

Original signed by: Kim Rothe Dated: 4/7/2019

Diane Louise Hacking
4/17 Waiwera Street
MCMAHONS POINT NSW 2060

D58/16
MD1(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 58/16/2 – APPROVAL**

Development Consent Number: 58/16

Land to which this applies: 17 Waiwera Street, McMahons Point
Lot No. 0, SP 16376

Applicant: Diane Louise Hacking

Proposal: Modification of DA 58/16 in respect of changes to approved balcony to Unit 4.

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. **58/16** and registered in Council's records as Application No. **58/16/2** relating to the land described as **17 Waiwera Street, McMahons Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 3 August 2016, has been determined in the following manner: -

To insert the following new conditions:

Development in accordance with Plans (S4.55 Amendments)

- A6. The development being carried out in accordance with plans identified in Condition A1 of the consent and endorsed with Council's approval stamp, except as modified by the modifications shown in colour on
- (a) Drawings numbered S4.5509 B – WIP, dated Work in Progress, drawn by Contemporary Architecture Pty Ltd, and received by Council on 1 July 2019, and
 - (b) Drawings numbered S.455.12 A, S.455.13 A, S.455.14 A and S.455.15 A, dated 21/05/2019, drawn by Contemporary Architecture Pty Ltd, and received by Council on 27 May 2019

except as amended by the following conditions and this consent.

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

Scope of Approval

A7. The subject Modification of Consent approval only encompasses changes to the balcony and adjoining glass doors; The Modification Application did not specify that it sought consent for other works, and so this approval does not include changes to the approved stair location, mezzanine or other parts of Unit 4.

(Reason: To clarify the scope of the application and approval)

The development application has been assessed against the *Environmental Planning and Assessment Act 1979* and Regulation, *North Sydney Local Environmental Plan 2013* and *North Sydney Development Control Plan 2013*.

The proposed additions are within the width of the adjoining room and are no closer to the side or rear boundaries than the approved external walls and balcony. The additions do not include a roof. The application describes that the stepping-in of the additions prevents any potential view impacts.

Reason for approval:

The additions comprise storage and a barbecue and are thus non-trafficable area: The additions will not newly impact neighbouring privacy.

The additions will have negligible impact to neighbouring solar access, are to a first floor and are contained within the approved building height, and will not affect landscaped area.

The building is subject to existing use rights and the proposed works will not have any unreasonable heritage or amenity impacts. The application is considered to be substantially the same development as that previously approved by Council.

How community views were taken into account:

The owners of adjoining properties and the Lavender Bay Precinct were notified of the proposed development for a 14 day period in accordance with Section A4 of NSDCP 2013. The notification resulted in one submission.

The submission raised concerns with view loss from 15 King George Street. The proposed additions will not unreasonably impact views from 15 King George Street.

Having regard to the provisions of Section 4.15 of the Act, the application is considered to be consistent with the reasons for the original grant of consent and therefore, can be approved.

The conditions attached to the original consent for Development Application No. 58/16 by endorsed date of 3 August 2016 still apply.

ADVISINGS

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

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