



Mr C J Hazzouri  
PO Box 313  
BAULKHAM HILLS NSW 1755

D122/21  
JD6 (PE)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
SECTION 4.55 MODIFICATION 122/21/3 - APPROVAL**

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**Development Consent Number:** 122/21

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**Land to which this applies:** 1 Baden Road Kurraba Point  
Lot No.: 1, DP: 1297440

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**Applicant:** C J Hazzouri

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**Proposal:** To modify the consent for demolition of all existing structures and construction of a part 4, part 5 level dwelling house with an integrated garage, swimming pool, landscaping and associated works

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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. **122/21** and registered in Council's records as Application No. **122/21/3** relating to the land described as **1 Baden Road Kurraba Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **6 April 2022**, has been determined in the following manner:

**A. To delete the table in Condition A1 and replace it with the table below:**

**Development in Accordance with Plans/Documentation**

A1. The development must be carried out in accordance with the following drawings endorsed with Council's approval stamp and other documentation listed in the table to this clause, or cited by other conditions, and as amended by other conditions of this consent.

Plan No.	Revision	Description	Prepared by	Dated
DA00	01	Cover Sheet	Blake Letnic Architects	16 10 23
DA03	02	Site Plan	Blake Letnic Architects	15 03 24
DA05	01	Level 1	Blake Letnic Architects	16 10 23
DA06	01	Level 2	Blake Letnic Architects	16 10 23
DA07	01	Level 3	Blake Letnic Architects	16 10 23
DA08	02	Level 4	Blake Letnic Architects	15 03 24
DA09	02	Level 5	Blake Letnic Architects	15 03 24

DA10	03	Southern Elevation	Blake Letnic Architects	15 03 24
DA11	02	Western Elevation	Blake Letnic Architects	15 03 24
DA12	03	Northern Elevation	Blake Letnic Architects	15 03 24
DA13	02	Eastern Elevation	Blake Letnic Architects	15 03 24
DA14	02	Section AA	Blake Letnic Architects	15 03 24
DA14A	02	Section BB and CC	Blake Letnic Architects	15 03 24
DA14B	02	Pool section and elevations	Blake Letnic Architects	15 03 24
DA24	01	Schedule of External Finishes	Blake Letnic Architects	16 10 23
DA15	01	Windows and Door Schedule	Blake Letnic Architects	16 10 23
1,2 & 3 of 3	-	Landscape Plans	Bates Landscaping	04 05 21

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

***B. To add the following Condition:***

**Design Amendments**

A5. The following design amendments are to be made to relevant architectural drawings and submitted to Council’s Manager Development Services for approval prior to an application being made for a construction certificate relevant to these works or an amendment being made to an existing construction certificate relevant to these works:

- a) Plans must be amended as required, to ensure the height of any structure, including solar panels, awnings and other fixtures on the roof (except those excluded from control under the “building height” definition of North Sydney Local Environmental Plan 2013) do not exceed the height of RL 18.89m, and
- b) The design being modified to reduce the bulk of, and to refine the use of materials, finishes and colours on, the front façade. These modifications must include reducing the depth of the planter box on level 5 to a maximum 600mm and reducing the height and width of the top section of the stairwell, to below RL 18.89m, by at least 1.0m. Other amendments are to be made as deemed necessary, to reduce its impact on the streetscape and create an acceptable built form transition to the adjoining Kurraba Reserve, and
- c) Plans being amended to demonstrate that site coverage will be reduced at least to that approved, being 52%, by increasing landscaped area by at least 2%.

(Reason: To maintain views and avoid unnecessary impact on the character and natural and built environments of the locality)

***C. To modify Condition C30 as follows:***

**BASIX Certificate**

C30. Under section 73 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. **1177626S\_03**, dated **9 November 2023**, for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The Principal Certifier 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.)

D. Retention of condition C25:

Condition C25 has not been deleted from the consent as applied for, because the modified plans refer to this condition.

Reasons for Approval:

Subject to compliance with the recommended conditions, the modifications do not result in unacceptable material amenity impacts to adjoining properties or the surrounding area. The proposed modifications are consistent with the reasons consent was granted to the original development application.

Having regard to the provisions of section 4.55 (2) and 4.15 (1) of the *Environmental Planning and Assessment Act 1979*, the development as proposed to be modified is substantially the same development as originally consented to. The application is therefore recommended for **approval**.

How community views were taken into account:

Following notification in accordance with Council's engagement protocol, seven submissions were received from four correspondents. Issues raised by the submissions have been considered in the application's assessment.

The conditions attached to the original consent for Development Application No. **122/21** by endorsed date of **6 April 2022** still apply.

**ADVISINGS**

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

**7 May 2024**

\_\_\_\_\_  
DATE

*JM Davies*

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Signature on behalf of consent authority  
JIM DAVIES  
**EXECUTIVE PLANNER (ASSESSMENTS)**