



Roth Architecture Workshop Pty Ltd
PO Box 386
WOOLLAHRA NSW 1850

D412/19
KRR (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 412/19/2 - APPROVAL**

Development Consent Number: 412/19

Land to which this applies: 9 Bay View Street, Lavender Bay
Lot No.: 2 DP: 166929

Applicant: Roth Architecture Workshop Pty Ltd

Proposal: Section 4.55 Alterations and additions to the existing dwelling including a new pool house and associated landscape 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. **412/19** and registered in Council's records as Application No. **412/19/2** relating to the land described as **9 Bay View Street, Lavender Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **17 April 2020**, has been determined in the following manner:

- 1. To delete condition C1.**
- 2. To insert Condition A5, as follows:**

Development in Accordance with Plans (S.4.55 Modifications)

A5. The development being carried out in accordance with plans identified in Condition A1 of the consent and endorsed with Council's approval stamp, except as modified by the modifications

Plan No.	Dated	Issue	Title	Drawn by	Received
S4.55.00	15/12/21	H	Cover	Roth Architects	16/12/2021
S4.55.02	15/12/21	H	Site plan	Roth Architects	16/12/2021
S4.55.03	15/12/21	H	Demolition plan	Roth Architects	16/12/2021
S4.55.04	15/12/21	H	Proposed pool level	Roth Architects	16/12/2021
S4.55.05	15/12/21	H	Proposed activity room	Roth Architects	16/12/2021
S4.55.06	15/12/21	H	Proposed lower ground	Roth Architects	16/12/2021
S4.55.07	15/12/21	H	Proposed ground	Roth Architects	16/12/2021
S4.55.08	15/12/21	H	Proposed first floor	Roth Architects	16/12/2021

Plan No.	Dated	Issue	Title	Drawn by	Received
S4.55.09	15/12/21	H	Proposed roof	Roth Architects	16/12/2021
S4.55.10	15/12/21	H	BASIX plans	Roth Architects	16/12/2021
S4.55.16	15/12/21	H	Front elevation	Roth Architects	16/12/2021
S4.55.17	15/12/21	H	Side elevation	Roth Architects	16/12/2021
S4.55.18	15/12/21	H	Side elevation	Roth Architects	16/12/2021
S4.55.19	15/12/21	H	Rear elevation	Roth Architects	16/12/2021
S4.55.20	15/12/21	H	Section AA	Roth Architects	16/12/2021
S4.55.21	15/12/21	H	Section BB	Roth Architects	16/12/2021
S4.55.31	15/12/21	H	External finishes	Roth Architects	16/12/2021

and except as amended by the following conditions and this consent. In the event of any inconsistency, the approval of DA488/17 prevails.

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

3. To modify Conditions C20 as follows:

BASIX Certificate

C20. Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. A366724_02 (*As amended to accommodate required design changes*) 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)

Reason for approval:

Generally, the proposal as amended is considered to be acceptable and consistent with the planning controls applicable to the site pursuant to both North Sydney LEP 2013 and DCP 2013. It is the conclusion of this report that the development will continue to provide a reasonable and satisfactory level of amenity to the subject and surrounding sites, with the statutory breach being assessed and deemed acceptable in accordance with the principles established by the Land and Environment Court.

Consequently, the Section 4.55 application is considered to be reasonable in the circumstances and it is recommended for **approval** subject to modification via conditions

How community views were taken into account:

No submissions were raised during the notification of the as modified application.

The conditions attached to the original consent for Development Application No. **412/19** by endorsed date of **17 April 2020** still apply.

ADVISINGS

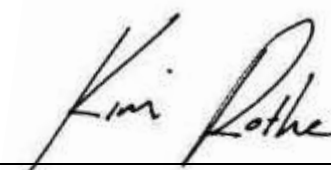
- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Mr Kim Rothe**. However, if you wish to pursue your rights of appeal in the Land and Environmental Court pursuant to Section 8.7 of *the Environmental Planning and Assessment Act 1979* (as 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

13 October 2022

DATE



Signature on behalf of consent authority
KIM ROTHE
SENIOR ASSESSMENT OFFICER