



Dr Pradnya Dugal
37 Bay View Street
LAVENDER BAY NSW 2060

D418/21
JD (PE)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 418/21/2 - APPROVAL**

Development Consent Number: 418/21

Land to which this applies: 37 Bay View Street, Lavender Bay
Lot No.: 2, DP: 413201

Applicant: Dr Pradnya Dugal

Proposal: To modify a consent for the erection of dwelling house 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. **418/21** and registered in Council's records as Application No. **418/21/2** relating to the land described as **37 Bay View Street, Lavender Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **29 June 2023**, has been determined in the following manner:

1. To delete the table in condition A1 and replace it with the table below:

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.	Revision	Description	Prepared by	Dated
000 - s.4.55	A	Cover Sheet	Architecture Saville Isaacs	05.10.2023
011 - s.4.55	A	BASIX Sheet	Architecture Saville Isaacs	05.10.2023
100 - s.4.55	A	Site Plan	Architecture Saville Isaacs	05.10.2023
101 - s.4.55	A	Basement Floor Plan	Architecture Saville Isaacs	05.10.2023
102 - s.4.55	A	Lower Ground Floor Plan	Architecture Saville Isaacs	05.10.2023
103 - s.4.55	A	Ground Floor Plan	Architecture Saville Isaacs	05.10.2023
104 - s.4.55	A	First Floor Plan	Architecture Saville Isaacs	05.10.2023
105 - s.4.55	A	Roof Plan	Architecture Saville Isaacs	05.10.2023
106 - s.4.55	A	Site Coverage	Architecture Saville Isaacs	05.10.2023

200 - s.4.55	A	Elevation Streetscape	Architecture Saville Isaacs	05.10.2023
201 - s.4.55	A	West Elevation	Architecture Saville Isaacs	05.10.2023
202 - s.4.55	A	North Elevation	Architecture Saville Isaacs	05.10.2023
203 - s.4.55	A	East Elevation	Architecture Saville Isaacs	05.10.2023
204 - s.4.55	A	South Elevation	Architecture Saville Isaacs	05.10.2023
251 -s.4.55	A	Section AA	Architecture Saville Isaacs	05.10.2023
252 - s.4.55	A	Section CC	Architecture Saville Isaacs	05.10.2023
500 - s.4.55	A	Material Board	Architecture Saville Isaacs	05.10.2023
SE01-D8221	B	S4.55 Cover Sheet	Dangar Barin Smith	19.10.23
SE01-D8221	B	Plant Schedule	Dangar Barin Smith	19.10.23
SE03-D8221	B	Ground Landscape Plan	Dangar Barin Smith	19.10.23
SE04-D8221	B	Lower Ground Landscape Plan	Dangar Barin Smith	19.10.23
SE05-D8221	B	Basement Landscape Plan	Dangar Barin Smith	19.10.23
SE06-D8221	B	First Floor Landscape Plan	Dangar Barin Smith	19.10.23
SE07-D8221	B	Details	Dangar Barin Smith	19.10.23
H-DA-00	C	Legend, Details and Sediment Control	ITM Design	12/11/2022
H-DA-01	C	Basement Stormwater Drainage	ITM Design	12/11/2022
H-DA-02	C	Lower Ground Floor and Ground Floor Stormwater	ITM Design	12/11/2022
H-DA-03	C	First Floor and Roof Stormwater	ITM Design	12/11/2022

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

2. To modify condition C26 as follows:

BASIX Certificate

C26. Under section 73 of the Environmental Planning and Assessment Regulation 2021, it is a condition of this development consent that all the commitments listed in BASIX Certificate No **1243917S_04**, dated 20 October 2023, for the development are fulfilled. Plans and specifications complying with this condition must be 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, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the proposed development will meet the Government’s requirements for sustainability and statutory requirements.)

The modifications do not result in any material amenity impact to adjoining properties or the surrounding area. The proposed modifications are consistent with the reasons consent was granted to the original development application.

Reasons for Approval:

Having regard to the provisions of section 4.55 and 4.15(1) of *the Environmental Planning and Assessment Act 1979*, the development as proposed to be modified is substantially the same development as originally consented to. The application is therefore recommended for **approval**.

How community views were taken into account:

As noted, following notification in accordance with Council's engagement protocol, no submissions were received at the time this report was prepared.

The conditions attached to the original consent for Development Application No. **418/21** by endorsed date of **29 June 2023** still apply.

ADVISINGS

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

20 December 2023

DATE



Signature on behalf of consent authority

JIM DAVIES

EXECUTIVE PLANNER (ASSESSMENTS)