



# STATEMENT OF ENVIRONMENTAL EFFECTS

MODIFICATION OF DA17/1247 – PLACE OF PUBLIC WORSHIP

230-242 ALDINGTON ROAD, KEMPS CREEK

APRIL 2020

BAPS SWAMINARAYAN SANTHA

## STATEMENT OF ENVIRONMENTAL EFFECTS

Prepared by:

---

Name: Warwick Stimson  
Qualification: Bachelor of Arts (Geography and Planning) (UNE)  
Address: Stimson & Baker 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 of DA17/1247 – Place of Public Worship



---

Warwick Stimson RPIA  
Director



This report dated April 2020 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 & Baker Planning 2020

## TABLE OF CONTENTS

<b>1</b>	<b>INTRODUCTION</b>	<b>1</b>
1.1	Project Overview	1
1.2	History of the Application	1
1.3	Supporting Documentation	1
<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	4
3.2	Planning Controls	6
<b>4</b>	<b>KEY PLANNING ISSUES</b>	<b>8</b>
4.1	Traffic Generation and Parking	8
4.2	Earthworks	8
4.3	Visual Impact	8
<b>5</b>	<b>SECTION 4.15 ASSESSMENT</b>	<b>9</b>
5.1	Section 4.15(1)(a)(i) – Any Environmental Planning Instruments	9
5.1.1	Sydney Regional Environmental Plan No 20 – Hawkesbury Nepean River	9
5.1.2	State Environmental Planning Policy No 55 – Remediation of Land	9
5.1.3	State Environmental Planning Policy (Infrastructure) 2007	9
5.1.4	Penrith Local Environmental Plan 2010	9
5.2	Section 4.15(1)(a)(ii) – Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority	9
5.3	Section 4.15(1)(a)(iii) – Any Development Control Plan	10
5.3.1	Penrith Development Control Plan 2014	10
5.4	Section 4.15(1)(a)(iiia) – Any Planning Agreement or Draft Planning Agreement entered into under Section 7.4	10
5.5	Section 4.15(1)(a)(iv) – The Regulations	10
5.6	Section 4.15(1)(a)(v) – Any coastal zone management plan	10
5.7	Section 4.15(1)(b) – The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality	10
5.7.1	Natural Environment Impacts	10
5.7.2	Social and Economic Impacts	10
5.7.3	Built Environmental Impacts	10
5.8	Section 4.15(1)(c) – The suitability of the site for the development	11
5.9	Section 4.15(1)(d) – Any submission made	11
5.10	Section 4.15(1)(e) – The public interest	11
<b>6</b>	<b>CONCLUSION AND RECOMMENDATION</b>	<b>12</b>

## LIST OF FIGURES

Figure 1	Subject Site - Aerial	2
Figure 2	Subject Site - Cadastre	3
Figure 3	South elevation showing approved building outline (blue) and proposed amendment	6

# 1 INTRODUCTION

## 1.1 PROJECT OVERVIEW

Stimson & Baker 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 considered by Penrith Council to date.

Development Application Number	Relevant Dates	Comments
DA17/1247	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.
DA17/1247	3 March 2020	Deferred Commencement conditions approved. Operational consent issued.
DA17/1247 Mod #1	Lodged April 2020	Seeks minor design amendments to a number of aspects of the development.

## 1.3 SUPPORTING DOCUMENTATION

The proposed is accompanied by the following documentation:

Documentation	Prepared by
Architectural Drawings	Jakaan Architects
Landscape Plan	Nicholas Bray Landscapes
Traffic Impact Assessment	Traffix Traffic & Transport Planners
Bulk Earthworks Assessment	Wood & Grieve Engineers

## 2 THE SITE AND SURROUNDS

The subject site and its surrounds have the following characteristics.

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

##### 1. Architects

- The name of the architects has changed from DDC Architecture and Interior Design to Jakaan Architects.
- The registered Architect for both companies is Geoff Ferris-Smith.

##### 2. Building and Building Pad Level

- The proposed modifications are in level of the building and building pad made whilst maintaining a balance of cut and fill (ie no excess material required to be removed from site).
- Please see attached statement from Wood and Grieve Engineers regarding this.
- The level of the site pad for the Central Building has increased by 0.840m (from RL60.400 to RL61.240) increasing site efficiency, amenity and safety.
- Increase to the height of the Central Building of 1.07m (from RL71.103 to RL72.171) to facilitate appropriate clearances for the Sabha Hall, Dining and Kitchens based on required construction and structural clearances.
- The Mandir site pad level remains unchanged from the approved DA.

##### 3. Position of Buildings

- The Sabha Hall building has moved in a westerly direction towards the street 12.5m.
- The Dining Hall building has moved in a westerly direction towards the street 2.5m.

##### 4. Central Buildings

- Minor reconfiguration of the internal spaces of the central facilities buildings.
- Minor reconfiguration of the external balconies, including windows, doors and columns.

##### 5. Basement Access and Modifications

- The basement has been redesigned to include extra storage areas which are important for the day to day running of the central buildings.

##### 6. Waste Collection Area

- A second entry/exit to the basement on the south side.
- Moved waste collection area east closer to the kitchen area where most of the waste would be generated.

##### 7. Children's Playground

- The children's playgrounds have been relocated at the level of and adjacent to the Central Buildings increasing amenity and safety.

#### 8. Landscaped Forecourt

- An entry landscaped forecourt, drop off area, parking and accessible parking has been included at the level of the Central Buildings parking efficiency, amenity and safety.

#### 9. Reduction in Retaining Walls

- 115 linear metres of retaining wall/site transitions, 125m cross site road and several ramps have been deleted increasing parking efficiency, amenity and safety.

#### 10. Increase in parking

- The number of car spaces between the Central Buildings and Mandir has decreased by 12.
- Parking in the basement has increased by 12 spaces.

#### 11. Main Parking Level

- The main parking level has been modified so that all car parking is at a single level increasing parking efficiency, amenity and safety.

#### 12. Mandir Parking Level

- The Mandir parking level would have all car parking at a single level increasing parking efficiency, amenity and safety.

#### 13. Additional Landscaping

- The landscaped area between the central building and the Mandir have increased significantly adjacent to the perimeter roads and facing the site boundaries.

#### 14. Additional Garden Beds

- Addition of two garden beds on (Grids 6-7 & B-C).

#### 15. Width of Perimeter Roads

- Increased perimeter road widths from 8m to 9.3m to include kerb and gutters

#### 16. Stormwater Pump House

- Added stormwater pump house (Grid 10 & B)

#### 17. Traffic

- Attached is impact statement from Traffix to be included in submission package

#### 18. Civil

- Attached is statement from Wood and Grieve regarding the changes to cut and fill volumes to be included in submission package.

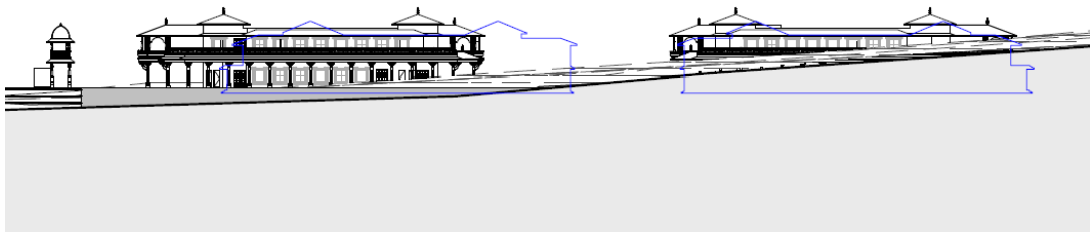


Figure 3 South elevation showing approved building outline (blue) and proposed amendment

## 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 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 TRAFFIC GENERATION AND PARKING

Traffic and parking matters have been considered in this submission as they relate to the modification sought. A traffic and parking assessment accompanies this submission that makes the following observations:

- Car parking for the proposed development is increased despite no change proposed to the number of visitors.
- Accessible parking proposed for the facility is considered acceptable.
- No further assessment of traffic generation is considered necessary given there is no intensification proposed.
- Vehicular access and internal design of driveways including clearances and swept paths, satisfy the provisions of the relevant Standards.

In summary the proposed modification can be supported on traffic and parking grounds.

### 4.2 EARTHWORKS

During the assessment of the original Development Application, Council expressed concern over the proposed earthworks that would be required to deliver the development. With the adjustments proposed within this modification, the client has provided an assessment of that aspect of the proposal.

Wood and Grieve Engineers have assessed the modification and have confirmed that the cut and fill volumes of the proposed works remain balanced, and that they now better respond to the existing topography of the site.

### 4.3 VISUAL IMPACT

The visual impacts of this modification will be imperceptible when viewed from the public and private domain. Whilst there are adjustments to the building locations proposed, these are relatively minor in the overall context of the development of the site and will provide improved accessibility and amenity within the site.

## 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 THAT IS OR HAS BEEN THE SUBJECT OF PUBLIC CONSULTATION UNDER THIS ACT AND THAT HAS BEEN NOTIFIED TO THE CONSENT AUTHORITY

There are no known draft Environmental Planning Instruments applicable to the subject site that are relevant to the 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 THAT DEVELOPMENT, INCLUDING ENVIRONMENTAL IMPACTS ON BOTH THE NATURAL AND BUILT ENVIRONMENTS, AND SOCIAL AND ECONOMIC IMPACTS IN THE LOCALITY**

#### **5.7.1 Natural Environment Impacts**

The proposed works will slightly amend the location and levels of the building levels to provide improved access and amenity within the site. The resultant development is considered to be improved on the originally approved development, with no impacts arising for nearby or adjoining landowners. Cut and fill remains balanced, with no impacts arising in that respect.

#### **5.7.2 Social and Economic Impacts**

There are no negative social or economic impacts arising as a result of this modification application.

#### **5.7.3 Built Environmental Impacts**

The proposed amendments will be imperceptible when viewed from the public and private domain given the overall scale and context of the development. No unacceptable built impacts will arise. Improvements on site circulation and access have, however, been made to the proposal.

#### **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 development be approved.