



Ms Aiyong Li
Shanlin Property Pty Ltd
Suite 706, 97-99 Bathurst Street
SYDNEY NSW 2000

D29/18
MR3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 29/18/4 - APPROVAL**

Development Consent Number: 29/18

Land to which this applies: 4-6 McKye Street, Waverton
Lot A in DP 347515 - No. 4 McKye Street
Lot B in DP 347515 - No. 6 McKye Street

Applicant: Shanlin Property Pty Ltd

Proposal: Section 4.55 (2) application to modify consent to DA29/18 with regard to various changes to an approved residential flat building

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. **29/18** and registered in Council's records as Application No. **29/18/4** relating to the land described as **4-6 McKye Street, Waverton**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **4 July 2018**, has been determined in the following manner:

1. To amend Condition A1 of the consent so as to read as follows:

Development in Accordance with Plans/Documentation

A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

Plan No.	Issue	Description	Prepared by	Dated
DA-015	M	Proposed Site Plan	Become	8 June 2022
DA-099	L	Proposed Basement Level 02	Become	8 June 2022
DA-100	R	Proposed Basement Level 01	Become	8 June 2022
DA-101	S	Proposed Ground Level	Become	8 June 2022
DA-102	T	Proposed Level 01	Become	9 November 2022

DA-103	P	Proposed Level 02	Become	8 June 2022
DA-104	T	Proposed Level 03	Become	8 June 2022
DA-105	Q	Proposed Roof Plan	Become	8 June 2022
DA-400	L	North West Elevation	Become	8 June 2022
DA-401	M	South West Elevation	Become	8 June 2022
DA-402	M	East Elevation	Become	8 June 2022
DA-403	L	North Elevation	Become	8 June 2022
DA-420	J	Section A-A	Become	8 June 2022
DA-749	D	Adaptable Unit Plan	Become	8 June 2022

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

Reasons for Approval:

The proposal involves the modification of a consent that comprises a combination of some external changes (in the form of slight alterations to the footprint of basement levels, addition of a riser on the north-western side of the building and deletion of solar panels) and internal layout changes to the basement levels and residential units. The intention of these changes is to provide additional functionality and amenity for the residential flat building and to rationalise certain components such as the required riser for the basement exhaust.

The merits of the proposed modification and an assessment of this modification against relevant provisions and controls under environmental planning instruments (including the NSLEP 2013) have described and detailed throughout this report. In summary, the proposed modification is considered acceptable and supportable, satisfying the above requirements and the provisions under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Accordingly, it is recommended that the following conditions are amended in the consent:

- Amend Condition A1 to include revised drawings reflecting the proposed changes for the approved development.

How community views were taken into account:

The application was notified in accordance with Council's Community Participation Plan from 2 to 16 September 2022. No submissions were received during the above notification period.

The conditions attached to the original consent for Development Application No. **29/18** by endorsed date of **4 July 2018** still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact **Miguel Rivera**. 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

6 December 2022

DATE



Signature on behalf of consent authority
MIGUEL RIVERA
SENIOR ASSESSMENT OFFICER