

STATEMENT OF ENVIRONMENTAL EFFECTS

Section 4.55 (1A) - Modification of DA – 158/2022 for Boundary Adjustment of Lots known as 20-24 The River Rd and 13 Victoria St and Consolidation of Lots known as 14-18 The River Rd, 9 Victoria Rd and the residue lots behind 20-24 The River Rd and 13 Victoria St created by the boundary Adjustment into one lot. Relocation of approved Weekend Language School Use into existing fibro sheds on the lot currently known as 9 Victoria St, and use of existing dwelling on 9 Victoria St as a Priest's residence, and use of a new car park behind 20-24 The River Rd, all ancillary to the existing Place of Public Worship (Sikh Temple)

At

No. 14 - 16 The River Road & 11-13 Victoria Street

REVESBY NSW 2212

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1. **INTRODUCTION**

This Statement of Environmental Effects (SEE) has been prepared for the applicant seeking modification to the approved development at No. 14 – 16 The River Road & 9-13 Victoria Street, Revesby NSW 2212, under DA–158/2022. The approval allowed boundary adjustment of lots known as 20-24 The River Road, 13 Victoria Street and consolidation of lots known as 14-18 The River Road, 9 Victoria Street and residue lots behind 20-24 The River Road and 13 Victoria Street into one lot. The approved development also includes relocation of approved weekend language school use into existing fibro sheds on the lot currently known as 9 Victoria Street as well as use of existing dwelling for Priest residence and new car park ancillary to the existing Place of Public Worship (Sikh Temple).

This Statement of Environmental Effects accompanies an application pursuant to Section 4.55 (1A) of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*, which seeks to modify the description of approved development to correct No. 9 to No. 11 Victoria Street and by correcting the use of existing dwelling on 9 Victoria Street as Priest's residence to 11 Victoria Street as Priest's residence. In addition, condition 8.4 is to be modified to allow "Language classes are restricted to a maximum of 70(seventy) students at any one time". Details of the modifications are discussed in the following part of this Statement of Environmental Effects.

The purpose of this Statement is to address the planning issues associated with the modification proposal, specifically to assess compliance of the approved built form with Council's controls and any likely impact of the development on the environment in accordance with the requirements of Section 4.15 and 4.55 of the EP&A Act, 1979.

The SEE concludes that the proposed development, being a modification application to an approved development will have minimal adverse impacts on the amenity of the adjoining buildings/properties and is considered worthy of support.

2. SITE DESCRIPTION

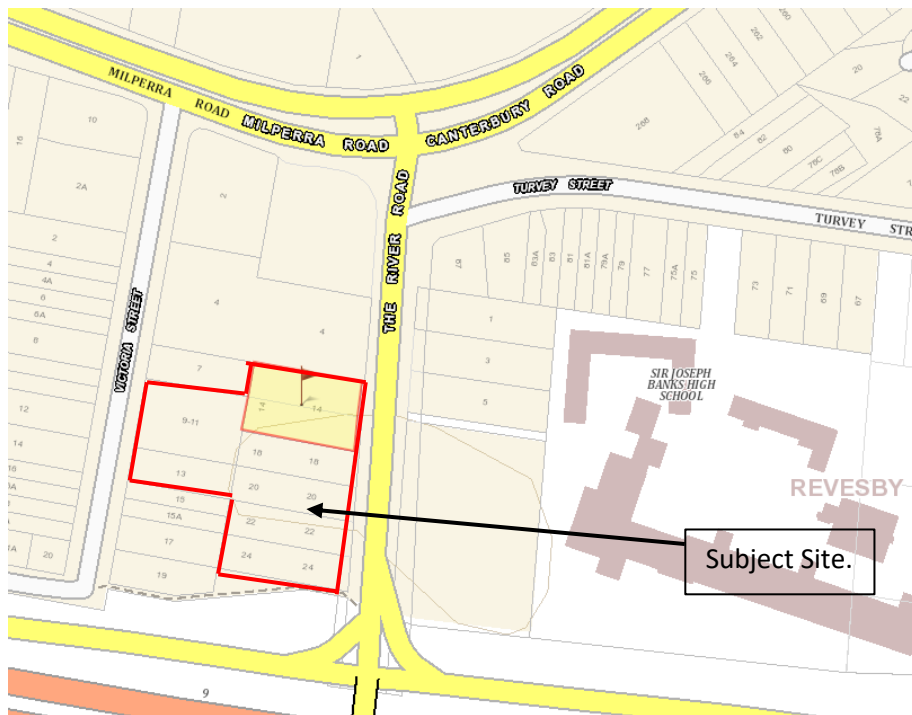
The subject is now being part of the site comprising eight (8) separate lots commonly known as 14-18 The River Road (Sikh Temple), No 20-24 The River Road and 11-13 Victoria Street Revesby. The land parcels making up the overall site are legally described as follows:

- Lot 11 DP 731449 – No.14 The River Road, Revesby
- Lot 12 DP 731449 – No. 16 The River Road, Revesby
- Lot 13 DP 731449 – No. 18 The River Road, Revesby
- Lot 14 DP 731449 – No. 20 The River Road, Revesby
- Lot 15 DP 731449 – No. 22 The River Road, Revesby
- Lot 16 DP 731449 – No. 24 The River Road, Revesby
- Lot 12 DP 2343 – No. 13 Victoria Street, Revesby
- Lot 100 DP 1183919 – No 11 Victoria Street, Revesby

The subject site is situated on the western side of the River Road, Revesby between Milperra Road to the north and Gordon Parker Street to the south. The site has a secondary frontage to Victoria Street to its west. The property is neither in a heritage conservation area or heritage listed nor located within close proximity to any such items.

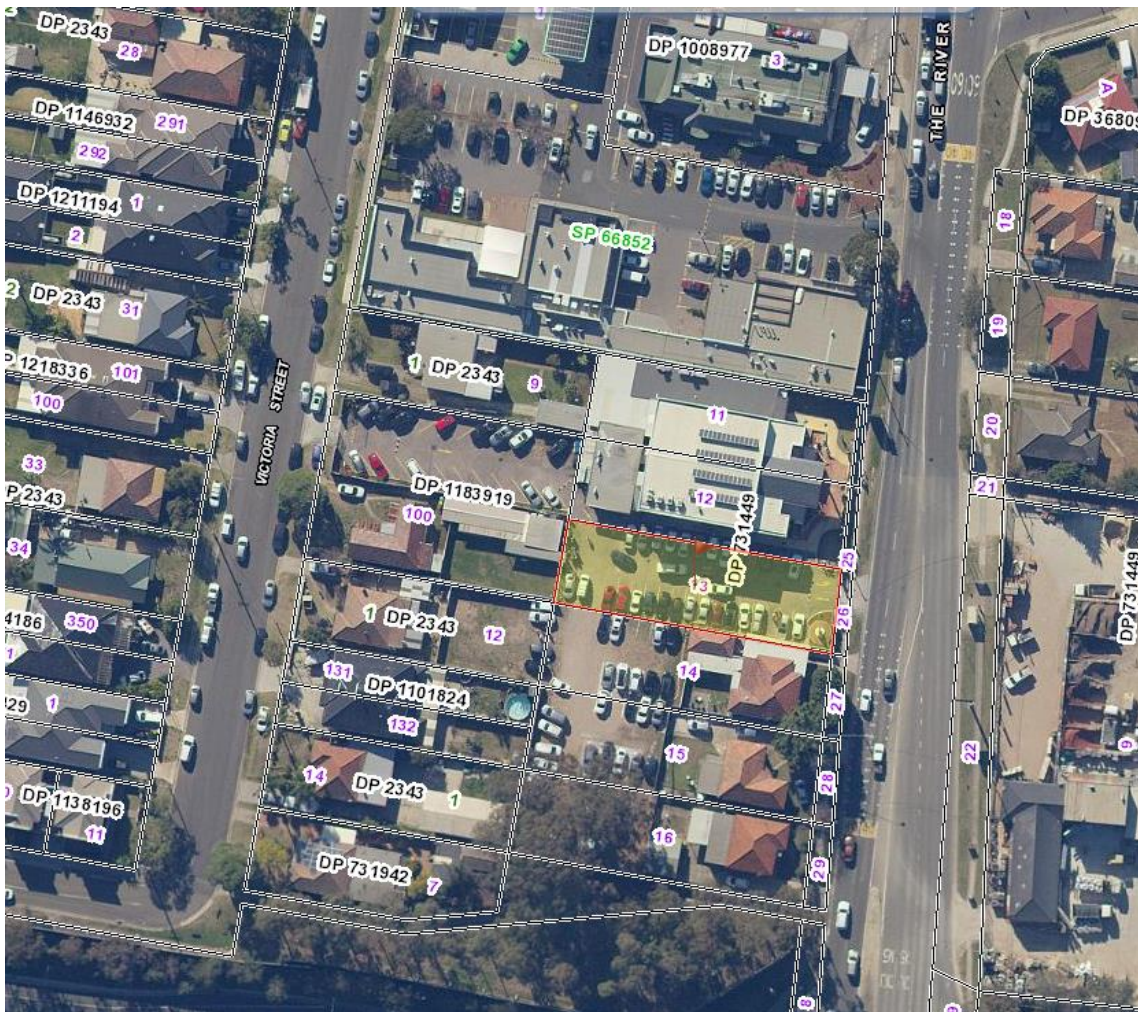
The subject existing building is located on the western side of lot 16 DP 731449 of one of the overall site being used for Sikh Temple and was previously used as Kitchen associated with the Temple.

The location of the subject site is shown as follows:



Location Plan

The aerial photo is provided below.



Aerial photo of site and surrounds

3. BACKGROUND

A Development Consent was granted by Bankstown City Council to development applications No. DA- 158/2022 for Boundary Adjustment of Lots known as 20-24 The River Rd and 13 Victoria St and Consolidation of Lots known as 14-18 The River Rd, 9 Victoria Rd and the residue lots behind 20-24 The River Rd and 13 Victoria St created by the boundary Adjustment into one lot. Relocation of approved Weekend Language School Use into existing fibro sheds on the lot currently known as 9 Victoria St, and use of existing dwelling on 9 Victoria St as a Priest's residence, and use of a new car park behind 20-24 The River Rd, all ancillary to the existing Place of Public Worship (Sikh Temple).

A section 4.55(1A) application is lodged to modify the terms and conditions of Development Application DA- 158/2022 to conform with the approved development description to correctly reflect the street Number of property known as No.11 Victoria Street instead of No. 9 Victoria Street as shown in approved development description and condition 8.4 for restricting use of language school to children who are coming with adults attending the site for worship only. Details of proposed modifications are provided under description below.

4. Description of the Proposal

4.1 Modification to the approved development

As explained above, it is proposed to correct the description of the approved development as follows:

Land to be developed: 14-24 The River Road & ~~9-13~~ **11-13** Victoria Street Revesby
Lot 11 DP 731449, Lot 12 DP 731449, Lot 13 DP 731449, Lot 14 DP 731449, Lot 15 DP 731449, Lot 16 DP 731449, Lot 100 DP 1183919, Lot 12 Sec 1 DP 2343.

Approved Development: Boundary adjustment of Lots known as 20-24 The River Rd and 13 Victoria St and Consolidation of Lots known as 14-18 The River Rd, ~~9~~ **11** Victoria Rd ~~Street~~ and the residue lots behind 20-24 The River Rd and 13 Victoria Street created by the Boundary adjustment into one lot. Relocation of approved Weekend Language School use into existing fibro sheds on the lot currently known as ~~9-11~~ Victoria St, and use of existing dwelling on ~~9 Victoria St as a Priest's residence~~ **11 Victoria St as a Priest's residence**, and use of a new car park behind 20-24 The River Rd, all ancillary to the existing Place of Public Worship (Sikh Temple).

In addition, Condition 8.4 shall be modified by deleting the words “*and are only for children who are attending the site with adults who are undertaking worship*”. Condition 8.4 should read as:

Condition 8.4 Language classes are restricted to a maximum of 70 (seventy) students at any one time.

The details of the proposed modifications are discussed in the assessment section of this report. Compliance of the proposed dwelling with Council's LEP 2015 and DCP 2015 controls are discussed in the later part of this report.

5. STATUTORY AND POLICY COMPLIANCE

5.1 SECTION 4.55 ASSESSMENT

Section 4.55 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)* contain provisions relating to the modification of development consent. Specifically, subclause (1A) refers to ‘modifications involving minimal environmental impact’ that states:

*(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.

This proposal is the subject of Section 4.55(1A) modification as it involves minor error correcting the description of the proposed development, land to be developed and minimal environmental impact from the use of the language school use to broader community irrespective of whether the children are attending the site without adult who are not undertaking worship. The proposal does not require a new development application as it is substantially the same, being a Place of Public Worship with ancillary approved use of Language School under DA 213/1999 issued by Bankstown City Council. In reaching this conclusion, we have considered guidance provided by the Land & Environmental Court case, *Moto Projects (No. 2) Pty Limited v North Sydney Council* {1991} NSWLEC 280; (1999)106 LGERA 298, which outlines principles for determining whether a modification application is 'substantially the same' as an originally issued development consent. The assessment of 'substantially the same' needs to consider quantitative and qualitative matters.

Quantitatively, the proposal will not significantly alter the numerical aspects of the proposal and will remain consistent with the relevant planning controls. The proposed modifications will result in correctly reflecting the development site and proposed development in terms of minor error whilst broadening the use of language use to wider community interest who are not attending the worship/prayer without affecting the restriction of use limited to 70 students at any time for language classes.

The amendment in the land to be developed will be the same as Street No. 9 Victoria Street was never identified as part of this site and the name of the Street is Victoria Street instead of Victoria Road mentioned in the description of approved development. Further, property address 9 Victoria Street is not a part of DA 158/2022, therefore, the use of existing dwelling on No. 9 for Priest's residence is irrelevant in this application. However, Council may consider the use of existing dwelling at No.13 for Priest's residence as this is ancillary to the principal use of the consolidated site as Place of Public Worship.

Accordingly, the proposal, as modified, will not result in any increased solar impacts, both visual and privacy impact between the development or on the adjoining properties that could have been from the approved development.

Qualitatively, the development is substantially the same as of the approved development given that the proposal is predominantly the Place of Public Worship with ancillary uses as Language School, residence, and car park. The proposal, as

amended, do not significantly alter the use or scale and form of the approved and existing built form and the proposed modifications will have negligible environmental impacts, rather than will be correcting minor discrepancies, as discussed in this Statement.

Given the above, it is evident that the proposal is substantially the same as the approved both qualitatively and quantitatively. The proposed development, as approved, will have minimal environmental impact. It is therefore considered that the proposal is appropriately categorised as a Section 4.55(1A) application.

5.2 SECTION 4.15 ASSESSMENT

Section 4.55(3) requires consideration of Section 4.15(1) of the EP&A Act which is undertaken under the relevant subject headings below:

5.3 Bankstown Local Environmental Plan 2015

Bankstown Local Environmental Plan 2015 (the LEP) is the principal environmental planning instrument that applies to the subject land and contains applicable development standards for the proposed development of the site. The proposed modifications will not numerically alter the provisions of the LEP in respect of permissibility as well as compliance with development standards in terms of FSR, building height as discussed below:

Clause	Proposal	Compliance
Clause 4.1 Minimum lot size – 450m ² for subdivision of land.	The proposed lot size for No. 22 & 24 The River Road & No 13 Victoria Street will be minimum of 450.04m ² and 466.03m ² , respectively. The consolidated lot for Temple is 4946.72m ²	Yes
Clause 4.3 Height of Buildings – 9m	No Change building height of existing dwellings or the Temple building as approved.	Yes
Clause 4.4 Floor Space Ratio – 0.5:1	Proposed Temple lot – 0.28:1 Proposed lot 2 – 0.33:1 Proposed lot 3 – 0.24:1 Proposed lot 4 – 0.31:1 Proposed Lot 5 – 0.29:1	Yes Yes Yes Yes Yes (Refer page 11-14 of Site Plans for House No. 20 – 24 The River Road & No. 13 Victoria Street)
Clause 5.10 Heritage Conservation	Site is not identified in Schedule 5 of the LEP 2015 as a heritage item or is located within the vicinity of heritage item or is within heritage conservation area.	Yes

Clause 5.11 Bush fire hazard reduction	The site is not identified as Bushfire prone land in Council's records	Yes
Clause 6.1 Acid Sulphate Soils	The site is not identified as Acid Sulphate Soils in the LEP 2015 maps.	Yes
Clause 6.3 Flood Planning	The site is not identified as flood liable land or flood affected as per s10.7 Certificate.	Yes

Therefore, the proposed modification does not result in any change to compliance with the relevant provisions under Blacktown Local Environmental Plan 2015.

5.4 Bankstown Development Control Plan 2015 (DCP 2015)

The proposal, as modified, will not change the building foot print of the existing development on site, setbacks including street setback and side setback, building height, massing and siting, the landscape area and car parking arrangements of the development controls of Bankstown Development Control Plan 2015.

The proposed modification will not be non-compliant with the controls of Part B8 – Places of Public Worship as well as Part B5 - Parking as follows:

Part B5 - Parking		
<p><i>Section 2 – Off Street Parking</i></p> <p><i>2.1 Development must calculate the amount of parking required using the schedule of off-street parking requirements.</i></p> <p><i>Places of public worship</i></p> <p><i>Car parking must be provided on-site at a minimum rate of 1 car space per 5m² of the assembly area.</i></p> <p><i>Car parking for ancillary uses and social / special events must be provided on-site on the basis of a Parking Study, to be submitted with the development application.</i></p>	<p>81 parking spaces are provided and approved for Place of Public Worship having assembly hall area of 265sqm and associated language school. A traffic assessment report was submitted with the application justifying compliance with parking requirement. The approved parking of 82 car parking spaces is considered more than required parking spaces required for the approved development.</p>	Yes

The proposed modification application, as approved, will not alter the existing built form of the approved development that has been granted by Council as per development consent to DA 158/2022.

5.5 Impact of Proposed Modification

The potential impacts of the proposed modification are considered minimal. Given there are no physical changes proposed to the existing built form.

5.5.1 Amenity Impacts

The proposed modifications will have minimal to no impact to the amenity of the surrounding neighbors as the application results in correcting minor errors/ misdescription of the approved development without any amenity impact in terms of visual or acoustic impacts, solar access or overshadowing on adjoining properties.

5.5.2 External Appearance

The proposed modifications will not significantly alter the approved external appearance and design of the development.

5.5.3 Economic and Social impacts

The proposed modifications will retain the positive economic and social benefits as the originally approved development.

5.5.4 Operational details for language school & justification to modify Condition 8.4

The use of classrooms of the language school proposed to be restricted to 70 children was because kids will generally be accompanied with the parents who are visiting the Temple to undertake prayers/worship whilst children are attending language classes at the weekend school. The application as approved will provide 81 car parking spaces which are more than sufficient than required for the patrons visiting the Temple based on the fact that generally 4 people will share a car ride which will generate a maximum parking of 70 car parking spaces, therefore, the proposed parking will be in excess of the required parking for the approved use. By restricting the use of language classes to the children who are attending the site for undertaking worship will deprive the facility / opportunity to children to learn their mother language and the students/kids take lessons on their religious studies as well as learn mother language or to know their culture/values whilst parents sometime may drop off or pick up kids to attend the classes but are not present at Temple during school operation on the weekends. The extra parking is considered sufficient for the safe pick up/drop off of the children within the premises even if the parents are not attending/performing worship without affecting the on-street parking adjoining the site.

Accordingly, the restriction for children who are attending the site with adults who are undertaking worship is considered unjustified and unreasonable and should be deleted and condition 8.4 should be modified to read as:

“Condition 8.4 – Language classes are restricted to a maximum of 70(seventy) students at any one time.”

5.6 THE SUITABILITY OF THE SITE

5.6.1 Access to services

The site is located within the general residential area in close proximity to the facilities and within the centrally developed area metropolitan Sydney. As such, the site enjoys the benefits of electricity, sewer, telephone and water services that are available to the subject site.

5.6.2 Parking and access

The proposed modification does not make any amendment to the required parking.

6.0 CONCLUSION

The proposed modification will result in a development that is substantially the same as the approved development under Development Application No. DA 158/2022, given it is only for the modification involving minor error or misdescription and minimal environmental impact of the proposed development including minimal environmental impact for restriction on the use of language classes by the students. The modification will not alter the physical built form of the approved development substantially.

The development as modified will remain consistent with the relevant provisions and objectives of the Bankstown Local Environmental Plan 2015 and with the Bankstown Development Control Plan 2015.

Accordingly, for the reasons stated above, it is requested that Council consent to the modification as detailed in this Statement.