suitable for the nine (9) Venerable proposed and also provides deficient carparking in both number and configuration. A total of four (4) car spaces in a stacked arrangement is considered insufficient and not functional for the proposed purpose. As such the traffic and parking generated by the proposed use is considered to be unacceptable due to its anticipated impacts upon on-street parking availability and the surrounding street network.
  7. The proposal fails to meet the objectives and provisions of Part B4 – Parking and Traffic contained within the Kogarah DCP 2013. The parking rate applied to *places of public worship* pursuant to Part B4.1 of the DCP requires 7.9 (8) x car spaces to be provided based on the floor space of the proposed worship room. It is noted the proposal fails to consider other areas allocated for worship within the building which collectively would require sixteen (16) spaces. This parking demand is not met with only four (4) on-site parking spaces proposed to be provided on the site, in an unsatisfactory stacked arrangement. Where the accommodation component is assessed against the boarding house provisions in the State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP), two (2) further spaces would be required taking the total to eighteen (18) x spaces. The proposal fails to meet the objectives of Part B4 of the DCP which are:
    - a) *Minimise traffic congestion and ensure adequate traffic safety and management;*

- b) *Ensure an adequate environmental quality of parking areas (including both safety and amenity);*
  - c) *Provide adequate car parking for building users and visitors, depending on building use and proximity to public transport.*
8. The proposed development includes both a *place of public worship* and a residential component (short or long-term accommodation) and the combined nature of the proposed uses will result in adverse impacts upon on-street parking availability. In addition, the proposal does not demonstrate satisfactory accommodation conditions for the proposed lodgers. In this regard it fails to meet any of the requirements for a boarding house set out in the ARHSEPP as follows:
- a) The room configurations with four bedrooms of sizes 1 x 14sqm and 3 x 16 – 17sqm are sufficient to accommodate a maximum of seven (7) lodgers only.
  - b) No rooms are permitted to accommodate three (3) lodgers.
  - c) No car parking, bicycle parking or motor bike parking has been provided specific to the lodgers.
  - d) No private open space has been specifically allocated to the lodgers.
  - e) The proposed configuration of stacked parking in the front setback will result in a landscape area that will be incompatible with the streetscape.
9. Further, the proposal fails to give adequate information to assess the likelihood of acoustic impacts, given that the submitted acoustic report and Statement of Environmental Effects (SEE) refers loosely to teaching and learning activity noise, and worship activity noise, and states a predicted average noise level for praying/chanting. No details are submitted around other noise sources such as bells, gongs, amplified prayers and/or music which are understood to be aspects of Buddhist rituals/prayer. The submitted acoustic report is based on a total of eighteen (18) patrons on the site, which is inconsistent with the maximum proposed (twenty (20) patrons).
10. Notwithstanding Draft Georges River Local Environmental Plan 2020 (DLEP2020) nominates this use as a prohibition, a review of the proposal has also been undertaken having regard to the Draft Georges River Development Control Plan 2020 (Draft DCP). The proposal does not meet the provisions relating to places of public worship with respect to site requirements. Section 34.3, Control 4.3.1 of the Draft DCP requires a minimum allotment size of 800sqm and lot width of 20m for new places of public worship. The site area of 696.8sqm and lot width of 15.24m is insufficient with respect to these provisions. Further, the proposal does not comply with Section 34.3, Control 4.3.6 of the Draft DCP which requires vehicles to be able to enter and exit the site in a forward direction.
11. As detailed further within this report, whilst it is noted that this section of the DCP is a draft and does not technically apply to the proposal, these controls are largely a result of Council's previously adopted *Draft Planning Control & Guidelines for Places of Public Worship* adopted by Council on 1 May 2017. The intent of this Draft Guideline was for it to be included as part of the Georges River DCP. Therefore, it is considered that the Guideline forms part of the assessment of the application and as such; the relevant controls of the Draft Georges River DCP have been included in this assessment.
12. The proposal was re-notified as a result of objections received from neighbouring properties which claimed they had not been notified of the proposal during Council's Notification Process. All issues raised within the objections from both notification periods have been considered in the assessment of this application.

### Site and Locality

13. The subject site is legally described as Lot 91 in DP 6862 and is known as 7 Rickard Road, South Hurstville.
14. The site has a frontage to Rickard Road of 15.24m, a maximum depth of 45.72m and a total site area of 696.8sqm. The site has a slight fall from the front boundary to the rear of approximately 2m across a length of 45.72m.
15. The site currently contains a two-storey dwelling house with attached double garage.

### Zoning and Permissibility

16. The subject site is zoned R2 Low Density Residential under the provisions of the Kogarah Local Environmental Plan 2012. The proposal is for a change of use to a *Place of Public Worship* which is a permissible use in the zone with development consent. As detailed previously, *Places of Public Worship* are a prohibited land use in the R2 Low Density Residential zone pursuant to the Draft Georges River LEP 2020. It is noted that the Draft LEP contains a savings provision and as such does not apply to the proposal.
17. The accommodation aspect of the proposal does not fit into the definition of *Place of Public Worship*. A boarding house is the closest definition that conforms with the proposed use:

***boarding house*** means a building that—

- (a) is wholly or partly let in lodgings, and
- (b) provides lodgers with a principal place of **residence for 3 months or more**, and
- (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
- (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers, but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.

**Note** - Boarding houses are a type of **residential accommodation**—see the definition of that term in this Dictionary.

18. It is noted that the proposal does not identify whether the short term accommodation is longer than three (3) months but has been assumed resulting in this element of the development being permissible in the zone.
19. The proposed accommodation component does not meet the definition of any other residential land uses which are permitted in the zone, namely:

***dwelling*** means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

***dual occupancy*** means a dual occupancy (attached) or a dual occupancy (detached).

***group home (transitional) or transitional group home*** means a dwelling—

- (a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and
- (b) that is used to provide temporary accommodation for the relief or rehabilitation of people with a disability or for drug or alcohol rehabilitation purposes, or that is

*used to provide half-way accommodation for persons formerly living in institutions or temporary accommodation comprising refuges for men, women or young people, but does not include development to which State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies.*

**Note** - Transitional group homes are a type of **group home**—see the definition of that term in this Dictionary.

### **Submissions**

20. The DA was publicly notified/exhibited to neighbouring properties between 30 September and 16 October 2020 in accordance with the provisions of the Kogarah Development Control Plan 2013.
21. The proposal was re-notified/exhibited between 21 October and 18 November 2020 as a result of objections received from neighbouring properties that raised concern that the original notification letters were not received by the intended properties.
22. In response, across both notifications/exhibition periods a total of fifty six (56) submissions were received raising concerns regarding traffic congestion, parking, acoustic amenity, zoning, residential area impacts, hours of operation, economic impacts, social impacts, safety issues, not in the public interest and the use is operating. The issues raised within the submissions have been considered and addressed accordingly in further detail within this assessment report.

### **Reason for Referral to the Local Planning Panel**

23. The application for a *Place of Public Worship* is required to be determined by the Georges River Local Planning Panel according to Council delegations. Further, the application received greater than ten (10) unique submissions from the neighbour notification/exhibition periods and therefore is required to be determined by the Georges River Local Planning Panel via Ministerial Directions.

### **Conclusion**

24. The application has been assessed having regard to the Matters for Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, the provisions of the relevant State Environmental Planning Policies, Local Environmental Plans and Development Control Plans.
25. The proposal being a *Place of Public Worship* and a *Boarding House* comprise permissible land uses in the zone with consent, however, the proposal fails to meet the objects of the Environmental Planning and Assessment Act 1979, objectives of the Affordable Rental Housing State Environmental Planning Policy or the objectives of the Kogarah Local Environmental Plan 2012, and objectives and provisions contained in the Kogarah Development Control Plan 2012.

## **REPORT IN FULL**

### **Description of the Proposal**

26. Council is in receipt of a development application seeking 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.
27. In detail, 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.

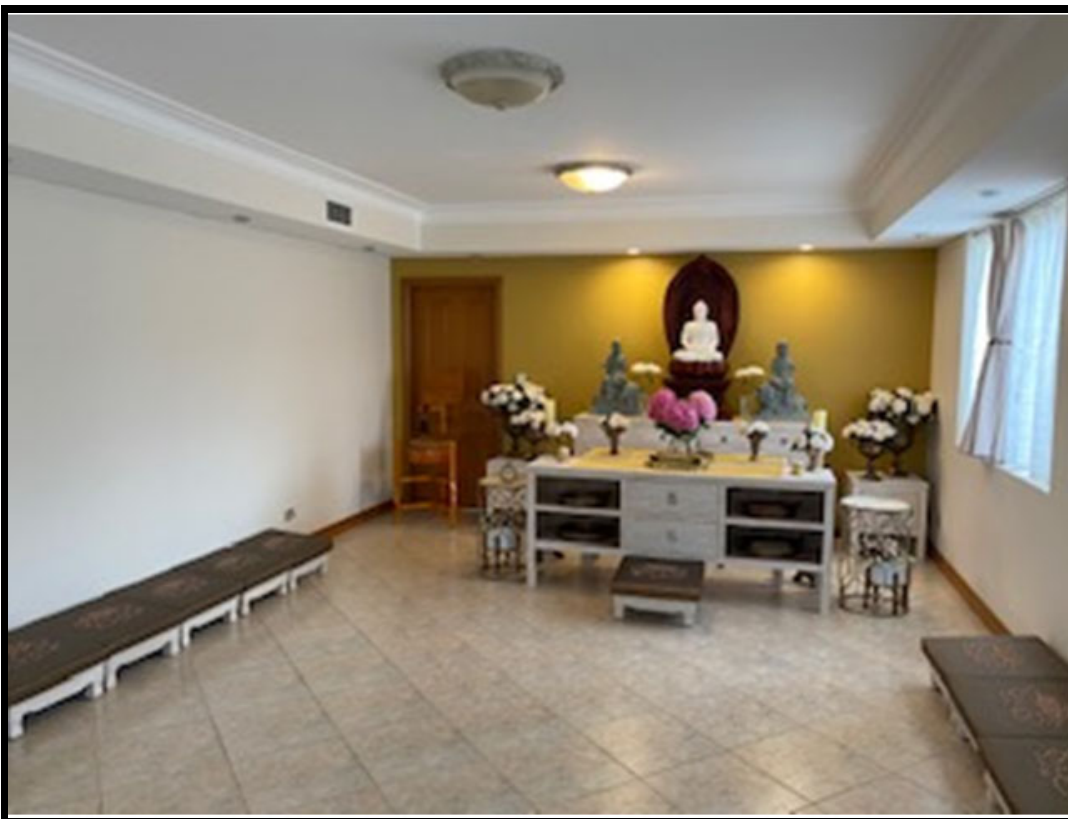
28. The proposal also seeks internal works to meet accessibility requirements. The ground floor of the existing building is largely retained with minor internal works central to the ground floor to create a meditation area (area – 5sqm), new laundry room, and convert an existing bathroom to an accessible 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.
29. 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. The maximum capacity proposed for the premise is twenty (20) people (Venerable and Devotees). Operating hours are proposed between 8am and 6pm, 7 days a week. 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.
30. 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.

### **Description of the Site and Locality**

31. The subject site is legally described as Lot 91 in DP 6862 and is known as 7 Rickard Road, South Hurstville
32. The site has a frontage to Rickard Road of 15.24m, a maximum depth of 45.72m and a total site area of 696.8sqm. The site has a slight fall from the front boundary to the rear of approximately 2m across a length of 45.72m.
33. The site currently contains a two storey dwelling house with attached double garage.
34. The streetscape is characterised by a mix of 1-2 storey dwelling houses and multi-dwelling housing developments. The adjoining property to the west of the subject site – 9 Rickard Road contains a single storey dwelling. The site to the east 1- 5 Rickard Road is in the later stages of construction of a town house complex with multiple dwellings and basement garaging. The site is located at a zone boundary with R3 Medium Density zoned land to the north, east, and south of the subject site.

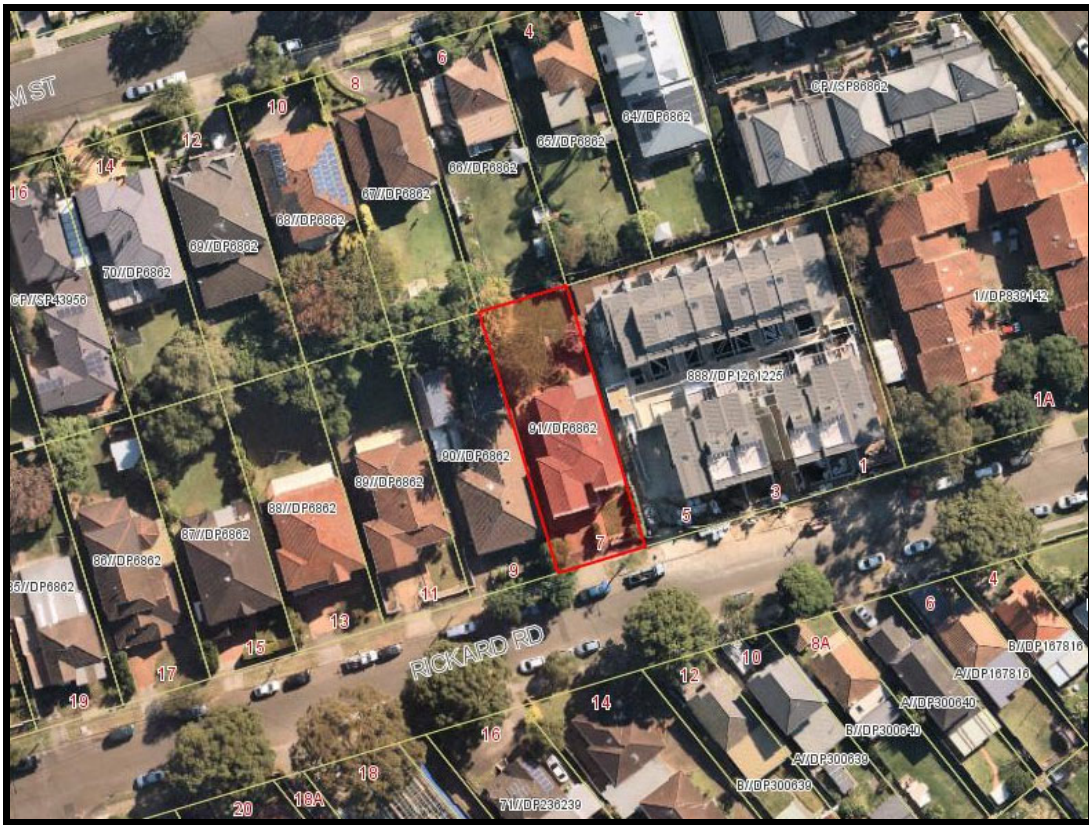


**Figure 2:** Photograph of front of subject site 7 Rickard Road, South Hurstville (Source: GRC, 2020).



**Figure 3:** Photograph of prayer room within subject site, 7 Rickard Road, South Hurstville (Source: GRC, 2020).

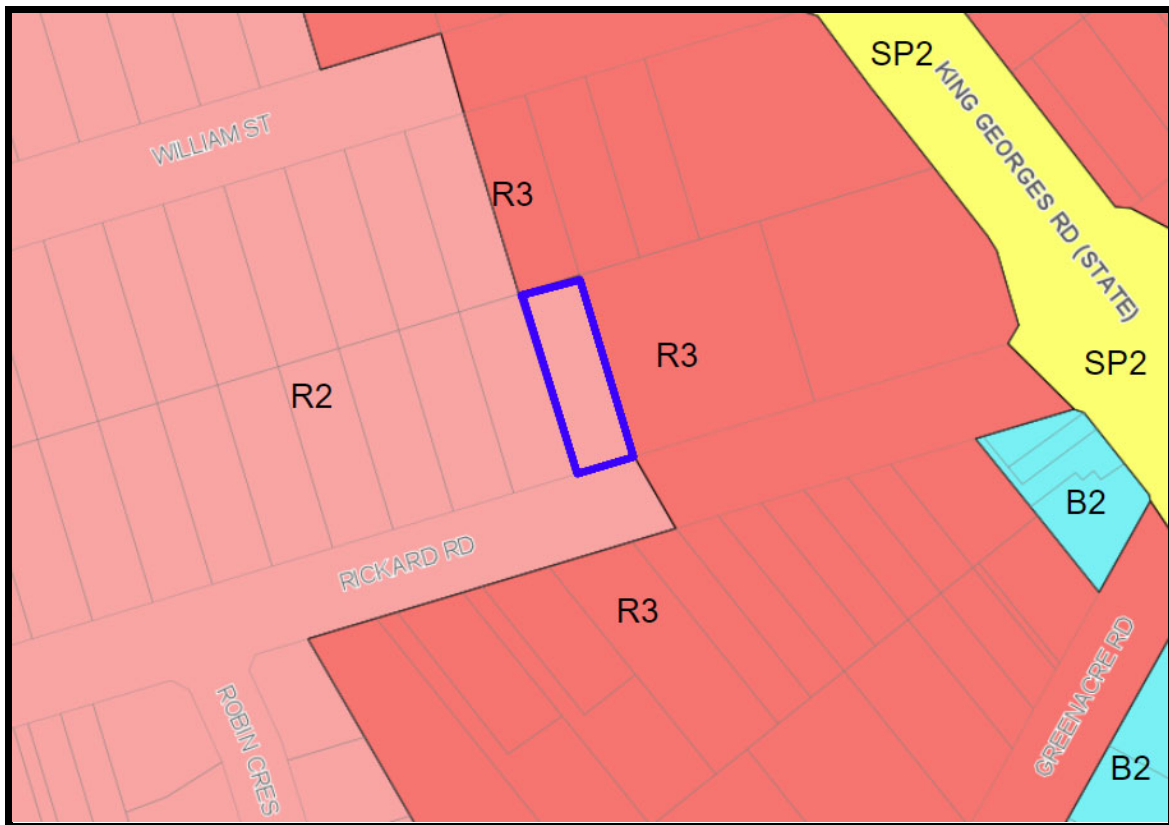




**Figure 4:** Aerial Photograph of subject site outlined in red, 7 Rickard Road, South Hurstville and surrounding area. (Source: GRC, 2020).

### Zoning and Permissibility

35. The subject site is zoned R2 Low Density Residential under the provisions of the Kogarah Local Environmental Plan 2012. The proposal is for a change of use to a *Place of Public Worship* and a *boarding house* which are permissible uses in the zone with development consent. It is noted that the site is zoned R2 Low Density Residential pursuant to the Draft Georges River Local Environmental Plan 2020, with a *place of public worship* prohibited in the R2 zone under the Draft Plan, the *boarding house* remains permissible with consent.
36. Whilst consideration is given to the provisions of the Draft Georges River LEP 2020, the provisions have no determining weight as a result of proposed operation of Clause “1.8A Savings provisions relating to development applications” which provides “If a development application has been made before commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced”.



**Figure 5:** Extract of zoning map of Kogarah Local Environmental Plan 2012 – site outlined in blue (Source: Kogarah LEP 2012).

**State Environmental Planning Policies (SEPPs)**

37. Compliance with the relevant SEPPs is summarised in the following table and discussed in further detail below.

**Table 1:** SEPP Considerations

SEPP Title	Complies
State Environmental Planning Policy No 55 – Remediation of Land	Yes
Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment	Yes
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Yes
State Environmental Planning Policy (Vegetation in Non-Rural Areas 2017)	Yes
State Environmental Planning Policy (Infrastructure) 2007	Yes
State Environmental Planning Policy (Affordable Rental Housing) 2009	No

**State Environmental Planning Policy No 55 - Remediation of Land**

- 38. SEPP 55 aims to promote the remediation of contaminated land in order to reduce the risk of harm to human health or any other aspect of the environment.
- 39. Clause 7 requires contamination and remediation to be considered in determining a development application. The consent authority must not consent to the carrying out of development on land unless it has considered whether or not the land is contaminated.
- 40. The site has a history of residential uses, is currently occupied by a dwelling house and as such, site contamination is not suspected. In this regard, no further assessment is warranted with regard to site contamination.

**Deemed State Environmental Planning Policy – Georges River Catchment**

41. The stormwater from the proposed development can be treated in accordance with Council's Water Management Policy and can drain to the street satisfying the relevant provisions of the Deemed State Environmental Planning Policy – Georges River Catchment. It is noted that the proposal seeks to drain to the front of the site to Council's kerb and gutter. The proposed stormwater disposal has been reviewed by Council's Development Engineer. This aspect of the proposal is acceptable.

**State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

42. The proposal does not involve any substantial alterations which would trigger the requirements of Statement Environmental Planning Policy BASIX.
43. Consideration has been given to the residential component of the proposal. If the rooms in a *boarding house* are capable of being used as a separate domicile, therefore meeting the definition of a 'dwelling', a BASIX certificate for the development will be required. The layout of the floor plan is not considered to result in the boarding rooms being considered 'dwellings' or capable of being 'dwellings', in this regard no BASIX certificate is required for this development. In this regard, the requirements of the SEPP have been reasonably satisfied.

**State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017**

44. The Vegetation SEPP regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
45. The Vegetation SEPP applies to clearing of:
- a) Native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the Local Land Services Amendment Act 2016; and
  - b) Vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the council's development control plan (DCP).
46. The Vegetation SEPP repeals clause 5.9 and 5.9AA of the Standard Instrument - Principal Local Environmental Plan with regulation of the clearing of vegetation (including native vegetation) below the BOS threshold through any applicable DCP.
47. The proposed development does not involve the removal of any significant trees or vegetation. In this regard, the provisions of this SEPP are considered to be met.

**State Environmental Planning Policy (Infrastructure) 2007**

48. The aim of the Infrastructure SEPP is to facilitate the effective delivery of infrastructure across the State. The DA was referred to Ausgrid in accordance with Clause 45(2) of State Environmental Planning Policy (Infrastructure) 2007. In response, Ausgrid advised that there are no impacts to Ausgrid assets.
49. In this regard, the provisions and requirements of the Infrastructure SEPP have been adequately satisfied.

**State Environmental Planning Policy (Affordable Rental Housing) 2009**

50. As detailed previously, the proposal includes a residential component (short and long-term accommodation). The accommodation aspect of the proposal does not fit into the definition of Place of Public Worship. A boarding house is the closest definition that conforms to the proposed use for accommodation, and it is noted that the proposal does not identify whether the short-term accommodation is longer than three months.
51. As a guide, the relevant provisions of the ARHSEPP have been considered to assist in the assessment of the lodging/accommodation components of the proposal. These provisions are addressed in the table below:

**Table 2: State Environmental Planning Policy (Affordable Rental Housing) 2009**

Clause	Standard	Proposed	Complies
<b>29 – Standards that cannot be used to refuse consent</b>			
Council cannot refuse a development application for a boarding house under the ARHSEPP 2009 on any of the following grounds:			
Landscaped Area	(b) if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located	The proposed configuration of stacked parking in the front setback will result in a landscape area that will be incompatible with the residential streetscape.	No
Parking	(iia) 0.5 spaces per boarding room (14 boarding rooms) x 0.5 = 7 spaces required.  (iii) Not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site	Four bedrooms = two (2) car spaces required.  The proposal does not dedicate the proposed car spaces to the proposed accommodation components.  As discussed further within this report, the proposal does not comply with the parking rate for <i>places of public worship</i> in combination with the parking demand generated by the use of bedrooms for 9 x Venerable.	No
Accommodation Size	Each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least: (i) 12sqm in the case of a boarding room intended to be used by a single lodger, or (ii) 16sqm in any other case	The proposal seeks to accommodate up to 9 x Venerable.  Bedroom sizes: - 1 x 14sqm - 3 x 16 – 17sqm  The proposal is insufficient and can only accommodate a maximum of 7 lodgers.	No

Bicycle and motor cycle spaces	(h) At least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms (4/5 = 0.8).	No bicycle or motorcycle parking proposed.	No
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### Environmental Planning Instruments Kogarah Local Environmental Plan 2012 (KLEP 2012) Zoning

52. The subject site is zoned R2 Low Density Residential under the provisions of the Kogarah Local Environmental Plan 2012. The proposal is for a change of use to a *Place of Public Worship* and a *Boarding House* are permissible uses in the zone with development consent.
53. The objectives of the R2 Low Density Residential zone are:
- *To provide for the housing needs of the community within a low density residential environment.*
  - *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
54. It is considered that the proposal fails to consider the objectives of the R2 low density zone as the site is considered too small to cater for the combined residential and place of public worship uses and therefore results in activities and impacts that are antipathetic to the zone objectives.
55. The extent to which the proposal complies with the relevant standards of Kogarah Local Environmental Plan 2012 (KLEP2012) is outlined in the table below.

**Table 3:** Kogarah Local Environmental Plan 2013

KLEP 2013 Clause	Standard	Proposed	Complies
2.2 Zone	R2 Low Density Residential	The proposal meets the definition of a Place of Public Worship and Boarding House which are permissible uses within the zone.	Yes
2.3 Objectives	Objectives of the Zone - <i>To provide for the housing needs of the community within a low density residential environment.</i> - <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>	The objectives of the R2 Low Density Residential zone are not met by the proposal.  The proposed residential component of the proposal is inadequate to accommodate the proposed 9 x Venerable for short and long-term accommodation.  The proposed parking arrangement within the front setback will result in a development that is not	No

		characteristic of the low density residential environment. The potential acoustic impacts that may result from the proposal are considered inappropriate for a low density residential zone.	
4.3 – Height of Buildings	9m as identified on Height of Buildings Map	No change to building height.	N/A
4.4 – Floor Space Ratio	0.55:1 as identified on Floor Space Ratio Map	No change to FSR.	N/A
4.5 – Calculation of floor space ratio and site area	FSR and site area calculated in accordance with Cl.4.5	The FSR and site area has been calculated according to the criterion of this clause.	N/A
5.10 – Heritage Conservation	The objectives of this clause are; (i) to conserve the environmental heritage of Kogarah, (ii) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views.	The proposal does not directly adjoin or is located within the immediate vicinity of any environmental heritage item nominated under KLEP 2012.	N/A
6.1 Acid Sulphate Soils	The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage	The site is not affected by Acid Sulfate Soils under KLEP 2012.	N/A
6.2 Earthworks	To ensure that earthworks do not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land	No earthworks are proposed.	N/A

**Draft State Environmental Planning Policies (SEPPs)**  
**Draft Georges River Local Environmental Plan 2020**

56. Consideration is given to the provisions of Draft Georges River Local Environmental Plan 2020 in the assessment this application. The site is zoned R2 Low Density Residential pursuant to the Draft Georges River Local Environmental Plan 2020, with *places of public worship* prohibited in the R2 zone under the Draft Plan. A *boarding house* remains permissible under this draft plan.

57. In this regard, the provisions of the Draft LEP have no determining weight as a result of proposed operation of Clause “1.8A Savings provisions relating to development applications” of the Draft Plan which provides “If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.”

### **Draft Environment SEPP**

58. The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, and urban bushland.

59. 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

60. The proposal is not inconsistent with the provisions of this Draft Instrument.

### **Draft Remediation of Land SEPP**

61. The Department of Planning and Environment has announced a Draft Remediation of Land SEPP, which will repeal and replace the current State Environmental Planning Policy No 55 — Remediation of Land.

62. The main changes proposed include the expansion of categories of remediation work which requires development consent, a greater involvement of principal certifying authorities particularly in relation to remediation works that can be carried out without development consent, more comprehensive guidelines for Councils and certifiers and the clarification of the contamination information to be included on Section 149 Planning Certificates.

63. Whilst the proposed SEPP will retain the key operational framework of SEPP 55, it will adopt a more modern approach to the management of contaminated land. The Draft SEPP will not alter or affect the findings in relation to contamination at the site.

64. The site has a history of residential uses and as such, site contamination is not suspected. In this regard, no further assessment is warranted with regard to site contamination as no earthworks are proposed.

65. The proposal is not inconsistent with the provisions of this Draft Instrument.

### **Development Control Plan**

#### **Kogarah Development Control Plan 2013 (KDCP 2013)**

66. The proposal has been considered in accordance with the relevant chapters of the KDCP2013 below.

### **PART B4 – PARKING AND TRAFFIC**

67. The proposal has been assessed against the key requirements of Part B4 of the DCP as provided below.

**Table 4: Kogarah Development Control Plan Part B4 Parking and Traffic**

1. Parking Requirements	Standard	Proposed	Complies
Places of Public Worship	1 space / 5 seats or 1 space / 5sqm of public seating, whichever is greater	Maximum 20 persons on site at any one time (9 residents and 11 visitors)  79.5sqm worship room (15.9 spaces)  4 car spaces on the site (2 within the existing garage and 2 at grade)	No
Boarding Houses	ARHSEPP:  (jia) 0.5 spaces per boarding room (14 boarding rooms) x 0.5 = 7 spaces required.  (iii) Not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site	Four bedrooms = two (2) car spaces required.  The proposal does not dedicate any car spaces to the proposed short and/or long term residents.  As discussed further within this report, the proposal does not comply with the parking rate for <i>places of public worship</i> in combination with the parking demand generated by the use of bedrooms for 9 Venerable.	No

68. The application fails to provide sufficient parking on the subject site, noting a total of 7.2 spaces are required to accommodate the worship room with an area of 36sqm. Whilst only this area was utilised to assess the parking demand generated by the proposed use, it is noted that the other worship areas within the development have areas of:
- Ground Floor Meditation Area – 5sqm
  - First Floor Suite/Script Study and Transcribe Room – 16sqm, and
  - First Floor Meditation Room – 22.5sqm
69. It is considered that the total area of spaces associated with worship within the development is 79.5sqm, which requires a total of 15.9 (16) x car spaces pursuant to the parking requirements of the DCP.
70. Further to the above, the traffic report submitted with the application does not consider the separate residential and visitor components of the proposed use, noting the proposal seeks a maximum of 20 patrons on the site made up of 11 visitors and 9 Venerable (Reverends or Monks) visiting the site and staying for short and/or long term periods. It is considered that the traffic generated by the combination of these patron components will result in unacceptable on-street parking impacts upon the surrounding street network.



71. While the proposal is supported by traffic management techniques including encouragement of visitors to travel by foot, mini bus, or public transport, compliance with this would be difficult to ensure and the impracticalities of utilising the existing driveway garage would more than likely result in cars parked on the street. Whilst the use of the site for a 4+ bedroom dwelling house may likely result in three (3) or four (4) cars owned by the residents. The visitor component of the proposal is likely to place additional strain on the site's ability to support the concurrent uses and could not be compared to a dwelling of any size.
72. The above issues form part of the reasons for refusal of the application.

### **Draft Georges River Development Control Plan 2020 (Draft GRDCP 2020)**

73. The Georges River Local Planning Panel at its meeting on 17 September 2020 considered a report on the Draft Georges River DCP 2020, as delegate of the Georges River Council, and resolved to place the plan on public exhibition, and insert amendments including a Savings Clause that states:
74. *"If an application has been made before the commencement of the DCP in relation to land to which the DCP applies, and the application has not been finally determined before that commencement, the application must be determined as if the DCP had not commenced. All applications received after the commencement date of an amendment to the DCP are subject to the DCP as amended."*
75. The Local Planning Panel has resolved for the Draft Georges River DCP to be in effect following the gazettal of the Draft Georges River LEP.
76. Given the draft DCP is yet to be formally adopted the provisions of the Draft DCP have no determining weight in the assessment and determination of this DA. Notwithstanding this, an assessment of the proposal against the relevant provisions of the Draft DCP is provided in the following sections.
77. It is noted that Council's Draft Policy for the Assessment of Places of Public Worship 2016 has been appropriated for the Draft Place of Public Worship controls contained in the Draft DCP. As such, the proposal has been assessed against the key requirements of the Draft Georges River DCP, which includes existing provisions contained within Council's Draft Assessment Policy for place of worship land uses.

### **Draft DCP Section 3.13 – Parking Access and Transport**

78. The proposal has been assessed against the key requirements of Section 3.13 of the Draft DCP as provided below.

**Table 5:** Draft Georges River DCP Section 3.13 Parking Access and Transport

<b>Parking Requirements</b>	<b>Standard</b>	<b>Proposed</b>	<b>Complies</b>
Places of Public Worship	1 space per 10 seats or 1 space per 10sqm GFA (whichever is greater)  Note: Some places of public worship operate with no seating arrangement and	Maximum 20 patrons on site at any one time (9 residents and 11 visitors)  36sqm worship room 43.5sqm (other worship / prayer / transcript rooms) Total = 79.5sqm	No

	as such the use of the word “seat” relates to patronage level (e.g. prayer mats)	4 car spaces on the site (2 within existing garage & 2 at-grade)	
	Transport and Parking Assessment Study required		

**Draft DCP Section 4.3 – Places of Public Worship (Note: Provisions previously contained in Council’s Draft Guidelines Places of Worship)**

79. The proposal has been assessed against the key requirements of Section 4.3 of the Draft DCP as provided in Table 6 below.
80. In summary, whilst it is noted that this section of the DCP is a draft and does not technically apply to the proposal, these controls are largely a result of Council’s previously adopted *Draft Planning Control & Guidelines for Places of Public Worship* adopted by Council on 1 May 2017. The intent of this Draft Guideline was for it to be included as part of the Georges River DCP. Therefore, it is considered that the Guideline forms part of the assessment of the application and as such; the relevant controls of the Draft Georges River DCP have been included in this assessment.

**Table 6:** Draft Georges River DCP Section 4.3 Places of Public Worship

Places of Public Worship	Standards	Proposed	Complies
4.3.1 Location and Site Requirements	<u>Locational Requirements</u> 1. Places of public worship must be located on sites of sufficient size to accommodate all proposed buildings, parking areas, outdoor areas etc.	No change to existing building.	N/A
	2. The proposed development must maintain the general amenity of the area.	Proposal will result in adverse traffic and parking impacts	No
	3. The proposed development must optimise the use of surrounding and potential infrastructure, with a particular emphasis on public transport.	Encouragement of visitors to travel by foot, mini bus, or public transport would be difficult to ensure and the impracticalities of utilising the existing driveway / garage would more than likely result in cars being used to travel to the site and cars parked on the street.	No
	4. Large scale places of public worship should be	The proposal is not considered a large scale place	N/A

	<p>located a minimum of 250m away from any other existing or approved large-scale place of public worship.</p> <p>5. Places of public worship must not be located on lots with a frontage to a road with a carriageway width less than 10m.</p> <p>6. Places of public worship must not be located on lots where access is via a cul-de-sac.</p> <p><u>Site Requirements</u></p> <p>7. The minimum allotment size for a new place of public worship is 800sqm.</p> <p>8. The minimum allotment width for a new place of public worship is 20m (measured at the front building line) and 15m for a corner allotment</p>	<p>of public worship.</p> <p>N/A</p> <p>Achieved</p> <p>696.8sqm</p> <p>15.24m</p>	<p>N/A</p> <p>Yes</p> <p>No</p> <p>No</p>
4.3.6 Traffic, Access and Parking	<p><u>Traffic Management</u></p> <p>1. Development must not result in a street in the vicinity of the development site exceeding the environmental capacity maximum. If the environmental capacity maximum is already exceeded, the development must maintain the existing level of absolute delay of that street.</p> <p>2. Development must not result in a street intersection in the vicinity of the development site to have a level of service (LOS) below Level B. If the existing level of</p>	<p>The submitted Traffic Assessment forming part of the Application has not completed an accurate assessment of the existing traffic volumes surrounding the site, corresponding to the peak operation of the subject site.</p> <p>The external peer review prepared by <i>McLaren Traffic Engineering</i> on behalf of Council confirms that the inconsistencies between the submitted Plan of Management and Traffic Report do not clearly outline the operations of the site.</p> <p>In addition, the remaining issues raised with the submitted Traffic Assessment</p>	<p>No</p>

	<p>service is below Level B, the development must maintain the existing level of absolute delay of that street intersection.</p> <p>3. Worship services shall not commence until thirty minutes have elapsed following the completion of any preceding service. This requirement may be imposed as a condition of development consent.</p> <p>4. All vehicles must be able to enter and leave the site in a forward direction.</p> <p>5. A clear distinction must be made between vehicle traffic and pedestrian movements, both on site and off site. Measures should be implemented to separate these two movements and reduce potential conflict through design and management practices.</p> <p><u>Car Parking</u></p> <p>6. The car park, manoeuvring areas and the set-down and pick-up areas must be located separately behind the front building line.</p> <p>7. On-site car and bicycle parking is to be provided in accordance with the requirements in Section 3.13 - Parking Access and Transport of this DCP and must be provided either at-grade or as basement parking.</p>	<p>form part of the reasons for refusal, noting the peer review confirms the proposal will result in <i>“undesirable overflow on-street car parking impacts during visitations”</i>.</p> <p>The proposal does not include details of services.</p> <p>No</p> <p>No – Pedestrian &amp; vehicular conflicts within the front setback due to an angled car space above pavers and an accessible space.</p> <p>No</p> <p>No</p> <p>No</p>	<p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p>
4.3.7 Amenity Impacts	<p><u>Noise</u></p> <p>1. The location and design of places of public</p>	<p>The proposed use of the existing dwelling as a place of</p>	<p>No</p>

	<p>worship must consider the projection of noise from various activities to avoid any adverse impacts on the residential amenity of adjoining land.</p> <p>2. The design of the proposed place of public worship 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.</p> <p>3. The noise impact statement must measure the noise readings over a 15 minute period and must provide details of all modelling assumptions including: source noise data, noise monitoring positions, receiver heights and locations, prevailing meteorological conditions during the monitoring, confirmation of the methodology adopted and modelling input and data.</p> <p>4. The maximum height for any noise attenuation walls and fences along</p>	<p>worship is considered to result in acoustic impacts beyond that envisioned for the zone noting the proposal utilises an existing dwelling and not a purpose-built facility whereby acoustic impacts could be managed through design.</p> <p>The submitted SEE refers to daily rituals and chanting once in the morning and afternoon by Venerable and occasionally day time chanting and worship by devotees. It is considered that the proposed patron capacity of 20 patrons will result in unreasonable acoustic impacts upon the adjoining properties.</p> <p>The submitted acoustic report incorrectly refers to the Hurstville LEP and DCP with respect to noise emission requirements. The activity noise emissions are based on a total of 18 patrons praying/chanting or teaching/learning within the premises and does not reflect the maximum patrons proposed on the site being 20 patrons.</p> <p>The acoustic report does not take into consideration any bells or gongs that are understood to be part of the religious rituals of Buddhists.</p> <p>The recommendations of the submitted acoustic report include assumptions of external glazing and construction, noting these works are not reflected on the architectural plans.</p> <p>No walls are proposed.</p>	<p>No</p> <p>No</p> <p>N/A</p>
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	<p>the side and rear property boundary is 2m.</p> <p>5. Noise from all plant and equipment (including air conditioning and mechanical ventilation) or any other continuous noise source must comply with the EPA Industrial Noise Policy.</p> <p><u>Visual privacy</u></p> <p>6. The location of windows, doors or balconies within a place of public worship must be located to avoid overlooking the private open space of adjoining residential uses.</p> <p>7. Landscaping must be used to reduce the impact of overlooking where it cannot be avoided.</p>	<p>Plant equipment has not been located on the plans, nor has it been assessed by the acoustic study. The report states that this can be dealt with at CC stage. This is unsatisfactory.</p> <p>The use of the existing dwelling for a place of worship does not allow for purpose-built design to mitigate the visual/overlooking impacts of the proposal. Notwithstanding, the main worship room is located on the ground floor with two windows facing east towards the western façade of the townhouse development. There is little opportunity for overlooking from the first floor as the script study room has windows orientated to the north directly over the subject site and not towards neighbours. Only one first floor bedroom has a window facing east which could be conditioned to have translucent glass below 1.5m height; however the application is not supported for other reasons.</p> <p>N/A</p>	<p>No</p> <p>No.</p> <p>N/A</p>
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## Impacts

### **Natural Environment**

81. The proposal will not impact upon the natural environment noting no tree removal or significant building works are proposed. It is noted that there is removal of vegetation within the front setback is required to facilitate the additional carparking and the shared zone for the accessible space. The accommodation of this vehicle accommodation results in the landscape presentation to the street being inconsistent with the residential form.

**Built Environment**

82. The proposal will not have any impacts upon adjoining properties or the broader locality with respect to built form or bulk and scale noting the works proposed are internal to the building or for permeable pavers.
83. The proposed car parking arrangement within the front setback will compromise the landscaping within the front setback, and result in an adverse visual impact upon the street.
84. The anticipated parking impacts of the proposal and potential acoustic impacts are considered to be unacceptable for the subject site.

**Social Impact**

85. The proposal is likely to result in adverse pedestrian and vehicle conflicts resulting in social impacts for occupiers, visitors and persons around the site given the nature of the proposal. The proposal does not adequately cater for up to nine (9) residents on site. The potential acoustics impacts are considered to disrupt the ability for the residents of the precinct to enjoy the quiet amenity of their own homes.

**Economic Impact**

86. There is no apparent adverse economic impact given the nature of the proposal. Whilst submissions included concern with respect to decreases in property values as a result of the proposal, this objection does not form part of the considerations of the EP&A Act 1979.

**Suitability of the site**

87. The site is zoned R2 - Low Density Residential under the Kogarah Local Environmental Plan 2012. A *Place of Public Worship* and a *Boarding House* are permissible forms of development in this zone however the proposal fails to meet the aims of the LEP and the provisions of the Kogarah Development Control Plan. The proposal is likely to result in unacceptable parking impacts upon the street. The submitted documentation does not accurately address the parking and acoustic impacts of the proposal as detailed previously and it is anticipated that the proposed use is likely to result in acoustic impacts upon the adjoining properties. Further, the proposed residential accommodation component of the proposal is insufficient to accommodate the maximum of 9 Venerable on the site for short and/or long-term accommodation. For these reasons, and others discussed throughout this report, the application is not supported and is recommended for refusal.

**Submissions and the Public Interest**

88. The DA was publicly notified/exhibited to neighbouring properties between 30 September and 16 October 2020 in accordance with the provisions of the Kogarah Development Control Plan 2013. The proposal was re-notified between 21 October and 18 November 2020 as a result of concerns raised that not all adjoining property owners had been notified during the first notification/exhibition period. In response, fifty six (56) submissions were received from both the notification/exhibition periods. All concerns raised within the submissions have been considered. The key issues raised within the submissions have been addressed below.

**Traffic and Congestion Impacts**

89. **Comment:** Concerns raised with respect to traffic and congestion impacts have been noted as part of this assessment. It is noted that the peer review prepared on behalf of Council by *McLaren Traffic Engineers* raises concern with the lack of detail submitted as

part of the application with respect to traffic generation and operating details of the proposal. The application is deficient in this regard.

On-street Parking Impacts

90. Comment: As detailed throughout this report, the proposal is likely to result in on-street parking impacts as a result of parking non-compliances and the number of patrons proposed. This impact forms part of the reasons for refusal.

Safety (Vehicle / pedestrian conflict)

91. Comment: Concern was raised with respect to safety impacts as a result of increased traffic within the locality. It is considered that the proposed parking arrangement within the front setback of the site is likely to result in vehicle/pedestrian conflict for patrons entering the site by foot and persons using the pedestrian footpath on the road. Further, vehicles will be unable to exit and enter the site in a forward direction. As such, the proposed pedestrian and vehicular entry on the site is considered unacceptable and forms part of the reasons for refusal.

Exceeding development capacity of the local area, noting recent medium density development and local school

92. Comment: Objections noted. Whilst the proposal is for a permissible land use within the zone, the cumulative use of the site as both a place of worship and residential accommodation (short or long-term stay) will contribute to an over intensification of activities on the site that will be incompatible with the R2 Low Density Residential zone.

Economic Impacts (Devaluation of neighbouring properties)

93. Comment: Submissions included concern with respect to decreases in property values as a result of the proposal; this objection does not form part of the considerations of the Environmental Planning and Assessment Act 1979.

Difficult to enforce proposed capacity, parking and use of premises

94. Comment: Objections raised concerning difficulty of enforcing maximum capacity have been noted as part of this assessment.

Proposal has been operating on the site without consent

95. Comment: Objection was raised that the subject site has been used for a place of worship without development consent. Council's Compliance Unit has been notified of this objection. A site inspection confirmed the space has been fitted out as a place of public worship, see photos above.

Noise/Acoustic Impacts

96. Comment: Further, the proposal fails to give adequate information to assess the likelihood of acoustic impacts, given that the submitted acoustic report and SEE refers loosely to teaching and learning activities noise, and worship activities noise, and states a predicted average noise level for praying / chanting. No details are submitted around other noise sources such as bells, gongs, amplified prayers and or music which are understood to be aspects of Buddhist rituals / prayer. The submitted acoustic report is based on a total of 18 x patrons on the site, which is inconsistent with the maximum proposed being 20 patrons.

Proposal inappropriate for a residential area (refer to Council's Draft Guidelines for Places of Public Worship)

97. Comment: The proposal has been assessed in accordance with the applicable planning controls and with regard to Council's *Draft Guidelines & Policy for Places of Public*



*Worship 2017*, with these provisions forming part of the Draft Georges River DCP. The proposal does not meet the minimum site dimensions for a place of public worship with respect to the Draft DCP and guidelines. It is also noted that the accommodation component of the proposal does not meet the requirements of a boarding house with respect to parking and room sufficiency, nor can it be defined as any other permissible residential use.

#### Public Interest

98. Comment: The proposal is not considered to be in the public interest for the reasons contained within this report. The proposed use contravenes the relevant planning instruments, the site is not suitable to accommodate the proposal and the cumulative impacts of the proposed use and associated activities including residential accommodation are likely to adversely affect the amenity of adjoining properties and the surrounding locality.

### **Referrals**

#### **Council Referrals**

##### Traffic Engineer

99. An independent traffic engineering assessment was undertaken.

##### Consultant Traffic Engineer – Peer Review

100. The application was externally referred for peer review of the proposal and submitted Traffic and Parking Impact Assessment prepared by *ML Traffic Engineers*. The peer review raises concern with the reliance of the proposal upon on-street parking with no detailed parking surveys during the proposed hours of operation provided as part of the application.
101. Further, the peer review states that as the proposal includes both residents (9) and visitors (11) to the Place of Public Worship being a total of twenty (20) patrons, the separate components of the patrons should be assessed separately based on the nature of the proposal which includes boarding/residents as part of the maximum patrons.
102. In summary, the peer review states the following:

*The findings of the peer review are detailed within Section 1 of this report and indicated that the ML Report is substandard for the following reasons:*

- *Has not completed an accurate assessment of the existing traffic volumes surrounding the site, corresponding to the peak operation of the subject site. This is a direct result of the inconsistencies between the Plan of Management and Traffic Report which do not clearly outline the operations of the site:*
  - *Notwithstanding this, the capacity of the site for up to 20 patrons (11 to 15 external visitors), is unlikely to cause significant traffic impact to the surrounding road network, such that traffic modelling may not be required.*
- *Requires greater detail into the proposed operations of the subject site to determine the peak operation of the site and corresponding parking requirements of the subject site:*
  - *The report does not adopt the correct car parking requirements for the subject site;*
  - *Any shortfall in car parking should be accommodated by parking surveys and a detailed assessment of the developments parking impact upon on street car parking.*
  - *Fails to detail the anticipated number of visitors to the site per day;*

- *Fails to detail how the operation of proposed car parking will work considering the tandem arrangements and if any of the residents residing on-site will require the use of their vehicle during services;*
  - *Does not undertake any assessment against Council's bicycle requirements;*
  - *Does not undertake an assessment for disabled car parking.*
  - *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.*
  - *The requirement of visitors accessing the site by invitation only is a good way to ensure the patronage of the site does not exceed the proposed operating capacity of 20 patrons.*
103. As detailed, information regarding this impact is not provided within the ML Report, the traffic report is deemed to be inadequate in order to identify the likely parking demand and external traffic impact of the proposed development.
- Environmental Health Officer
104. Council's Environmental Health Section has assessed the proposed subject development in accordance with the Protection of the Environment Operations Act 1997. The assessment also includes the review of:
- Statement of Environmental Effects prepared by Planning Ingenuity dated 1 September 2020.
  - DA Acoustic Assessment (Place of Worship) – 7 Rickard Road South Hurstville – Prepared by Acoustic Logic – dated 13 August 2020
105. The health section proposed a number of acoustic related conditions should the proposal receive approval.
106. As discussed elsewhere in this report, the full planning assessment has found the proposal deficient in its consideration of noise sources (gongs, bells and amplified music) and only loosely addresses teaching and learning activity noise related to the proposal. In addition, the acoustic report is based on 18 patrons on site which is inconsistent with the maximum 20 proposed. Overall, it is considered that the existing dwelling may not be adequately designed to manage noise and that the proposed use may result in acoustic impacts beyond that envisioned for the low density residential zone. Therefore, in the absence of a correct and comprehensive acoustic assessment, the proposal cannot be supported, and conditions of consent are not appropriate in this instance.

### **External Referrals**

#### Ausgrid

107. The application was referred to Ausgrid in accordance with Clause 45(2) of State Environmental Planning Policy (Infrastructure) 2007. In response, Ausgrid advised there are no issues with the proposal subject to a minimum clearance distances from Ausgrid's Infrastructure.

### **Conclusion**

108. The proposal has been assessed in accordance with Section 4.15 of the Environmental Planning and Assessment Act, 1979. As discussed within this assessment report, the proposal fails to meet the minimum parking provisions of the Kogarah DCP 2013, and is inconsistent with the Place of Public Worship provisions of the Draft Georges River DCP2020, noting these controls formed part of Council's previous Draft Guidelines & Policy for Places of Public Worship 2017.

109. The proposal will result in an adverse impact upon on-street parking availability, acoustic impacts upon the adjoining residential properties, and pedestrian/vehicular safety conflicts due to the proposed parking and vehicular access within the front setback. The proposal will result in adverse amenity impacts upon surrounding properties. As such, the proposed development is not considered to be suitable for the site and the immediate context.

110. The application is recommended for refusal for the reasons outlined below.

### **Determination and Statement of Reasons**

#### Statement of Reasons

111. The reasons for this recommendation are:

- The proposal does not satisfy Section 1.3 Objects of the Act of the Environmental Planning and Assessment Act 1979, namely:
  - (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.*
- The proposed number of car parking being four (4) spaces in a stacked arrangement are deficient in both numbers (should be 16) and arrangement as vehicles are unable to enter and leave in a forward arrangement and require the two (2) uses to coordinate parking which would be inconvenient and would likely result in cars parked on the street.
- Parking within the front setback is unsatisfactory and will have an adverse visual impact and will likely result in pedestrian/vehicle conflicts at the front boundary.
- The cumulative parking & traffic impacts of the *place of public worship* and residential components being a *boarding house* with a total of 20 patrons on site will have an adverse impact upon on-street parking availability.
- The proposed residential component cannot adequately accommodate the proposed maximum of 9 Venerable staying on the site.
- 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.
- The proposal has not adequately presented or considered the potential acoustic impacts of the development which may have unacceptable adverse impacts on the surrounding environment.
- In consideration of the aforementioned reasons, the proposed development is not a suitable and desired use of the site and its approval is not in the public interest.

#### Determination

112. THAT pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act, 1979, the Georges River Local Planning Panel refuse Development Application DA2020/0358 for a change of use from a dwelling house to a place of public worship

with associated works for a maximum of 20 patrons on Lot 91 in DP 6862 and is known as 7 Rickard Road, South Hurstville for the following reasons:

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 & 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.

## **ATTACHMENTS**

Attachment 1 Elevations and Site Plan - 7 Rickard Road South Hurstville