



Glyde-Bautovich Architecture  
and Urban Planners  
Unit 24, 47-55 John Street  
LEICHHARDT NSW 2040

DD204/21  
JM15 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 204/21/2 - APPROVAL**

<b>Development Consent Number:</b>	<b>204/21</b>
<b>Land to which this applies:</b>	38 Waiwera Street, Lavender Bay Lot No.: 22 DP: 12668
<b>Applicant:</b>	Glyde-Bautovich Architecture and Urban Planners
<b>Proposal:</b>	To modify a consent involving the reduction in excavation, deletion of rooms and reconfiguration of floor plans

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. **204/21/2** and registered in Council's records as Application No. **204/21** relating to the land described as **38 Waiwera Street, Lavender Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **23 December 2021** has been determined in the following manner:

**1. To modify Conditions A1 'Development in Accordance with Plans/Documentation' 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 Nos.	Description	Prepared by	Dated
DA-100-02 Rev B	Site Context	Glyde-Bautovich	27 October 2021
DA-100-03 Rev B	Site Plan	Glyde-Bautovich	27 October 2021
DA-110-00 Rev B	Garage Plan	Glyde-Bautovich	27 October 2021
DA-110-01 Rev B	Lower Ground	Glyde-Bautovich	27 October 2021
DA-110-02 Rev B	Ground Proposed	Glyde-Bautovich	27 October 2021
DA-110-03 Rev B	Level 1 Proposed	Glyde-Bautovich	27 October 2021
DA-110-04 Rev B	Roof Proposed	Glyde-Bautovich	27 October 2021
DA-210-01 Rev B	Elevations	Glyde-Bautovich	27 October 2021
DA-310-01 Rev B	Sections	Glyde-Bautovich	27 October 2021
DA-910-01 Rev B	Perspective	Glyde-Bautovich	27 October 2021

Except where modified by s.4.55 of the as shown on the following plans

Plan Nos.	Description	Prepared by	Dated
DA-100-02 Rev D	Site Context	Glyde-Bautovich	7 October 2022
DA-100-03 Rev D	Site Plan	Glyde-Bautovich	7 October 2022
DA-110-00 Rev D	Garage Plan	Glyde-Bautovich	7 October 2022
DA-110-01 Rev D	Lower Ground	Glyde-Bautovich	7 October 2022
DA-110-02 Rev D	Ground Proposed	Glyde-Bautovich	7 October 2022
DA-110-03 Rev D	Level 1 Proposed	Glyde-Bautovich	7 October 2022
DA-110-04 Rev D	Roof Proposed	Glyde-Bautovich	7 October 2022
DA-210-01 Rev D	Elevations	Glyde-Bautovich	7 October 2022
DA-310-01 Rev D	Sections	Glyde-Bautovich	7 October 2022

And except where modified by the following conditions

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

---

**Reasons for Approval:**

The proposed modifications are considered to be generally consistent with the originally approved development application and s.4.55 of the EP&A Act 1979. Furthermore, 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 for the granted of development consent to the originally approved development and is considered to be acceptable.

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

---

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

The proposal is considered to be in the public interest for the reasons stated throughout this report.

---

The conditions attached to the original consent for Development Application No. **204/21** by endorsed date of **23 December 2021** still apply.

**ADVISINGS**

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

**3 March 2023**

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Signature on behalf of consent authority  
DAVID HOY  
**TEAM LEADER (ASSESSMENTS)**