

Aqualand North Sydney Development Pty Ltd
C/- SJB Planning (NSW)
Level 2, 490 Crown Street
SURRY HILLS NSW 2010

D486/15
(GM) (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979
(AS AMENDED)**

**Notice to Applicant of Determination of Request
to Modify a Development Consent**

On 14 March 2018, the Sydney North Planning Panel, as the consent authority, approved SNPP Ref No. 2017SNH078 - North Sydney Application No. 486/15/2.

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. **486/15** and registered in Council's records as Application No. **486/15/2** relating to the land described as **168 Walker Street, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 12 July 2016, has been determined in the following manner:-

To delete condition A1, C33, C34, C40, C41 and I2 of the consent and insert in lieu thereof the following new conditions namely:

Development in Accordance with Plans/documentation

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 and this consent.

| Plan No. | Rev. | Title | Drawn by | Received |
|----------|------|----------------|-------------|------------------|
| DA-0000 | D | Cover Sheet | Woods Bagot | 23 October 2017 |
| DA-1005 | A | Demolition | Woods Bagot | 22 December 2015 |
| DA-1011 | A | Site Plan | Woods Bagot | 22 December 2015 |
| DA-1203 | A | B7 plan | Woods Bagot | 23 October 2017 |
| DA-1207 | B | B3 – B6 plans | Woods Bagot | 23 May 2016 |
| DA-1208 | B | B2 plan | Woods Bagot | 23 May 2016 |
| DA-1209 | B | B1 plan | Woods Bagot | 23 May 2016 |
| DA-1210 | A | L00 plan | Woods Bagot | 22 December 2015 |
| DA-1211 | C | L01 plan | Woods Bagot | 6 February 2018 |
| DA-1212 | B | L02 - L04 plan | Woods Bagot | 23 October 2017 |

| | | | | |
|---------|---|-------------------|-------------|------------------|
| DA-1218 | D | L05 - 08 plan | Woods Bagot | 23 October 2017 |
| DA-1219 | B | L09 plan | Woods Bagot | 23 May 2016 |
| DA-1220 | D | L10 - L16 plan | Woods Bagot | 23 October 2017 |
| DA-1226 | D | L17 – L21 plan | Woods Bagot | 23 October 2017 |
| DA-1231 | D | L22 plan | Woods Bagot | 23 October 2017 |
| DA-1232 | D | L23 plan | Woods Bagot | 23 October 2017 |
| DA-1233 | A | L24 plan | Woods Bagot | 23 October 2017 |
| DA-1234 | D | L25 plan | Woods Bagot | 23 October 2017 |
| DA-1235 | E | L26 plan | Woods Bagot | 6 February 2018 |
| DA-1236 | C | L27 – L28 plan | Woods Bagot | 23 October 2017 |
| DA-1238 | D | L29 plan | Woods Bagot | 23 October 2017 |
| DA-1300 | D | North elevation | Woods Bagot | 6 February 2018 |
| DA-1301 | C | South elevation | Woods Bagot | 23 October 2017 |
| DA-1302 | D | East elevation | Woods Bagot | 6 February 2018 |
| DA-1303 | D | West elevation | Woods Bagot | 6 February 2018 |
| DA-1310 | C | Site Section | Woods Bagot | 6 February 2018 |
| DA-1311 | B | Site Long Section | Woods Bagot | 23 October 2017 |
| DA-9200 | A | External Finishes | Woods Bagot | 22 December 2015 |
| L-DA-16 | B | Landscape Design | Turf | 23 May 2016 |
| L-DA-17 | C | Landscape Concept | Turf | 23 May 2016 |
| L-DA-18 | C | Design Sections | Turf | 23 May 2016 |
| L-DA-19 | C | Design Sections | Turf | 23 May 2016 |
| L-DA-20 | C | Communal Space | Turf | 23 May 2016 |
| L-DA-21 | C | Sandstone clad. | Turf | 23 May 2016 |
| L-DA-22 | C | Terrace Pavement | Turf | 23 May 2016 |
| L-DA-23 | C | Streetscape | Turf | 23 May 2016 |
| L-DA-24 | B | Materials | Turf | 23 May 2016 |
| L-DA-25 | B | Planting | Turf | 23 May 2016 |
| L-DA-29 | B | Planting plan | Turf | 21 June 2016 |
| L-DA-30 | A | Rooftop sections | Turf | 20 June 2016 |

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

Section 94 Contributions

C33. A monetary contribution pursuant to the provisions of Section 94 of the Environmental Planning and Assessment Act 1979, in accordance with the North Sydney Council Section 94 Contribution Plan for the public amenities/ services detailed in column A below and, for the amount detailed in column B below, must be paid to Council.

| A | B (\$) |
|---|------------|
| Administration | 20,740.46 |
| Community Centres | 171,533.53 |
| Childcare Facilities | NIL |
| Library and Local Studies Acquisitions | 30,446.16 |
| Library Premises and Equipment | 95,136.99 |
| Multi-Purpose Indoor Sports Facility | 20,112.61 |

| | |
|--------------------------------------|-----------------------|
| Olympic Pool | 65,494.09 |
| Open Space Acquisitions | 1,576,194.09 |
| Open Space Increased Capacity | 3,124,304.47 |
| North Sydney Public Domain | NIL |
| Traffic Improvements | 67,172.52 |
| Total | \$5,171,134.92 |

The contribution MUST BE paid prior issue of the relevant Construction Certificate.

The above amount will be adjusted for inflation by reference to the Consumer Price (All Ordinaries) Index applicable at the time of the payment of the contribution.

A copy of the North Sydney Section 94 Contribution Plan can be viewed at North Sydney Council's Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council's website at www.northsydney.nsw.gov.au

(Reason: To retain a level of service for the existing population and to provide the same level of service to the population resulting from new development)

Security Deposit/ Guarantee Schedule

C34. All fees and security deposits/ guarantees in accordance with the schedule below must be provided to Council prior to the issue of the relevant Construction Certificate:

| Security deposit/ guarantee | Amount (\$) |
|--|---------------------|
| Street Tree Bond (on Council Property) | \$15,000.00 |
| Infrastructure Damage Bond | \$200,000.00 |
| Drainage Construction Bond | \$17,200 |
| Engineering Construction Bond | \$471,000.00 |
| Others | |
| TOTAL BONDS | \$703,200.00 |

Note: The following fees applicable

| Fees | |
|-------------------|-----------------------|
| Section 94 | \$5,171,134.92 |
| TOTAL FEES | \$5,171,134.92 |

(Reason: Compliance with the development consent)

Adaptable Housing

C40. Sixty-six (66) apartments are to be designed with accessible features for disabled persons, and must be designed to be generally in accordance with the requirements of the relevant Australian Standard 4299 - 1995. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of the relevant 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 equity of access and availability of accommodation in the future for an ageing population)

BASIX Certificate

C41. Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No.(683795M_03) for the development are fulfilled. 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 the proposed development will meet the Government's requirements for sustainability and statutory requirements)

Level 1 Gym Covenant

G13. An Instrument pursuant to Sections 88B and 88E of the *Conveyancing Act* 1919 and one copy must be submitted to Council in registrable form, providing for:

- a. a restriction as to user and positive covenant as to user as appropriate in favour of North Sydney Council burdening 168 Walker Street requiring the ongoing retention, maintenance and operation of the gymnasium on level 1 as shown on drawing numbered 1211 Revision C drawn by Woods Bagot;
- b. The gymnasium may be commercially run and shall be available for the use of residents of the development site and the public;
- c. North Sydney Council being nominated in the Instrument as the only party authorised to release, vary or modify the Instrument;

Upon Council being satisfied as to the terms of the Instrument, North Sydney Council's official seal will be affixed to these documents, prior to submission to the Land & Property Information Office for registration.

The Instrument creating the restriction and/or covenant under ss 88B and 88E required by this condition of consent must be registered on the Title of the development site prior to the issue of an Occupation Certificate or commencement of use of the site, whichever is the earlier.

Evidence of the registration of the instrument referred to in this condition is to be provided to Council prior to the issue of the relevant Occupation Certificate.

All costs associated with the preparation, approval and registration of the Instrument required by this condition of consent must be borne by the person acting on this consent including the reasonable costs of Council in obtaining advice, negotiating the terms or otherwise facilitating the execution and registration of the required Instrument.

(Reason: To ensure adequate on site communal facilities are provided and maintained)

Use of Car Parking Spaces

I2. A maximum of 295 car parking spaces provided shall be allocated to the apartments (not including the adaptable apartments – see separate requirement below) contained within the development with no more than one car space per apartment. The remaining spaces are to be allocated as follows:

- 66 spaces to the 66 adaptable apartments
- 7 spaces to the commercial/retail
- 2 spaces for car wash bays
- 2 spaces for car share

(Reason: To ensure that parking is allocated as approved)

Level 1 Gym

I7. The fitout and use of the gymnasium on level 1 shall be the subject of a separate development application to Council prior to commencement of any use of the site.

(Reason: To ensure on site communal facilities are provided and amenity impacts and operation hours are acceptable)

The conditions attached to the original consent for Development Application No. 486/15 by endorsed date of 12 July 2016 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **the undersigned**. 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. The use of the Section 34 Conference approach requires the appellant to agree, in advance and in writing, that the Court appointed assessor will be given the full authority to completely determine the matter at the conference.

- (b) 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 Certifying Authority 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.

- (c) 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.

DATE

Signature on behalf of consent authority
GEOFF MOSSEMENEAR
EXECUTIVE PLANNER