

Statement of Modification

20 Pozieres Ave, Milperra

This statement has been prepared to support a Section 4.55 (1A)

Issue 1

13 March 2025

Introduction

Reference is made to the Development Consent No. DA-521/2024 issued by Canterbury Bankstown, dated 9 August 2024. The consent involved the Demolition of existing structures, Construction of a detached two storey dual occupancy development with Torrens title subdivision

The Site

The site is located on the northern side of Pozieres Ave, Milperra NSW. The site is rectangular in shape with a block width of 20.117m and a total site area of 809.4m².

Adjoining the site to the eastern boundary, respectively, is No. 18 Pozieres Ave, which consists of a single storey dwelling of brick construction. Adjoining the site to the western boundary, is No. 22 Pozieres Ave, which consist of an educational school establishment.

Development Application History

An application had been made proposing the Demolition of existing structures, Construction of a detached two storey dual occupancy development with Torrens title subdivision. Approval was granted on the 9 August 2024.

Arial View – Subject Site



Proposed Modification

This application for modification is made pursuant to Section 4.55 (1A) of the EPA Act 1979, to modify Consent DA-521/2024 by the following modifications;

Modifications sought;

Building Foot print / Setbacks

- No changes

Site plan

- Add concrete slab to rear yard adjacent alfresco area.

Ground Floor

- No changes

First floor

- Increase size of window 17, 18, 19. (revised basix attached)

Roof

- Correct slop and height of roof to match approved slop direction according to drainage plan.

Exterior

- Windows 17, 18, 19

EPA Act 1979 – Section 4.55 Modification of consents—generally (1A)

Clause 1A of Section 4.55 of the Act states that:

“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.”

This section of the Statement of Modifications considers the amended development assessed against the relevant provisions identified in section 4.15 (1) of the Act.

1. S4.55 of the Act sets out the requirement for a modified development approval to be ‘substantially the same’ as the original development.
2. S4.55 of the Act assumes there will be circumstance which arises in the course of carrying out a development that would provide cause to change an approved development. The decision of North Sydney Council v Michael Standley & Associates Pty Ltd, (1997 LGERA 433, 12 May 1998, Mason P) identified as follows:

“Parliament has therefore made it plain that a consent is not set in concrete – it has chosen to facilitate the modifications of consents, conscious that such modifications may involve beneficial cost savings and / or

improvements to amenity.”

3. Clause 1A of s4.55 of the Act outlines that a consent authority may modify the development 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*

EPA 1979 Section 4.55(1A)

Are the modifications of minimal environmental effects and is the development substantially the same.

In that the proposal seeks only a change the vehicle access and bathroom windows, the changes are considered minimal and contribute no adverse impact on the immediate streetscape.

The modifies development remains substantially the same for the following reasons;

- Modifications are within the council footprint and building guidelines
- Overall building heights remain the same.
- No increase in shadows to the originally approved DA approval.
- No changes to the approved landscaping and private open areas.
- Solar access has not been compromised within this 4.55 modified application.

Given the above

In that the proposal does not seek to change the nature or any essential elements and use of the original the modified proposal satisfies the points outline within S4.55 (1A) of the Act, being;

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*

The modified development has not impacted the environmental properties that are consistent with the original approved DA and there are no negative or increased impacts to the environment.

- (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),*

As the modification are to the building setbacks only, the core development remains the same.

It is concluded that the proposed modifications do not create additional impact to the environment and that the development is substantially the same and satisfies S4.55 (1A) points (a) & (b) of the Environmental Planning and Assessment Act 1979.

Development Control Plan

It is evident that the proposed modifications pursuant to s4.55 (1A) remains consistent with the aims and objectives of the Central Coast DCP as the proposed changes will not alter or change any setbacks to the frontage, streetscape appearance and any potential environmental impacts from that which are outlined in the original development.

Local Environmental Plan

The proposed modifications will remain consistent with the general aims and objectives of the Central Coast LEP being that of a residential development providing for the housing needs of the community within a low density residential environment.

Conclusion

The proposed modifications will not result in any additional environmental impacts and are keeping within the development controls and standards that of Canterbury Bankstown Council.

The modifications will provide the same dwelling and maintain compliance with Hornsby Shire DCP and LEP i.e floor space ratio, heights, subdivision area, private open space, landscaping, as originally approved.

Based on the above assessment it is therefore suggested that Canterbury Bankstown Council takes into consideration the above report and grants consent to our proposal in the form and manner submitted.

Regards,

Jonathan Zymaras
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