

Mr Nevin Heintze  
21 Walker Street  
LAVENDER BAY NSW 2061

D299/19  
DWH (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION - Refusal**

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**Development Application Number:** 299/19/2

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**Land to which this applies:** 21 Walker Street, Lavender Bay  
Lot No.: 3, DP: 976597

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**Applicant:** Mr Nevin Heintze

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**Proposal:** Modification of DA 299/19 under s4.55(1) to correct an error and to delete conditions C2 and C3 of the consent

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**Determination of Development Application:** Pursuant to Section 118 of the Environmental Planning and Assessment Regulation 2021, the subject application has been refused.

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Pursuant to Section 4.55 of the Act and Section 118 of the Regulations notice is hereby given of the determination by the consent authority of your request for a modification to Development Consent No. **299/19/2** and registered in Council's records as Application No. **299/19** relating to the land described as **21 Walker Street, Lavender Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 20 December 2019, has been refused.

**Reasons for Refusal:**

- 1. The applicant has not established that Conditions C2 & C3 of DA 299/19 have been imposed in error or contrary to the determination of the application by the North Sydney Local Planning Panel in its decision of 4 December 2019.**

***Particulars***

- i. Section 4.55(1) of the Environmental Planning and Assessment Act 1979 enables that a Consent Authority may modify a development consent granted by it to correct a minor error, misdescription or miscalculation.**

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- ii. In respect of the Determination issued by Council on 11 December 2019, and the decision of the North Sydney Local Planning Panel in its Minutes of 4 December 2019, Council may only modify the consent where it is satisfied that the consent has been issued in error.
  - iii. The applicant has not established that an error has occurred in the issue of the development consent.
  - iv. In the absence of a properly made Modification application under S.4.55(2) of E P & A Act 1979, Council is not empowered to determine whether the consent Notice and conditions would be contrary to the intent of the North Sydney Local Planning Panel (NSLPP) as contained in its minutes of 4 December 2019. Council is therefore not empowered to modify the consent in the terms requested.

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**How community views were taken into account:**

The application has been lodged pursuant to s.4.55(1) of the EP & A Act 1979 which does not require notification. The application has not been notified and no submissions have been received.

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**Review of determination and right of appeal:**

Within six months after the date of notification of the decision, a review of this determination can be requested under Division 8.2 of the Act or an appeal to the Land and Environment Court made pursuant to the provisions of Section 8.7 of the Act. A review of determination should be lodged as soon as possible, and preferably no later two months after the date of notification of the decision to enable the review to be completed within the six-month period.

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**Endorsed for and on behalf of North Sydney Council**

**30 June 2022**

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DATE

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Signature on behalf of consent authority  
DAVID HOY  
**TEAM LEADER ASSESSMENTS**