

statement of environmental effects s4.55(2) modification

site

22-23 the boulevard lakemba

proposed modifications

replacement of an existing illuminated wall sign


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1.0 Introduction

This s4.55 Statement of Environmental Effects (SEE) is submitted to Canterbury Bankstown Council in support of a proposed modification of development consent to facilitate minor alteration to the approved and built scheme.

The proposed modification of development consent is made under s4.55(2) of Environmental Planning and Assessment Act 1979 (the Act).

The application seeks modification of development consent no. DA-349/2013 determined by the former Canterbury City Council on 28/10/2013 for development originally described as “Installation of four external illuminated and non- illuminated signs on existing club premises”.

The proposed modifications include:

- Replace one (1) existing illuminated wall sign on the North Western facade with one (1) illuminated wall sign of larger dimensions.

The larger proposed sign will face The Boulevarde street frontage which is opposite a public car park. The signage will not impact any residential properties.

The proposed sign will suit the scale of the existing building and will be positioned on a large blank wall. The larger signage will not impact the architectural presentation of the building or result in signage clutter from the public perspective.

Illumination will utilise LED technology and will have control devices to adjust brightness where required.

This report analyses statutory provisions of s4.55 of Act, an assessment of the environmental impacts of the proposed modifications and identifies the steps to be taken to protect or mitigate potential impacts on the environment.

The application to modify the development consent, as detailed by plans included with this application, is recommended for approval.

2.0 Application Details

2.1. Development Consent Subject to Proposed Modifications

The application supports the modification of the development consent granted by Canterbury Bankstown Council and detailed in Table 1 below:

Table 1 Development Consent Subject to Modification

Item	Particulars
Development Consent No.	DA-349/2013
Date of Determination	28/10/2013
Description of Approved Development (as per Notice of Determination)	Installation of four external illuminated and non- illuminated signs on existing club premises

2.2. Description of Proposed Modifications

The proposed modification of development consent will not alter the external envelope or fabric of the existing building, with the exception of replacement of one (1) of the illuminated wall signs affixed to the North Western facade (facing The Boulevarde)

The proposed modification will not result in a significant environmental impact in comparison to the approved and built development.

Residential uses will not be impacted by the modifications.

Impact on the streetscape and public domain will be minor with the enlargement of the signage.

2.3. Recommendation to Modify Conditions of Consent

Should the consent authority support the proposed modification of consent, we recommend the following conditions to be modified as detailed in Table 2 below.

Table 2 Modification of Conditions

Condition Number	Existing Wording	Proposed or Recommended Wording
1.	<i>The signage being installed in accordance with the plans, specifications and details prepared by Altis Architecture, dated December 2012 and marked Drawing Plan No.: A202, A201 as received by Council on 21 October 2013 except where amended by the conditions specified in this Notice.</i>	<i>The signage being installed in accordance with the plans, specifications and details prepared by Altis Architecture, dated December 2012 and marked Drawing Plan No.: A202, A201 as received by Council on 21 October 2013 except where amended by the conditions specified in this Notice.</i> <i>Modified to include: Plans, specifications and details prepared by Altis Architecture, dated Feb 2025 Issue B and marked Drawing Plan No.: A202</i>

3.0 Legislative Framework

3.1. Environmental Planning and Assessment Act 1979

Provisions under the Act enable modification of a development consent, in this instance, s4.55(2) is relied upon.

3.1.1. s4.55 Modification of consents - generally

The relevant provisions of s4.55 are considered in Table 3 below:

Table 3 Relevant provisions of s4.55

Subsection	Provisions	Response
4.55(2) Other modifications		
Regulations	Clause 100 Content of modification application	Information required in the application is detailed in Table 4 below.
(a)	Substantially the same development	<p>The modification seeks to replace an existing illuminated wall sign with another.</p> <p>We take guidance from two cases in particular, that have assisted in establishing the modified development is substantially the same development as that approved, the cases being <i>Moto Projects</i> and <i>Arrage</i>.</p> <p>From <i>Moto Projects</i>, a common method to identify whether the modified development is substantially the same is to consider whether the modified development is “essentially or materially” the same or “has the same essence” as the originally approved development. This test derives from the dicta of Bignold J in <i>Moto Projects No 2 Pty Limited v North Sydney Council</i> [1999] 106 LGERA 298 (<i>Moto Projects</i>).</p> <p>In <i>Arrage v Inner West Council</i> [2019] NSWLEC 85, Preston CJ held at [28] (referring to the <i>Moto Projects</i> “test”):</p> <p>“That is one way, probably in most cases the most instructive way, to identify whether the modified development is substantially the same development as the originally approved development, but it is not the only way to ascertain whether the modified development is substantially (in the sense of essentially or materially) the same development as the originally approved development. For example, comparison could be made of the consequences, such as the environmental impacts, of carrying out the modified development compared to the originally approved development: see <i>Moto Projects</i> at [62] and <i>Tipalea Watson Pty Ltd v Ku-ring-gai Council</i> (2003) 129 LGERA 351; [2003] NSWLEC 253 at [17].”</p>

Subsection	Provisions	Response
		<p>In applying the <i>Moto Projects</i> test, we compare the modified development to the approved development in both quantitative and qualitative terms.</p> <p>In quantitative terms, the proposed modifications will not alter the external building envelope or fabric or footprint of the approved development.</p> <p>Qualitatively, the modifications will not alter the approved land use or intensify that use..</p> <p>The modification will have no significant adverse impact on the streetscape character compared to the original approved scheme. The replacement of the signage will renew the appearance of the building and improve its presentation to the general public.</p> <p>In our opinion, the <i>Moto Projects</i> test alone establishes that the proposed modifications, if approved, will be substantially the same as the approved development.</p> <p>Alternatively, and considering <i>Arrage</i>, the modifications have been designed and considered by the designer so as to have no further adverse impacts from the approved scheme.</p> <p>On that basis, the modifications will be substantially the same development as that approved.</p>
(b)	Concurrence	Concurrence with other authorities is not required for the proposed modifications.
(c)	Notification	Canterbury Bankstown Council may notify or advertise the proposed modifications in accordance with its notifications policy.
(d)	Submissions	If submissions are made in respect to the modification application, details of the submissions will be obtained through the GIPA process and responded to, to assist the consent authority with its consideration of the submission.
4.55 (3)	Consideration of matters referred to in section 4.15(1)	Refer to Part 5.0 below for a detailed discussion of s4.15 consideration of matters relevant to the proposed modifications.

3.2. Environmental Planning and Assessment Regulation 2021

3.2.1. Clause 100 EPA Regulation - Content of modification application

Clause 100 of Environmental Planning and Assessment Regulation 2021 outlines the required information that must be included in a modification application. Requirements are discussed at Table 4 below:

Table 4 - Clause 100 content of modification application

Subclause	Provisions	Response
100(1) A modification application must contain the following information—		
(a)	the name and address of the applicant	Planning Approvals Pty Ltd Level 4, 29 Kiora Road, Miranda NSW 2228
(b)	a description of the development that will be carried out under the development consent	As per development consent which provides: Installation of four external illuminated and non- illuminated signs on existing club premises.
(c)	the address and folio identifier of the land on which the development will be carried out	22-23 The Boulevard, Lakemba Lot 1 Section 2 DP 4784
(d)	a description of the modification to the development consent, including the name, number and date of plans that have changed, to enable the consent authority to compare the development with the development originally approved	Description of modifications as per Part 1.0 above. The modified plans are detailed at Table 2 above.
(e)	whether the modification is intended to— i. merely correct a minor error, misdescription or miscalculation, or ii. have another effect specified in the modification application	The latter, subpoint ii. The expected impacts of the modification are outlined at Part 5.2 below.
(f)	a description of the expected impacts of the modification	The expected impacts of the modification are outlined at Part 5.2 below.
(g)	an undertaking that the modified development will remain substantially the same as the development originally approved	An undertaking that the modified development will remain substantially the same is provided at Table 3 above.
(h)	for a modification application that is accompanied by a biodiversity development assessment report—the biodiversity credits information	The proposed modifications do not involve clearing of vegetation.

Subclause	Provisions	Response
(i)	if the applicant is not the owner of the land—a statement that the owner consents to the making of the modification application	Owners consent for modification of development consent is produced with this application.
(j)	whether the modification application is being made to— <div><div>i.</div><div>the Court under the Act, section 4.55, or</div><div>ii.</div><div>the consent authority under the Act, section 4.56</div></div>	The modification application is not being made to the Court under s4.55 and is not being made to the consent authority under s4.56.

4.0 Numerical Overview of Proposed Modifications

4.1 Relevant Numerical Summary of Proposed Modifications

The key numeric development information showing compliance with Canterbury Bankstown Council development controls are summarised in Table 5 below.

Table 5 Summary of key development information relating to the proposed modifications

Development Control	Modification Proposal	Compliance
Canterbury DCP 2012 (effective at the time of the original development application)		
Appearance and Maintenance - Size of name or logo no more than 0.25m ²	The modifications, as was the case at the time of the original development application, will achieve all criteria, except for the numerical size control. Whilst the proposed modification will result in an increase of the non compliance in a quantitative sense, the modifications are satisfactory in terms of the then effective SEPP 64 in that the non compliance will not impact neighbouring properties.	Alternative Solution See Appendix A
Canterbury - Bankstown DCP 2023 (currently in force)		
Chapter 3 - General Requirements		
3.6 Signs		
The total sign area must not exceed 0.5m ² for each metre of the primary street frontage. Frontage = 39.42m Permissible signage 19.7m ²	Existing / approved total signage (facing The Boulevard) = 13.74m ² Proposed modified signage = 26.0m ² Variation of 32% proposed.	Alternative Solution See Appendix A
Illumination and reflectance criteria for digital signs - Per Table 3b (Zone 3)	The signage has brightness control functionality that can be programmed according to requirements / conditions.	✓

5.0 Section 4.15 Matters for Consideration

This section considers the key planning issues as may be relevant to the proposed modifications and provides an assessment of the relevant matters prescribed in section 4.15(1) of the Environmental Planning and Assessment Act 1979 (EP&A Act) with respect to the s4.55 application. These are set out below.

5.1. Environmental Planning Instruments

Consistency and compliance of the development proposal as modified, with the relevant environmental planning instruments are considered in the sections below.

5.1.1. State Environmental Planning Policies (SEPPs)

The relevant SEPPs that relate to the proposed modifications are summarised in Table 6 below:

Table 6 Summary of consistency with State Environmental Planning Policies

SEPP	Comments
Relevant SEPPs (effective at the time of the original development application)	
SEPP no. 64 - Advertising and Signage	<p>The desired visual character of the Lakemba Town Centre is to promote a range of retail, business and office activities.</p> <p>The proposed modifications relate to the replacement of an existing advertising structure that faces The Boulevarde and will not impact on amenity of any residential uses in the area.</p> <p>The replacement sign will remain compatible with the visual amenity and character of the area. The design and finishes of the proposed signage are of high quality.</p> <p>Schedule 1 of the SEPP is considered below:</p>
SEPP 64 - Schedule 1 - Assessment Criteria	
Character of the area	The proposed modifications are considered compatible with the character of the area.
Special areas	The proposed modifications will not detract from the amenity of visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas.
Views and vistas	The proposal modifications will not impact any important views or vistas nor will they impact the viewing rights of other advertisers.
Streetscape, setting or landscape	The scale, proportion and form of the proposed modifications are suitable for the setting. The signage will not protrude above the building or any tree canopies.

SEPP	Comments
<i>Site and building</i>	The proposed modifications are considered to be of an appropriate size and scale which is compatible with the existing building.
<i>Associated devices and logos with advertisements and advertising structures</i>	<p>The proposed modifications include illuminated signage (as did the original approved signage).</p> <p>The modifications will continue to integrate adequately into the colour and finish of the building. The modified wall sign will be fixed directly to the building.</p>
<i>Illumination</i>	<p>The proposed modifications will not result in unacceptable glare or affect the safety of pedestrians, motorists or aircraft.</p> <p>The modified signage will have a minimal impact on oncoming traffic at night, as was the case for the original approved signage.</p> <p>A condition of consent was originally included requiring the illumination levels of the sign to be adjustable so as not to produce unacceptable glare that may impact on the safety of oncoming traffic.</p> <p>This modification application does not seek to remove or alter that particular condition and whilst we acknowledge the modification involves an increase to the size of the signage, we support retention of the condition and as such, impacts on the safety of oncoming traffic will continue to be effectively managed.</p>
<i>Safety</i>	The proposed modifications will not impact the safety of pedestrians, cyclists or any public road.

Relevant SEPPs (currently in force)

SEPP (Industry and Employment) 2021	<p>Chapter 3 Advertising and Signage</p> <p>The proposed signage is consistent with the Objectives of the Chapter in that it:</p> <ul style="list-style-type: none"> - will be compatible with the desired amenity and visual character of an area, being a Local Centre zone which is to promote a range of retail, business, entertainment and community uses, - will provide effective communication in suitable locations, namely to identify the business location, and - will be of high quality design and finish in that the physical sign will be produced and installed by a professional signage provider. <p>The proposed signage satisfies the Assessment Criteria provided under Schedule 5 as follows:</p>
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SEPP	Comments
	<ul style="list-style-type: none"> - Character of the area - the size, type and location of the signage will be compatible with signage relating to other businesses in the local centre. - Special areas - the signage will not detract from the amenity of visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas. - Views and vistas - the signage will not impact any important views or vistas nor will they impact the viewing rights of other advertisers. - Streetscape, setting or landscape - the scale, proportion and form of the proposed modifications are suitable for the setting. The signage will not protrude above the building or any tree canopies. - Siting and building - the signage is considered to be of an appropriate size and scale which is compatible with the existing building. - Associated devices and logos - the modified signage will continue to integrate adequately into the colour and finish of the building. The sign will be permanently fixed to the building. - Illumination - the signage will not result in unacceptable glare or affect the safety of pedestrians, motorists or aircraft. The modified signage will have a minimal impact on oncoming traffic at night. A condition of consent requiring the illumination levels of the sign to be adjustable so as not to produce unacceptable glare that may impact on the safety of oncoming traffic is not sought to be modified (to be retained). - Safety - the sign will be positioned such that it will not reduce safety of people or roads.
SEPP (Transport and Infrastructure) 2021	<p>Chapter 2 Infrastructure</p> <p><u>Division 15 Railways</u></p> <p>The subject site is adjacent to a rail corridor.</p> <ul style="list-style-type: none"> - The modified sign is not likely to increase an adverse effect on rail safety beyond that of the existing illuminated sign - The sign does not directly face the direction of oncoming trains - The existing landscape verge interface between the railway line and subject site will partially obscure the signage.

5.1.2. Local Environmental Planning Policies

Canterbury Local Environmental Plan 2012
(effective at the time of the original development application)

The proposed modifications demonstrate full compliance with the relevant provisions of the Canterbury Local Environmental Plan 2012, effective at the time of the original development application. Compliance with relevant provisions of CLEP 2012 are set out in Table 7 below.

Table 7 Assessment against Canterbury Local Environmental Plan 2012

LEP clause	Standard	Proposal/Comment	Compliance
Part 2 Land Use Table	Zone B2 Local Centre	‘Advertisement’ and ‘advertisement structures’ are permissible with consent in the zone.	✓

Canterbury-Bankstown Local Environmental Plan 2023
(currently in force)

The proposed modifications demonstrate full compliance with the relevant provisions of the current LEP. Compliance with relevant provisions of CBLEP are set out in Table 8 below.

Table 8 Assessment against Canterbury-Bankstown Local Environmental Plan 2023

LEP clause	Standard	Proposal/Comment	Compliance
Part 2 Land Use Table	Zone B2 Local Centre	The proposed modifications relate to development that is ancillary to the existing and continuing land use being Registered Club.	✓

5.1.3. Proposed Environmental Planning Instruments

There were no draft planning instruments applicable to the proposed modifications.

5.1.4. Development Control Plans

The consistency of the proposed modifications with relevant provisions of the Development Control Plan.

Overall, the proposed modifications remain consistent with both the objectives of the DCP - refer to Table 9 and Table 10 below.

**Table 9 Summary of consistency with the Canterbury Development Control Plan 2012
(effective at the time of the original development application)**

Development Control	Assessment of Modifications	Compliance
5.1 - Advertising Signs		
Signage Analysis and strategy	<p>The proposed modifications:</p> <ul style="list-style-type: none"> – Will be consistent with existing & future character and theme of signage in area – Will not detract from any special areas (heritage, sensitive etc.) – Will not impact any views or vistas – Will be consistent with existing streetscape. – Will be compatible with scale and character of building – Illumination will not produce unacceptable glare and not affect the safety of pedestrians and vehicles. 	✓
General Design and siting	<p>The proposed modifications:</p> <ul style="list-style-type: none"> – Will not project above predominant building scale – Relates to architectural lines of building – Integrate to design of building – Will not dominate scale, proportion and form of building. – Cumulative impacts of signage is acceptable 	✓

Development Control	Assessment of Modifications	Compliance
	<ul style="list-style-type: none"> – Will not have detrimental impacts on residential properties. 	
Appearance and Maintenance	<p>The proposed modifications:</p> <ul style="list-style-type: none"> – Are of a standard of design that is acceptable – Will be professionally sign written – Will have a size of name and logo >0.25m² not unlike the original approved signage. – Will contain the name of business only on display 	<div>✓</div> <div>✓</div> <div>Alternative Solution See Appendix A</div> <div>✓</div>
Envelope Controls	<p>The proposed modifications:</p> <ul style="list-style-type: none"> – Will be affixed to the building – Will not restrict of views 	<div>✓</div>

Table 10 Summary of consistency with Canterbury-Bankstown Development Control Plan 2023 (currently in force)

Development Control	Assessment of Modifications	Compliance
Chapter 3 General Requirements		
3.6 Signs		
Location and Design	<p>The subject site is within the B2 zone.</p> <p>The modified signage will be positioned on the building facade in place of the existing illuminated sign.</p> <p>The dimensions of the signage exceed the numerical control, not unlike the original approved signage.</p> <p>The modified variation is discussed in detail at Appendix A.</p> <p>The proposed modification complies with the other controls in this section.</p>	Alternative Solution See Appendix A
Prohibited Signs	<p>The proposed modified signage will not present moving or flashing images to the public.</p> <p>The signage is a digital display and content will be updated infrequently.</p> <p>The location of the signage is not in the line of sight of any traffic signals and will not directly face oncoming traffic.</p>	✓
Design	<p>The proposed modified signage will:</p> <ul style="list-style-type: none"> – Relate to architectural lines of the building – Integrate to design of building – Will not dominate scale, proportion and form of building. – Not have a significant cumulative impact compared to existing and approved signage. 	✓

Development Control	Assessment of Modifications	Compliance
	<p>– Will not have any detrimental impact on residential properties.</p>	
Illumination	<p>The modified signage being a digital sign will have a brightness adjustment function that can be programmed to required specifications.</p> <p>Condition 2 of the original development consent adequately addresses the issue and modification of that condition is not sought.</p>	✓

5.2. Likely Impacts of the Modification

5.2.1. Impacts on the Natural Environment

The proposed modifications will not impact the natural environment beyond that previously approved.

5.2.2. Impacts on the Built Environment

The proposed modifications will not significantly increase adverse impacts on the built environment from that previously approved in that the external building envelope will remain the same. The modification involving a larger sign will be in direct replacement of the existing sign but will remain appropriately proportioned to the overall building facade.

5.2.3. Social and economic impacts in the locality

The proposed modifications will remain compatible with the existing use of the land and with surrounding development or land uses in the locality.

5.3. Suitability of the Site for the Development

There are no constraints from surrounding land uses that would make the proposed modifications unsuitable and no impact on critical habitats and threatened species, populations, ecological communities and habitats.

The application adequately addresses the relevant impacts of the proposed modifications and is considered to be suitable to the site.

5.4. Public Interest

The proposed modifications will remain consistent with the overall objectives of the zone and relevant plans and policies which apply. The proposed modifications will not significantly increase adverse impacts beyond that previously approved and will remain in the public interest.

6.0 Conclusion

An assessment of the proposed modifications against Section 4.55(2) of the EP&A Act 1979 has been undertaken and the application is consistent in regard to the relevant environmental planning instruments and regulations which apply to the development.

We recommend the consent authority not hesitate in supporting the modification application in its current form.

Appendix A - Alternative Solutions to DCP Controls

In consideration of s4.15(3A)(b) of Environmental Planning and Assessment Act 1979, it is our opinion that the consent authority is in a position to allow flexibility in applying certain provisions in that objects are achieved by the proposal.

The particular provisions where flexibility is sought and a reasonable alternative solution is provided relate to:

1. Size of signage with the B2 Local Centre zone

An alternative solution to the numerical control is discussed below.

Alternative Solution - Size of Signage

Development Control

Canterbury-Bankstown DCP 2023

Chapter 3 - 3.6 Signs

- *Control 2.2 Business and building identification signs must integrate with the building form and architectural features of the building to which the signs are attached as follows:
 - (a) *The total sign area must not exceed 0.5m² for each metre of the primary street frontage.**

The calculated numerical control for maximum signage facing the primary frontage is 19.7m².

Development Proposal

- The proposed modifications will result in total signage of 26.0m² to the primary frontage. The non compliance with the numerical control is 6.3m² (32% variation).

Objectives of the Control

The objectives of the control are to:

1. *To ensure signs provide effective communication in suitable locations.*
2. *To ensure signs are of high quality design and finish.*

Objectives Achieved

The proposed modifications achieve the objectives in that:

1. The modification involves replacing an existing illuminated sign with another illuminated sign in the same location and position on the building.

The sign will be a digital sign that will provide information to the public about the registered club and will assist visitors to easily locate the premises.

2. The proposed modified signage will be a digital sign. The sign will utilise current technology that will display content of high quality. The proportions of the signage is commensurate with the surface area of the existing building facade which it will be affixed to.

Conclusion

The proposed development incorporating the alternative solution to the numerical development control relating to signage size, is reasonable in that objectives of the location and design controls are achieved.

In addition to achieving the control objectives, the alternative solution presented for the proposed modified signage will not significantly impact the streetscape or public amenity beyond that previously approved.

Whilst we acknowledge that the modified signage seeks a greater variation, the location of the signage being opposite a public car park and not visible from any residential, impact of the increased variation is considered to be very minor.

The signage device will have an adjustable brightness function and can be programmed to accommodate the public domain to avoid any nuisance or unacceptable impacts.

We support the scheme given the minor impact that may result from the modification and recommend the consent authority not hesitate in supporting the alternative solution to the signage size control as presented.