

# STATEMENT OF ENVIRONMENTAL EFFECTS

PROPOSED SECTION 4.55(1A)  
MODIFICATION TO DA17/1247

230-242 ALDINGTON ROAD, KEMPS CREEK



## STATEMENT OF ENVIRONMENTAL EFFECTS

### Prepared by

---

Name: Warwick Stimson  
Qualification: Bachelor of Arts (Geography and Planning) (UNE)  
Address: Stimson Urban & Regional Planning  
Suite 5  
488 High Street  
Penrith NSW 2750

### Client and Land Details

---

Client: BAPS Swaminarayan Santha  
Rosehill, NSW  
Subject Site: Lot 18 DP 253503, 230-242 Aldington Road, Kemps Creek  
Proposal: Proposed Modification Section 4.55(1A) to DA17/1247

---

Warwick Stimson RPIA  
Director



This report dated June 2021 is provided to 'the client' exclusively. No liability is extended for any other use or to any other party. Whilst the report is derived in part from our knowledge and expertise, it is based on the conditions prevailing at the time of the report and upon the information provided by the client.

© Stimson Urban & Regional Planning 2021

Version	Date	Comment
1.0	04/06/2021	Final for DA lodgement

## TABLE OF CONTENTS

<b>1</b>	<b>INTRODUCTION</b>	<b>1</b>
1.1	Project Overview	
<b>2</b>	<b>THE SITE AND SURROUNDS</b>	<b>2</b>
<b>3</b>	<b>MODIFICATION DESCRIPTION AND PLANNING CONTROLS</b>	<b>4</b>
3.1	Amendments Sought	
3.2	Planning Controls	
<b>4</b>	<b>KEY PLANNING ISSUES</b>	<b>7</b>
4.1	Visual Impact	
4.2	Bushfire Impact	
4.3	Onsite Wastewater Disposal	
<b>5</b>	<b>SECTION 4.15 ASSESSMENT</b>	<b>8</b>
5.1	Section 4.15(1)(a)(i) – Any Environmental Planning Instruments	
5.1.1	Sydney Regional Environmental Plan No 20 – Hawkesbury Nepean River	
5.1.2	State Environmental Planning Policy No 55 – Remediation of Land	
5.1.3	State Environmental Planning Policy (Infrastructure) 2007	
5.1.4	Penrith Local Environmental Plan 2010	
5.2	Section 4.15(1)(a)(ii) – Any Proposed Instrument	
5.3	Section 4.15(1)(a)(iii) – Any Development Control Plan	
5.3.1	Penrith Development Control Plan 2014	
5.4	Section 4.15(1)(a)(iiia) – Any Planning Agreement or Draft Planning Agreement entered into under Section 7.4	
5.5	Section 4.15(1)(a)(iv) – The Regulations	
5.6	Section 4.15(1)(a)(v) – Any Coastal Zone Management plan	
5.7	Section 4.15(1)(b) – The Likely Impacts of The Development	
5.8	Section 4.15(1)(c) – The Suitability of the Site for the Development	
5.9	Section 4.15(1)(d) – Any submission made	
5.10	Section 4.15(1)(e) – The Public Interest	
<b>6</b>	<b>CONCLUSION AND RECOMMENDATION</b>	<b>11</b>

## LIST OF FIGURES

Figure 1 Subject Site - Aerial	2
Figure 2 Subject Site - Cadastre	3

# 1 INTRODUCTION

## 1.1 PROJECT OVERVIEW

Stimson Urban & Regional Planning has been engaged by BAPS Swaminarayan Santha to prepare a Statement of Environmental Effects in relation to a proposed modification of Development Application DA17/1247.

As the detailed design has progressed for the purposes of a construction certificate, a number of minor amendments have been identified.

This report describes the proposed modifications in detail and undertakes an assessment of the proposal against the relevant aims, objectives and development provisions of Council's LEP and DCP, and Section 4.15 of the Act.

## 1.2 HISTORY OF THE APPLICATION

The following applications have been or are being considered by Penrith Council to date.

Development Application Number	Relevant Dates	Comments
<b>DA17/1247</b>	Approved by JRPP 23 September 2019	A deferred commencement consent was issued identifying a number of matters to be detailed prior to the issue of an operational consent.
<b>DA17/1247</b>	3 March 2020	Deferred Commencement conditions approved. Operational consent issued.
<b>DA17/1247 Mod 1</b>	Approved 10 November 2020	Seeks minor design amendments to several aspects of the development.
<b>DA17/1247 Mod 2</b>	Approved 3 March 2020	Sought minor elevation changes, changes to retaining walls and addition of walkways.
<b>DA17/1247 Mod 3</b>	Lodged February 2021	Seeks approval for minor changes to the development as approved. Under assessment by Council at the time of writing this report.
<b>DA17/1247 Mod 4 (this application)</b>	June 2021	This application.

## 1.3 SUPPORTING DOCUMENTATION

The proposed is accompanied by the following documentation:

Documentation	Prepared by
Architectural Drawings	Jakaan Architects

## 2 THE SITE AND SURROUNDS

The subject site and its surrounds have the following characteristics.

<b>Site Address</b>	230-242 Aldington Road, Kemps Creek
<b>Lot/DP</b>	Lot 18 DP 253503
<b>Site Area</b>	101,328sqm (approx.)
<b>Local Government Area</b>	Penrith City Council
<b>Zoning</b>	RU2 Rural Landscape
<b>Current Land Use</b>	Vacant
<b>Proposed Land Use</b>	Place of Worship
<b>Surrounding Land Uses</b>	Vacant farmland
<b>Topography</b>	The site rises from Aldington Road to the rear of the site by approximately 25-30m
<b>Terrestrial Biodiversity</b>	Not mapped in LEP
<b>Heritage</b>	Not mapped in LEP
<b>Flooding/Overland Flow</b>	Not mapped in LEP
<b>Bushfire</b>	Mapped



Figure 1 Subject Site - Aerial



**Figure 2 Subject Site - Cadastre**

### 3 MODIFICATION DESCRIPTION AND PLANNING CONTROLS

#### 3.1 AMENDMENTS SOUGHT

The following amendments are sought to be made to the approved development and are detailed in the accompanying plans.

Location	Change
Central Building	Altered lift sizes according to Schindler specs
Central Building Ground	Adjusted entries to align with fire stairs (no longer recessed into the building)
Sabha Hall Ground	Add male handwash area, reconfigure drinking fountains, male shoes and Abhishek mandanmp
Sabha Hall Ground (North Elevation)	Added window (W.B1.C.03A)
Sabha Hall Ground	Add window to Accounts office, add window to Abhishek mandanmp room
Sabha Hall Ground	Door to waste room replaced with false window
Sabha Hall Ground	Changed stroller room to First Aid room, added basin
Dining Hall Level 1	Reconfigure IT and Server room
Central Building Basement	Added windows into doors to multi purposes rooms (for child safety)
Central Building Basement	Fire stairs from pump room, as per BCA requirement, move lift and reconfigure storage room on level 1
Central Building Basement	Raised floor level below Sabha hall to 57.6
Central Building Basement	Raised floor level below Dining hall to 58.1
Central Building Basement	Modified external roads to match new basement entry levels
Central Building Basement	Added ramps to North and South basement for level change in basement
Central Building Basement	Added irrigation water tank and pump room to southern side of basement
Central Building Basement	Modified names to storage areas in basement with more specific uses
Central Building Basement	Pedestrian movement (added crossings and pedestrian footpaths)
Central Building Plant Rooms	Increased Plant Level 400mm - for mechanical ducts
Central Building Plant Rooms	Increase roof height and room sizes to accommodate air conditioner condensers and clearance space
Central Building Roof	Increase parapet height to allow for 1000mm barrier from box gutter
Central Building Roof	Added solar panels
Central Building Roof	Added additional louvre openings to plant room roofs for mechanical ducts
Perimeter Roads	Adjusted levels of perimeter roads to new Mandir Level
Car Park Area	Car Park levels increased to balance cut and fill
Car Park Area	Removed wheel stops (trip hazards)
Car Park Area	Added paving detail
Mandir	Redesigned walkway surrounding Mandir
Mandir	Added amenities buildings (north and south) at rear of walkway

Mandir	Redesigned courtyard (planters and seating)
Mandir	New ramps and stairs from car park area to Mandir forecourt
Subsoil irrigation area	Adjusted levels of site, redesigned rear retaining wall
Landscape area	Removed reed beds and overflow bypass. added OSD under children's play area
Landscape area	Changed parking area near children's play area
Landscape area	Removed steps and ramps behind cultural gate (in front of central building entry)
Car park	Added Bollards (for pedestrian safety)
Central Building, Landscape buildings	Added external material to walls (Tiles)
Central Building, Landscape buildings	Adjust windows and doors to match tiles (move horizontally)
Central Building	Columns adjust to match windows (move horizontally)
Central Building Ground	Change window in kitchen (from window to louvred)

The proposed modifications, the majority of which are internal, are minor in scale and will not be perceptible when viewed from adjoining sites or the public domain.

## 3.2 PLANNING CONTROLS

Section 4.55 of the Act provides details relating to the modification of consents as follows:

### 4.55 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) and Part 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 4.8) 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 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.
- (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 relation to the above we submit the following:

- The modification sought is not an error or misdescription. Nor is it considered to result in any significant changes to the resultant development. Accordingly, we submit the application should be considered as a s4.55(1A).
- Further supporting the application being a s4.55(1A) is the fact that no significant environmental impacts will arise as a result. Indeed, we submit the changes proposed would be largely imperceptible when considering the overall development and the scale of the site and buildings proposed.
- Since there are no significant changes proposed to the approved use, function and utility of the buildings approved, Council can be 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.
- Council can therefore grant consent to the proposed modification.

## **4 KEY PLANNING ISSUES**

---

The following impacts have been considered in the preparation of this development proposal.

### **4.1 VISUAL IMPACT**

The proposed modifications are minor. There will be no visual impact arising as a result of these changes.

### **4.2 BUSHFIRE IMPACT**

No impacts will arise on potential bushfire impacts, or on the approvals already issued, as a result of the proposed amendments.

### **4.3 ONSITE WASTEWATER DISPOSAL**

No impacts are expected given the minor nature of the amendments proposed.

## 5 SECTION 4.15 ASSESSMENT

An assessment of the proposal has been undertaken in accordance with the statutory requirements of the EPA Act. The following assessment against Section 4.15 of the EPA Act has been undertaken.

### 5.1 SECTION 4.15(1)(A)(I) – ANY ENVIRONMENTAL PLANNING INSTRUMENTS

The following relevant environmental planning instruments have been considered earlier in this report.

#### 5.1.1 *Sydney Regional Environmental Plan No 20 – Hawkesbury Nepean River*

The proposed modification does not alter the original assessment of the application against the SREP. The health of the Hawkesbury Nepean River system will be protected and maintained during the construction and operation of the facility.

#### 5.1.2 *State Environmental Planning Policy No 55 – Remediation of Land*

The proposed modification does not alter the original assessment of the application against SEPP 55. No further consideration is required.

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

The proposed modification does not trigger any requirement for consideration of SEPP (Infrastructure). No further consideration is required.

#### 5.1.4 *Penrith Local Environmental Plan 2010*

The proposed modification continues to be permissible with consent under the LEP. The modifications would also see the development remain consistent with the objectives of the LEP and the zone itself. The proposed amendments are not in conflict with any development standards or clauses of the LEP and are therefore considered satisfactory when assessed against its provisions.

### 5.2 SECTION 4.15(1)(A)(II) – ANY PROPOSED INSTRUMENT

There are no known draft Environmental Planning Instruments that would impact this proposed modification.

### **5.3 SECTION 4.15(1)(A)(III) – ANY DEVELOPMENT CONTROL PLAN**

The following Development Control Plan has been considered in relation to this proposed modification.

#### **5.3.1 *Penrith Development Control Plan 2014***

The proposed amendments do not alter the original assessment of the application against the DCP. The proposed development continues to satisfy the objectives of those controls.

### **5.4 SECTION 4.15(1)(A)(IIIA) – ANY PLANNING AGREEMENT OR DRAFT PLANNING AGREEMENT ENTERED INTO UNDER SECTION 7.4**

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

### **5.5 SECTION 4.15(1)(A)(IV) – THE REGULATIONS**

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

### **5.6 SECTION 4.15(1)(A)(V) – ANY COASTAL ZONE MANAGEMENT PLAN**

Not relevant to the proposed development.

### **5.7 SECTION 4.15(1)(B) – THE LIKELY IMPACTS OF THE DEVELOPMENT**

No significant impacts of any kind have been identified in the assessment. No changes will arise to the function and utility of the site. No environmental impacts will occur as the amendments sought are minor design changes.

### **5.8 SECTION 4.15(1)(C) – THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT**

The proposal continues to be suitable for the site. The proposed modifications do not change the assessment undertaken at the time of the original Development Application.

### **5.9 SECTION 4.15(1)(D) – ANY SUBMISSION MADE**

Council may undertake a notification process in accordance with its controls and policies. We welcome the opportunity to provide additional information in response to any submissions that may be received.

## **5.10 SECTION 4.15(1)(E) – THE PUBLIC INTEREST**

Given the type of development, its general compliance with the planning controls, how the objectives are satisfied and the suitability of the site it is considered that the public interest would not be jeopardised as a result of this development.

## 6 CONCLUSION AND RECOMMENDATION

---

The proposed development has been assessed against the requirements of the Penrith Council LEP and DCP and is considered to represent a form of development that is acceptable.

The proposed modifications are minor in the context of the scale of the approved development. There will be no perceptible changes to the development.

The proposed works result in the development remaining 'substantially the same' as what was originally approved, therefore satisfying the test of modification.

An assessment against Section 4.15 of the EPA Act has not resulted in any significant issues arising.

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