



Mrs Ariane Radford  
Area Architects Pty Ltd  
165 Illawarra Road  
MARRICKVILLE NSW 2204

D322/20  
RW (CPE)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 322/20/4 - APPROVAL**

**Development Consent Number:** 322/20

**Land to which this applies:** 24 Waiwera Street, Lavender Bay  
Lot No.: 3, DP: 548217

**Applicant:** Area Architects Pty Ltd

**Proposal:** Section 4.55(2) Modification to approved application, external and landscape changes to approved development

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. **322/20** and registered in Council's records as Application No. **322/20/4** relating to the land described as **24 Waiwera Street, Lavender Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **18 May 2021**, has been determined in the following manner:

**A. Conditions that Identify Approved Plans:**

**Development in Accordance with Plans/Documentation**

A1. The development being carried out in accordance with drawings numbered

Plan No.	Rev	Description	Prepared by	Dated
DA01	A	Proposed Site Plan	Area Architects Pty Ltd	22/8/2023
DA02	A	Proposed Hydraulic Plan	Area Architects Pty Ltd	22/8/2023
DA03	A	Proposed Ground Floor Plan	Area Architects Pty Ltd	22/8/2023
DA04	A	Proposed South Elevation	Area Architects Pty Ltd	22/8/2023
DA05	A	Proposed West Elevations	Area Architects Pty Ltd	22/8/2023
DA06	A	Landscape Plan and Paving Layout	Area Architects Pty Ltd	22/8/2023
DA07	A	Paving Layout Front Yard	Area Architects Pty Ltd	22/8/2023
DA08	A	Landscape Planting	Area Architects Pty Ltd	22/8/2023
DA09	A	Landscape Planting	Area Architects Pty Ltd	22/8/2023
DA10	A	Landscape Planting	Area Architects Pty Ltd	22/8/2023

**B. Modify Conditions as follows:**

**BASIX Certificate**

C13. Under clause 97A(3) 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. **A381540, A506015\_02, dated 31 August 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.

The original BASIX Certificate is required to be updated in accordance with the modification consent for proposed works.

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

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**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**.

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

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

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The conditions attached to the original consent for Development Application No. **322/20** by endorsed date of **18 May 2021** still apply.

**ADVISINGS**

(a) Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact **Rachel Wu**. 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 2023

DATE

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