

**Original signed by: Robin Pearson Dated: 2/10/2019**

Ross Shaw and Louise Curran  
C/- Contemporary Architecture  
Suite 203, 10-12 Clarke Street  
CROWS NEST NSW 2065

D322/14  
MS3(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 322/14/2 – APPROVAL**

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**Development Consent Number:** 322/14/2

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**Land to which this applies:** 49 Colin Street, Cammeray  
Lot No. 14, Sec. 4 DP 2407

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**Applicant:** Ross Shaw and Louise Curran  
C/- Contemporary Architecture

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**Proposal:** S4.55 modification – Minor modifications for alterations and additions to an existing dwelling hose.

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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. **322/14** and registered in Council's records as Application No. **322/14/2** relating to the land described as **49 Colin Street, Cammeray**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 16 December 2014, has been determined in the following manner: -

Condition *A4 Development in Accordance with Plans (s4.55 Amendments)* be imposed

**Development in Accordance with Plans (s4.55 Amendments)**

A4

Plan No.	Issue	Title	Dated	Drawn by	Received
s4.55-01	A	Site Plan	8 July 2019	Contemporary Architected	9 July 2019
s4.55-07	A	Ground Floor Plan	8 July 2019		
s4.55-08	A	Level 1 Plan	8 July 2019		
s4.55-09	A	Roof Plan	8 July 2019		
s4.55-10	A	Elevations 1, 3 and Streetscape	8 July 2019		
s4.55-11	A	Elevation 2 and 4	8 July 2019		
s4.55-12	A	Section A & B	8 July 2019		
s4.55-13	A	Section C, D, E & F	8 July 2019		

### **BASIX Certificate**

C13 The reference to the certificate number and date in condition *C13 BASIX Certificate* is to be amended as follows:

Certificate number A197114\_02 and dated 8 July 2019.

- Condition C1 Landscaping and G5 Compliance with Certain Conditions is to be deleted.

*(Delete, as plans submitted satisfy the condition)*

### **The following conditions are to be imposed.**

#### **Air Conditioners in Residential Premises**

C14. The use of any air conditioner installed on the premises must comply with the requirements of the Protection of the Environment Operations (Noise Control) Regulations 2008 and State Environmental Planning Policy (Infrastructure) 2007 and must not:

- (a) emit a noise that is audible within a habitable room in any affected residence (regardless of whether any door or window to that room is open);
  - (i) before 8.00am and after 10.00pm on any Saturday, Sunday or Public Holiday; or
  - (ii) before 7.00am or after 10.00pm on any other day
- (a) cause an LAeq(15min) which exceeds the RBL background noise level by more than 5dB when measured at the boundary of any affected residence. The modifying factor adjustments in Section 4 of the EPA Industrial Noise Policy will be applied.

“affected residence” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation and hospitals.

“boundary” includes any window or elevated window of an affected residence.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Industrial Noise Policy published by the NSW Environment Protection Authority.

(Reason: To maintain residential amenity)

#### **Swimming Pool Pumps on Residential Premises**

C15. The Certifying Authority must be satisfied that the swimming pool pump to be installed on the premises must not:

- a) emit a noise that is audible within a habitable room in any affected residence (regardless of whether any door or window to that room is open);
  - (i) before 8.00am and after 8.00pm on any Sunday or Public Holiday; or
  - (ii) before 7.00am or after 8.00pm on any other day

- (b) cause an LAeq(15min) which exceeds the RBL background noise level by more than 5dB when measured at the boundary of any affected residence. The modifying factor adjustments in Section 4 of the EPA Industrial Noise Policy shall be applied.

“affected residence” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation and hospitals.

“boundary” includes any window or elevated window of an affected residence.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Industrial Noise Policy published by the NSW Environment Protection Authority.

Details demonstrating compliance with the requirements of this condition must be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

(Reason: To maintain residential amenity)

### **Heritage Amendments**

C16. The following amendments to the plans are to be incorporated.

- a) The timber infill panels to the existing openings on the front boundary wall are to be a minimum of 50% open construction.
- b) The roof tiles are to be Bowral Eclipse Matt Shingle Tiles unless otherwise specified by Council in writing.
- c) The new external blinds covering the eastern facing windows are to have a non-metallic painted finish.

Plans and specifications which comply 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 provide visibility to the front garden in the conservation area and provide passive surveillance, and to be sympathetic to the character of the conservation area)

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The proposed modification meets the requirements of section 4.55(2) of the Act. The proposed modifications meet the provisions of NSLEP 2013 and are generally consistent with the objectives in NSDCP 2013.

### **Reason for approval:**

The modifications comply with the site coverage, unbuilt upon area and landscape area applicable to the site. The existing building envelope has been retained and new openings have been suitably located or treated to ensure that overlooking is minimised.

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The property is a neutral item within The Plateau Heritage Conservation Area. The proposed development, as modified would not detract from the heritage significance of the area and would provide some improvement to the appearance of the dwelling in the Conservation Area. The materials and finishes are considered acceptable.

The application to modify consent D322/2014 is considered reasonable and is recommended for approval.

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

The proposed modification was notified in accordance with Councils Notification Policy from however no submissions were received.

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The conditions attached to the original consent for Development Application No. 322/14 by endorsed date of 16 December 2014 still apply.

**ADVISINGS**

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Michael Stephens**. 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 & 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 & Assessment Act.

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

\_\_\_\_\_  
DATE

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