



Ian Gordon Hackney & Lula Hackney
8 Wallaroo Close
KILLARA NSW 2071

D429/21
MH9 (CPE)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.56 MODIFICATION 429/21/3 - APPROVAL**

Development Consent Number: 429/21

Land to which this applies: 11A Hazelbank Road, Wollstonecraft
Lot No.: 10, DP: 10730

Applicant: Ian Gordon Hackney & Lula Hackney

Proposal: To modify the consent No. DA 429/21 for the demolition of existing dwelling and all associated structures, removal of ten (10) trees, construction of new two-storey dwelling house, construction of swimming pool (inground), and landscaping works including retaining walls - The modification seeks to amend the design as follows: Deletion of swimming pool. Addition of a lift into the design which creates a modification to lower level internal arrangement, with adjustments to the Ground and First floors to accommodate and modify rear terrace with increase to area.

Pursuant to Section 4.56 of the Act notice is hereby given of the determination by the consent authority of your request for a modification to Development Consent No. **429/21** and registered in Council's records as Application No. **429/21/3** relating to the land described as **11A Hazelbank Road, Wollstonecraft**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **29 July 2022**, has been determined in the following manner:

1. To modify the development consent DA 429/21 and modify condition A1 as follows:

Development in accordance with Plans (S4.56 Amendments)

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 No	Issue	Description	Prepared by	Dated
DA01	I	Cover Sheet	theplanhouse	21/05/2024

DA02	I	Site & Analysis Plan	theplanhouse	21/05/2024
DA03	I	Proposed Lower Ground	theplanhouse	21/05/2024
DA04	I	Proposed Ground Plan	theplanhouse	21/05/2024
DA05	I	Proposed First Floor	theplanhouse	21/05/2024
DA06	I	Roof Plan	theplanhouse	21/05/2024
DA07	I	Elevations	theplanhouse	21/05/2024
DA08	I	Elevations	theplanhouse	21/05/2024
DA09	I	Sections	theplanhouse	21/05/2024
DA14	I	Street Elevation	theplanhouse	13/7/22
FG21 980	I	Landscape Concept Plan	formed gardens	16//05/2024

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

2. To delete condition C24 - Swimming Pool Pumps on Residential Premises.

3. To modify condition C25 Privacy by amending the condition to include W37 in the attic retreat window as follows:

Privacy

C25 The following privacy devices are to be provided:

- a) Fixed obscure or frosted glass to a minimum height of 1500mm shall be installed to window W-25 in the Attic Bed and W37 and W-38 in the Attic Retreat.

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 an adequate level of privacy is provided to adjoining properties)

4. To delete condition C26 - Pool Access.

5. To delete condition C27 - Swimming Pool Water to Sewer.

6. To delete condition C28 - Pool Filter.

7. To delete condition G3 - Pool Access.

8. To delete condition G4 - Pool Safety Requirements.

9. To delete condition I2 - Pool Filter.

10. To insert a new condition C32 to read as follows:

Privacy

C32 Vertical privacy screens to a minimum height of 2.4m are to be provided to the eastern and western sides of the first-floor rear balcony which is accessed via bedrooms 2 and 3. These

screens are to be permanently fixed at an angle of 45 degrees facing north-west and north-east to prevent direct views to neighbours to the satisfaction of the Principal Certifier.

These privacy screens are to be installed prior to the issue of the Occupation Certificate.

(Reason: To ensure adequate privacy for neighbours and future occupants)

The proposed modifications are generally consistent with the originally approved development application and s.4.56 of the EP&A Act 1979. Furthermore, the modifications do not result in any unreasonable material amenity impact to adjoining properties or the surrounding area. The proposed modifications are consistent with the reasons for the grant of development consent to the originally approved development and is acceptable.

Having regard to the provisions of section 4.56 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.

Reasons for Approval:

Statement of Reasons

- The proposed development as modified is substantially the same development as originally approved.
- The proposed modifications are generally consistent with the objectives of the North Sydney Local Environmental Plan 2013.
- The proposal is generally consistent with the controls and objectives of the relevant provisions of the North Sydney Development Control Plan 2013.
- The proposed modifications will not have any unreasonable impact upon the amenity of neighbouring properties.

How community views were taken into account:

Matters raised by submissions made when the applications were notified in accordance with Council's Community Engagement Protocol have been considered and have been addressed in this report.

The conditions attached to the original consent for Development Application No.429/21 by endorsed date of **29 July 2022** still apply.

ADVISINGS

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

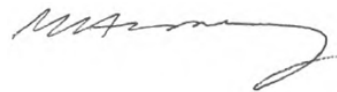
- (b) Pursuant to Section 8.2, an applicant is able to request Council to review its determination. An application for a review under Section 8.2 of the Act must be made no later than 28 days after the date on which the application for the modification of the development consent was determined.
- (c) 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 4.56 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 4.56 of *the Environmental Planning and Assessment Act*.

Endorsed for and on behalf of North Sydney Council

23 May 2024

DATE



Signature on behalf of consent authority
MICHAEL HORNERY
EXECUTIVE PLANNER (ASSESSMENTS)