

Development Consent No. 112/01/12

Section 4.55 Application

Applicant's Name

Aqualand Development 4 Pty Ltd

Land to which this applies

61 Lavender Street, Milsons Point
Lot No.: 2, DP: 549159

Proposal

Section 4.55 application to modify DA 112/01.

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. **112/01** and registered in Council's records as Application No. **112/01/12** relating to the land described as **61 Lavender Street, Milsons Point**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 5 March 2001, has been determined in the following manner: -

1. **Conditions A1, C11, C15 be amended to read as follows:**

Development in Accordance with Plans

A1. The development being carried out in accordance with the following drawings:

Plan No.	Issue	Title	Drawn by	Dated
A-049	A	Basement B4	PTW	23/11/17
A-050	R	Basement B3	PTW	23/11/17
A-051	R	Basement B2	PTW	23/11/17
A-052	R	Basement B1	PTW	23/11/17
A-053	T	Ground Floor	PTW	23/11/17
A-054	S	Level 1	PTW	23/11/17
A-055	Q	Level 2-3 typical	PTW	23/11/17
A-056	Q	Level 4-7 typical	PTW	23/11/17
A-057A	Q	Level 8-17 typical	PTW	23/11/17
A-071	Q	Level 18	PTW	23/11/17

A-072	Q	Level 19	PTW	23/11/17
A-073	R	Level 20	PTW	1/4/18
A-074	R	Upper roof plant	PTW	23/11/17
A-100	N	North Elevation	PTW	1/4/18
A-102	M	South Elevation	PTW	1/4/18
A-104	M	East Elevation	PTW	1/4/18
A-106	M	West Elevation	PTW	1/4/18
A-110	Q	Section AA	PTW	1/4/18
A-111	R	Section BB	PTW	1/4/18
A-130	K	Sample Board	PTW	6/1/17
A-140	B	Upper Roof	PTW	4/9/17
A-141	K	Aneeta Operable Facade	PTW	20/7/17

except where amended by the following conditions.

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

Vehicular Accessway Design

C11. The applicant shall design the vehicular accessway in compliance with the following:

- (a) The vehicular accessway shall be designed to comply with AS 2890.1 to ensure that a B85 vehicle will not scrape/strike the surface of the carriageway, layback, vehicular crossing or garage floor.
- (b) An appropriately qualified and practising civil engineer shall provide to the Principal Certifying Authority a certificate that, where required, the architectural design drawing has been amended to comply with the Consent. A photocopy of the aforementioned certificate shall be presented with the Construction Certificate

(Reason: To facilitate vehicular access to private sites, without disruption to pedestrian and vehicular traffic)

Crossing Plan Details

C15. The following details must be submitted with the application for Construction Certificate: -

- (i) Longitudinal section along the extremities and centre-line of each driveway/access ramp at a scale of 1:50.
- (ii) Sections to be taken from the centre-line of the roadway through to the parking area itself and shall include all changes of grade both existing and proposed.

- (iii) The sections shall show all relevant levels and grades (both existing and proposed) including those levels stipulated as boundary levels.
- (iv) The sections shall show the calculated clearance to the underside of any overhead structure.
- (v) A longitudinal section along the gutter line showing how it is intended to blend the vehicular crossing into the existing kerb and gutter.
- (vi) A longitudinal section along internal ramps between parking levels showing all relevant levels and grades.

The above details are to be certified by an appropriately qualified and practising civil engineer as complying with Australian Standard AS 2890, Parking Facilities and Council's standard specifications.

(Reason: To facilitate vehicular access to private sites, without disruption to pedestrian and vehicular traffic)

Additional condition C28A to be included:

Section 7.11 Contributions

C28A. A monetary contribution in relation to the additional 1x 3 bedroom apartment approved under s.4.55 application DA112/10/12, pursuant to the provisions of Section 7.11 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	\$175.71
Child Care Facilities	\$304.34
Community Centres	\$797.67
Library Acquisition	\$148.83
Library Premises & Equipment	\$460.29
Multi Purpose Indoor Sports Facility	\$125.70
Open Space Acquisition	\$5,016.82
Open Space Increased Capacity	\$9,944.27
Olympic Pool	\$409.39
Public Domain Improvements	\$393.10
Traffic Improvements	\$482.52
The total contribution is	\$18,258.64

The contribution MUST BE paid prior to issue of any Construction Certificate for the modified development.

The above amount and amount already paid 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)

Reason for approval

The proposal is considered to be substantially the same development as the development originally approved and the proposed modifications are considered to be satisfactory on merit.

The Section 4.55 application is consistent with the objectives of NSLEP 2013 and NSDCP 2013 and does not materially alter the development's compliance with these plans. It provides a high standard of architectural design consistent with the standard of new buildings in Milsons Point and maintains privacy for surrounding dwellings.

The traffic impact and access, parking and servicing arrangements are consistent with the development approved by the original consent. The proposal has a height, bulk and scale consistent with the development approved by the original and modified consents.

The application has been assessed against s.4.55 and s.4.15 of the Environmental Planning and Assessment Act 1979 as satisfactory and as such it is recommended that consent be granted subject to amended conditions of consent.

How were community views taken into account in making the decision

The application under s.4.55(1A) did not require notification in accordance with NSDCP 2013.

The conditions attached to the original consent for Development Application No. 112/01 by endorsed date of 5 March 2001 still apply.

ADVISINGS

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

DATE

Signature on behalf of consent authority
GEORGE YOUHANNA
EXECUTIVE PLANNER