



Dr Satya Yadav
30 Hull Road
BEECROFT NSW 2119

D404/15
JD6 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 404/15/4 - APPROVAL**

Development Consent Number: 404/15

Land to which this applies: 14 The Avenue, North Sydney
Lot No.: 1, DP: 940094

Applicant: Dr S Yadav

Proposal: Section 4.55 (2) application to modify development consent D404/15 to enable installation of an external lift and associated works

Pursuant to Section 4.55 of the Act notice is hereby given of the determination by the consent authority of your request for a modification to Development Consent No. **404/15** and registered in Council's records as Application No. **404/15/4** relating to the land described as **14 The Avenue, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **4 May 2016**, has been determined in the following manner:

1. To modify the development consent (D404/15) by including the following conditions:

(a) After condition A1 inserting:

Development in Accordance with Plans/Documentation (D404/15/4)

A1(a). The development being carried out in accordance with the following drawings, in addition to those approved (D404/15), and endorsed with Council's approval stamp, except as modified by other conditions of this modification approval:

Title	Plan No.	Rev	Date	Drawn by
East Elevation	13.18/DA09E	-	7/07/2021	A Chandrahasan Architect
Proposed Ground Floor Plan	13.18/DA05E	-	7/07/2021	A Chandrahasan Architect
North Elevation	13.18/DA08E	-	7/07/2021	A Chandrahasan Architect
New Lower Ground Floor Plan	13.18/DA06E	-	7/07/2021	A Chandrahasan Architect

Section	13.18/DA11E	-0	7/07/2021	A Chandrahasan Architect
South Elevation	13.18/DA07E	-	7/07/2021	A Chandrahasan Architect
West Elevation	13.18/DA10E	-	7/07/2021	A Chandrahasan Architect
Layout Drawings	Sheets 1-4 EP_SVI_11	-	22/06/2022	EP for Lift Shop

and endorsed with Council's approval stamp.

The applicant or any other person relying on this consent must have regard to Condition B1 which requires changes to the plans endorsed by this approval.

(b) After Condition A3 inserting:

B. Matters to be Completed before the lodgement of an Application for a Construction Certificate

Heritage Requirements (D404/15/4)

B1. The drawings are to be amended and relevant details and specifications must be submitted to Council's Manager Development Services for written approval, before an application for a construction certificate is made, and where relevant, demonstrating compliance and having been certified as fully compliant with relevant provisions of the Building Code of Australia, as follows:

- a) The lift being relocated, so the western side of shaft is flush with the outer side of the study's western wall, and the width of the study window being reduced to enable the lift to be located without obscuring the window. This will require the lift shaft to be moved approximately xx meters to the west.
- b) The lift shaft and lift doors being cladded/constructed in a solid material on all sides, including the doors on eastern and western sides (not a glazed structure) and painted or finished in a visually submissive mid-grey colour (e.g., "Colorbond Basalt" or equivalent) in a matte finish to match and otherwise complement the colour of the adjacent timber fence.
- c) All details of the lift and lift shaft and access thereto, , as amend by this condition, on lower ground and ground floor levels, between the lift doors and the closest universally accessible entrance into the dwelling on each of these levels.
- d) The fixed planter boxes as previously approved are to remain on the roof terrace to ensure the roof terrace has a soft landscape setting.
- e) Reorientation of the existing stairs, which provide access from the Roof Garden up to the footpath between the Verandah and the northern boundary, to provide access from the Roof Garden directly up to the Verandah, and relocation of these stairs so this access is within the Planter Boxes, to be consistent with paragraph (d), and related adjustments to balustrading or other BCA compliant fall-prevention measures being undertaken as required.
- f) The proposed 'New Lift' in Bedroom 3 on the Ground Floor Level is to be deleted from the plans.

(Reason: To ensure compliance, minimise the visual impact of the lift and lift shaft when viewed from the north, south and east, reduce negative privacy effects with the neighbour, allow pedestrian access to the terrace, maintain suitable landscaping and to remove the 'new lift' from the ground floor plan.)

c) After condition C19 inserting:

Colours, Finishes and Materials (Heritage Items) (C12)

C20 A traditional palette of finishes, materials and colour schemes must be selected for the new

building works appropriate to the architectural style of the original building and submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition prior to the release of the Construction Certificate.

(Reason: To ensure that exterior colours, finishes and materials are sympathetic to the significance of the heritage item.)

2. ***All other conditions of the consent granted to D404/15 for the works approved by the original consent and by this modification approval, must be complied with. Where there is any inconsistency with this approval and the original consent, this modification approval shall prevail to the extent of the inconsistency. No approval is given to any new or modified works not specifically applied for by DA 404/15/4, as amended by this approval.***
3. ***In particular, Conditions C2, C3, C4, C5, C6, E8, F7 and G4 of the original consent must be complied with regarding excavation and other earthworks required by the works approved by this modification.***

Reasons for Approval:

The proposed modifications would result in a development which is substantially the same development as originally approved as the proposed works would not change the overall building height, setbacks, bulk and scale and the general appearance of the development as approved in the original DA 404/15.

The proposed modifications would have no adverse impacts on the amenity of the surrounding properties, as recommended and subject to conditions included with the recommendation.

The proposed modifications would have no adverse impacts on the significance of the subject property and the conservation area subject to recommended conditions being adhered to.

The proposal was found to be acceptable and is recommended that the subject Section 4.55(2) application be approved as set out above.

How community views were taken into account:

The subject S4.55 application was notified to the adjoining properties and the Cremorne Point Precinct for a period of 14 days between 28 October and 11 November 2022. The notification resulted in two submissions. Community views have been adequately considered and conditions have been imposed requiring amendments to the design, in response to community concerns.

The conditions attached to the original consent for Development Application No. **404/15** by endorsed date of **4 May 2016** still apply.

ADVISINGS

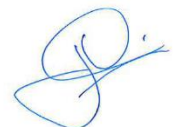
- (a) Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact **Jim Davies**. However, if you wish to pursue your rights of appeal in the Land and Environmental Court pursuant to Section 8.7 of *the Environmental Planning and Assessment Act 1979* (as amended), you are advised that Council generally seeks resolution of such appeals through a Section 34 Conference, instead of a full Court hearing, subject to any further advice to the contrary from Council's Solicitors and senior staff. Such an approach is less adversarial, it achieves a quicker decision than would be the case through a Court hearing and it can give rise to considerable cost and time savings for all parties involved.
- (b) Pursuant to Section 8.2, an applicant is able to request Council to review its determination. An application for a review under Section 8.2 of the Act must be made no later than 28 days after the date on which the application for the modification of the development consent was determined.
- (c) Prior to commencing any building, subdivision or associated constructions works, the following provisions of *the Environmental Planning and Assessment Act 1979* (the 'Act') are to be complied with:
 - (i) A Construction Certificate is to be obtained in accordance with Section 6.3 of the Act.
 - (ii) A Principal Certifier is to be appointed and Council is to be notified of the appointment in accordance with Section 6.6 of the Act.
 - (iii) Council is to be notified at least two (2) days of the intention to commence building works, in accordance with Section 6.6(2)(a) of the Act.
- (d) You are advised that changes to the external configuration of the building, changes to the site layout, density and unit configuration internal changes to the proposed building or any changes to the proposed operation of a use **MAY** require the submission of a further modification under Section 4.55 of *the Environmental Planning and Assessment Act, 1979* (as amended).

Council staff would be pleased to assist in identifying such changes which may require the submission of a modification of a Development Application under Section 4.55 of *the Environmental Planning and Assessment Act*.

Endorsed for and on behalf of North Sydney Council

24 November 2022

DATE



Signature on behalf of consent authority
JIM DAVIES
EXECUTIVE ASSESSMENT PLANNER