

# Statement of Environmental Effects

Section 96(1A) Modification – DA14/0523

26-48 Kingswood Rd Orchard Hills

November 2016

Full Tilt Constructions Pty Ltd



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# 1 Introduction

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## 1.1 Overview

Stimson & Baker Planning has been engaged by Full Tilt Constructions Pty Ltd to prepare a Statement of Environmental Effects in relation to a proposed modification to existing approval DA14/0523 at 26-48 Kingswood Road, Orchard Hills.

The proposed development was issued a deferred commencement approval by Council on 29 January 2015 and was then issued with an operational consent on 27 May 2015. The consent is described as follows:

*Alterations and Additions to an existing Place of Public Worship*

Prior to commencing with the construction, the client would like minor modifications to the layout of the two approved buildings on site.

The amendment will not alter the proposal as originally considered by Council. This report describes the proposed development and subject site in detail and undertakes an assessment of the proposal against the EPA Act.

Given the development is 'substantially the same' as what was originally approved, Council is able to support the development application and its approval is recommended.



## 2 The Site and Surrounds

### 2.1 The Subject Site

The site is located on the corner of Kingswood Road and Castle Road, Orchard Hills, with frontages to those roads of approximately 243m and 92m respectively. The site is known as 26-48 Kingswood Road, Orchard Hills and is described as Lot 43 DP811320. It is rectangular in shape with a total site area of 2.255 hectares.

The site is located in a typical rural-residential area surrounded by similar large rural-residential properties.

The Penrith Gospel Trust is currently using the site as a Place of Public Worship. Existing on the site is a single storey rendered brick and colorbond roofed church/meeting hall and a single storey dwelling and shed. Access to the meeting hall is via an all-weather surface driveway at the northern end of Kingswood road with a secondary access from Castle Road. A separate access to the dwelling is also provided on Kingswood Road.



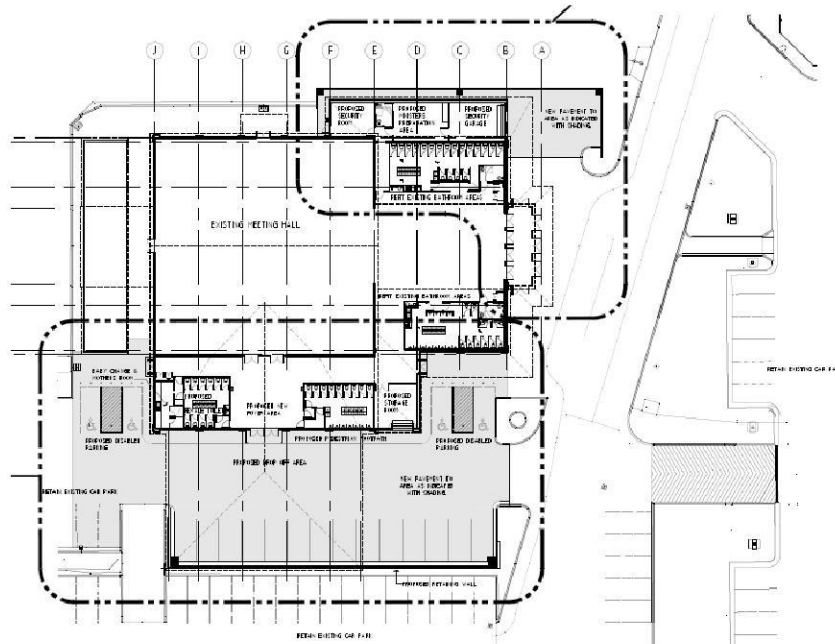
Figure 1: Subject Site (Source:SIX Maps)

## 3 Development Proposal

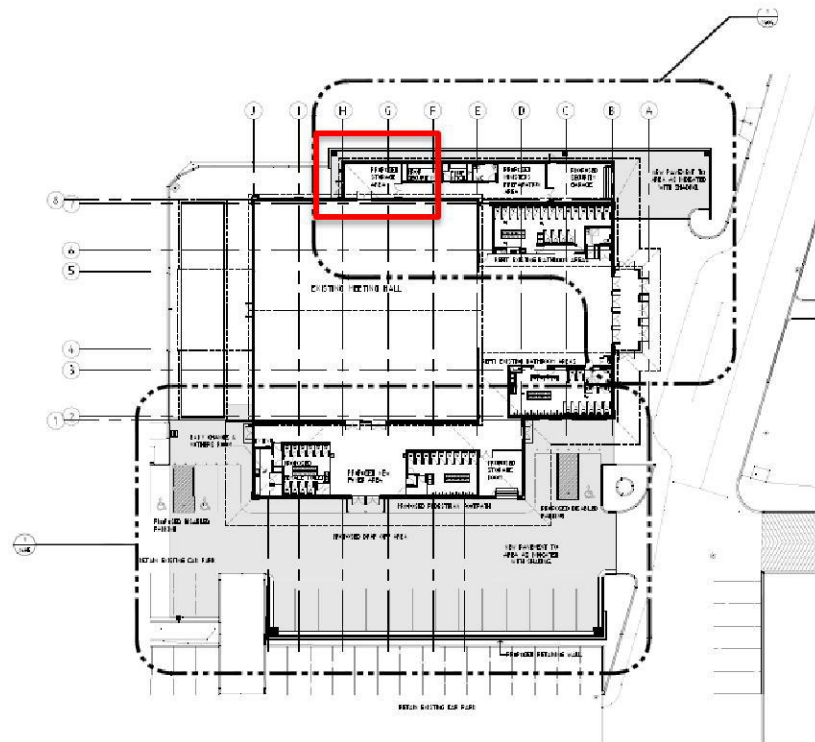
### 3.1 Details of the Proposal

The proposed application is to seek the following amendments to the approved plans to service the needs of the function and operation of the existing and approved place of public worship:

- Main Building
  - Increase to floor area and footprint of 30sqm (excluding verandah awning);
  - Extension of the Ministers Preparation area;
  - Extension of awning to Existing Meeting Hall;



APPROVED



## PROPOSED MODIFICATION

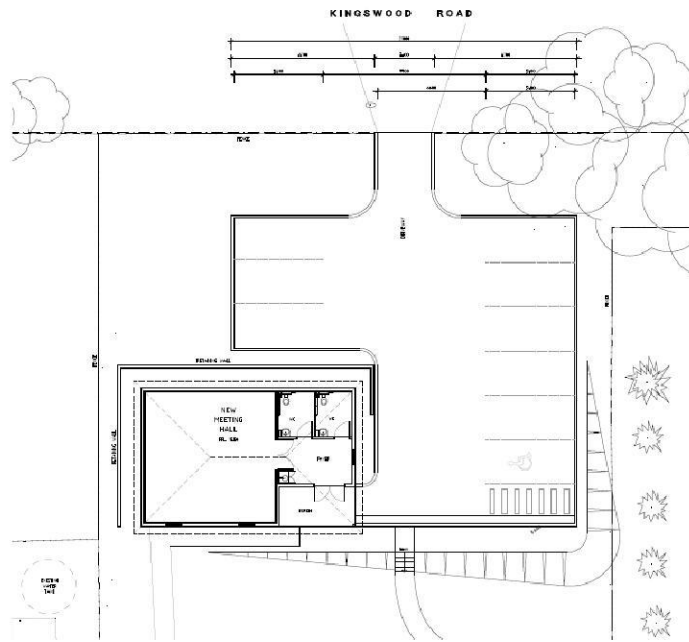
Figure 2: Main Hall Amendments

Changes to front elevations are shown on the accompanying plans and are only considered minor.

There is also a revised colour scheme that includes:

- Roof & guttering – Woodland Grey
- Walls & down pipes – Grand Piano or similar
- Doors – White or 1/4 strength wall colour

- Smaller meeting hall
  - Change of orientation;
  - Increase floor area by 145sqm (excluding carpark area);
  - Increase car parking area; and
  - Increase the amenities



APPROVED SMALLER MEETING HALL



The setback of the building remains behind the main building.

## 4 Statutory Context

### 4.1 Planning Controls

#### 4.1.1 Environmental Planning and Assessment Act 1979

Section 96 of the Environmental Planning and Assessment Act 1979 allows for proponents to seek modifications to already approved development applications.

Section 96 states:

##### 96 Modification of consents—generally

- (1) *Modifications involving minor error, misdescription or miscalculation*  
*A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify a development consent granted by it to correct a minor error, misdescription or miscalculation. Subsections (1A), (2), (3), (5) and (6), section 96AB and Division 8 do not apply to such a modification.*
- (1A) *Modifications involving minimal environmental impact*  
*A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:*
- (a) *it is satisfied that the proposed modification is of minimal environmental impact, and*
  - (b) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
  - (c) *it has notified the application in accordance with:*
    - (i) *the regulations, if the regulations so require, or*
    - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
  - (d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

*Subsections (1), (2) and (5) do not apply to such a modification.*

- (2) *Other modifications*  
*A consent authority may, on application being made by the applicant or any*

*other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:*

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) it has notified the application in accordance with:*
  - (i) the regulations, if the regulations so require, or*
  - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

*Subsections (1) and (1A) do not apply to such a modification.*

- (3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application.*
- (4) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.*

In respect to the relevant sections of the Act above, the following is submitted for consideration:

- This proposed modification is considered minor with no environmental impact arising. The proposal is not making any major changes to the built form or results in any significant changes from the original proposal. As the request is not generated from an error or misdescription, it is submitted that section 96(1A) is the most appropriate clause to apply.
- The approved development will remain *substantially the same development* as a result of this application. No significant changes are proposed to the

function or general bulk and scale of the buildings as approved. Proposed changes are minor in the context of the overall development of the site.

- Council will undertake the necessary notification and consideration of submissions.

In terms of subsection (3), an assessment against Section 79C has been undertaken in Section 5 of this report.



## 5 Section 79C Assessment

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An assessment of the proposal has been undertaken in accordance with the statutory requirements of the EPA Act. The following assessment against Section 79C of the EPA Act has been undertaken.

### 5.1 Section 79C(1)(a)(i) – Any Environmental Planning Instruments

The relevant environmental planning instruments have been considered in the original application to Council. There are no changes arising as a result from the assessment of the development that was originally undertaken and provided in the original development application SEE.

The proposal is permissible with consent and is considered satisfactory when assessed against the relevant requirements.

There should be no changes to the original consideration of the development by Council against the LEP.

### 5.2 Section 79C(1)(a)(ii) – Any Draft Environmental Planning Instrument

There are no known draft Environmental Planning Instruments applicable to the subject site.

### 5.3 Section 79C(1)(a)(iii) – Any Development Control Plan

Compliance against the relevant DCP's has been considered in the original application. There should be no changes to Councils conclusions formed in that assessment.

### 5.4 Section 79C(1)(a)(iiia) – Any Planning Agreement or Draft Planning Agreement entered into under Section 93f

There are no known planning agreements that apply to the site or development.

## 5.5 Section 79C(1)(a)(iv) – The Regulations

There are no sections of the regulations that are relevant to the proposal at this stage.

## 5.6 Section 79C(1)(b) – The Likely Impacts of the Development

The proposed modification is only considered minor and in this regard there is no adverse impacts expected as a result or that have significantly changed from the original application assessment. Further assessment of the following has been undertaken:

### 5.6.1 Onsite Wastewater Management

With the approved development, there were minor modifications to the existing system to improve its functionality and minimise environmental impacts of the onsite sewage system, these were considered suitable for the approved alterations and additions. There are some additional toilet facilities in the smaller meeting hall and a kitchenette (a lunch room) in the main meeting hall (adjacent to the Ministers preparation area), however given the proposed upgrades to the system and no change to the number of people anticipated on the site, the existing approved system is considered suitable for the proposed amendments.

### 5.6.2 Visual Amenity

A Visual Impact Assessment was undertaken for the approved alterations and additions DA as the property is identified as being an area with Scenic and Landscape Values. The proposed additional floor area to the front of the main hall (Figure 2) will not significantly alter the previous assessment. It is concluded that the proposal is not a significant change to what is already on the site and together with the sites topography and landscaped screening any perceived visual impacts are suitably mitigated.

### 5.6.3 Heritage

The site is well screened from surrounding properties and the heritage item. There are no adverse impacts from the proposed modification.

### 5.6.4 Parking and Traffic

The proposed development does not propose an increase in congregation numbers as a result of the proposal. It is merely to improve the amenity for the existing congregation. There is no additional meeting hall space proposed only changes to the Ministers preparation area and the amenities in the smaller meeting hall.

## 5.7 Section 79C(1)(c) – The Suitability of the Site

The proposal continues to be consistent with the planning controls that apply to the site. No unacceptable impacts arise as a result of these modifications.

For the reasons outlined in this report the site is considered suitable for this proposed amendments.

## 5.8 Section 79C(1)(d) – Any Submission Made

Council will undertake the necessary notification as required by the legislation and its policies.

## 5.9 Section 79C(1)(e) – The Public Interest

The public interest would not be jeopardised as a result of this proposed amendment.

## 6 Conclusion and Recommendation

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The proposed development modification has been assessed against the requirements of the Act and is considered to represent a form of development that is acceptable.

The proposed modification would not result in any unacceptable impact on the locality, nor alter the development as approved. The modification is considered to be minor in the context of the site and surrounding area.

An assessment against section 79C of the EPA Act has not resulted in any significant issues arising.

Accordingly, it is recommended that the proposed modification be approved.