



Chapman Planning Pty Ltd
Suite 8, 88 Mountain Street
ULTIMO NSW 2007

D106/07
MH9 (P&E)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.56 MODIFICATION - REFUSAL**

Development Number: 106/07

Land to which this applies: 29A Shellcove Road, Kurraba Point
Lot No.: 11, DP: 1170016

Applicant: Chapman Planning Pty Ltd

Proposal: Modify the development consent (DA106/07) seeking removal of Condition C19 relating to the requirement to install privacy screens

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.**106/07** and registered in Council's records as Application No.**106/07/6** relating to the land described as **29A Shellcove Road, Kurraba Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **5 November 2007**, has been refused.

Reason for Refusal:

1. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposal is contrary to the objectives of the aims of plan of North Sydney Local Environmental Plan 2013 pursuant to Clause 1.2 in that the proposal is inconsistent with:
 - (a) The proposal adversely affects the residential amenity of adjoining properties in terms of visual privacy (Clause 1.2(2)(c)(i));
2. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposal is inconsistent with the objectives of the R2 Low Density Residential zone pursuant to Clause 2.3 of the North Sydney Local Environmental Plan 2013 in that:

- (a) The proposal compromises the amenity of the adjoining properties;
 - (b) The proposal does not ensure a high level of residential amenity is achieved and maintained;
3. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as the proposal is inconsistent with North Sydney Development Control Plan 2013 in that:
- (a) The proposed development does not satisfactorily respond to Part B Section 1.3.10 Visual Privacy, O1 and P5 as it does not provide a reasonable level of visual privacy to adjoining properties.
4. The proposal is unsatisfactory having regard to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 as the development will cause adverse impacts with respect to the amenity for adjoining properties.
5. The proposed development is considered unacceptable pursuant to the provisions of Section 4.15(1) (e) of *the Environmental Planning and Assessment Act 1979* as the proposal is not in the public interest as it will have an unreasonable impact upon the amenity of immediately adjoining properties in terms of unreasonable overlooking and privacy.

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.

Any variation to the Development Consent can only be made with the written approval of the Council. Major variations will require a new or amended Development Consent.

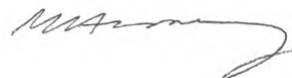
Pursuant to Section 8.2, an applicant is able to request Council to review its determination. An application for a review under Section 8.2 of the Act must be made no later than 28 days after the date on which the application for the modification of the development consent was determined.

Section 4.56 of the Act confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court pursuant to Section 8.7 of *the Environmental Planning and Assessment Act, 1979*.

Endorsed for and on behalf of North Sydney Council

20 June 2024

DATE



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