

Dr Satya Yadav  
30 Hull Road  
BEECROFT NSW 2119

D404/15  
MS3 (CIS)

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

---

<b>Development Application No.:</b>	<b>404/15/3</b>
-------------------------------------	-----------------

---

<b>Land to which this applies:</b>	14 The Avenue, North Sydney Lot No.: 1, DP: 940094
------------------------------------	---

---

<b>Applicant:</b>	Dr Satya Yadav
-------------------	----------------

---

<b>Proposal:</b>	S4.55 Modification of consent for the addition of a new platform lift and a new compartment lift
------------------	--

---

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. **404/15/3** 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 21 April 2022, has been refused.

**Reasons for Refusal:**

- The application results in adverse impacts on the heritage significance of the subject dwelling, adjoining dwelling and the conservation area due to its failure to satisfy the heritage requirements of Clause 1.2 and Clause 5.10 of the North Sydney Local Environmental Plan 2013 as well as the heritage requirements of Section 13 the North Sydney Development Control Plan 2013.**

*Particulars:*

- Clause 1.2(2) Aims in Part 1 of NSLEP 2013, specifically aim (c)(i) as it does not promote reasonable view sharing;
- Clause 1.2(2) Aims in Part 1 of NSLEP 2013, specifically aim (f) to protect the natural, archaeological and built heritage of North Sydney and ensure that development does not adversely affect its significance,

- c) Clause 5.10(1) in Part 5 of the NSLEP 2013, specifically objective (b) to conserve the heritage significance of heritage items and conservation area, including associated fabric, settings and views.
- d) Fails to satisfy objective O1 of Section 13.5.2 and O1 and P2 of Section 13.5.6 of the NSDCP 2013.

## 2. Visually intrusive built form

The location of the proposed platform lift and compartment lift is considered to overwhelm the surrounding context, and is visually intrusive, projecting forward of the heritage listed dwelling resulting in an adverse impact on the visual curtilage of both No. 14 and No. 16 The Avenue.

### *Particulars:*

- a) Incompatible with the objectives of the R2 Low Density zone, specifically dot point 3;
- b) The proposal does not promote reasonable *view sharing*, inconsistent with Objective O2 and provision P2 of Part B, Section 1.3.6 of the NSDCP 2013.
- c) The proposal is not complementary or sympathetic to the existing heritage character and as such is contrary to Objective O1 of Part B, Section 1.4.7 *Form, massing & Scale* Objective 1 of Part B, Section 1.4.8 *Built form character* in NSDCP 2013.
- d) The proposal does not comply with the side setback controls. The proposal is contrary to Objective O2 and O3 in Part B, Section 1.4.6 *Setbacks* in NSDCP 2013.
- e) The proposal does not comply with the maximum permitted site coverage provision. The proposal is contrary to P1 and P2 in Part B, Section 1.5.5 *Site Coverage* in NSDCP 2013;
- f) The proposal does not comply with the minimum required landscaped area provision. The proposal is contrary to Objective O1 (a), (c), (f), (h) and (i) in Part B, Section 1.5.6 *Landscaped and unbuilt upon areas* in NSDCP 2013.

## 3. Insufficient and inadequate information

The applicant has not submitted sufficient and/or adequate information as requested by Council under Part 6, Division 1 Clause 54 of the EPA Regulation 2000 to facilitate approval of the application.

### *Particulars:*

- a) The following information was requested, however, was not provided to Council:
  - i. Full extent of proposed works (removing existing lightwell; handrails not shown; extent of excavation not shown; location of platform lift contrary to existing site situation; location of compartment lift contrary to existing site situation)
  - ii. Recent survey plan showing all existing works;
  - iii. Site coverage and landscaped area compliance diagrams; and
  - iv. Demonstrating compliance with building height.
- b) The plans as submitted do not reflect the as-built situation on the site.
- c) The plans as submitted do not include a section through the lift in order to determine the extent of any proposed excavation or the proposed maximum height of the structure.
- d) The application lacks sufficient detail to make an informed assessment particularly with respect to determining the maximum building height; existing ground levels; and relationship with and impact to adjoining neighbours.
- e) A revised BASIX certificate is required.

**4. Not considered to be in the public interest or suitable for the subject site**

The proposed development is not considered suitable for the subject site nor in the public interest.

*Particulars:*

- a) The application raises particular concern with respect to view loss and visually diminishes the heritage curtilage and value of the subject site and the adjoining heritage item at No 16 The Avenue. The proposal is not considered to be in the public interest contrary to Section 4.15(e) of the Environmental Planning and Assessment Act 1979 (as amended).

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

The owners of surrounding properties were notified of the proposed development application, inviting comments between **24 September** and **8 October 2021**, in accordance with Section A4 of the NSDCP 2013 and the North Sydney Community Participation Plan 2019. The submission has been addressed in the assessment report prepared prior to the determination of this application.

---

Any variation to the Development Consent can only be made with the written approval of the Council. Major variations will require a new or amended Development Consent.

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.

Section 4.55 of the Act confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court pursuant to Section 8.7 of the Environmental Planning and Assessment Act, 1979.

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

---

DATE

---

Signature on behalf of consent authority  
ROBYN PEARSON  
**TEAM LEADER (ASSESSMENTS)**