

Original signed by	Luke Donovan	on	7/2/19
Date determined			7/2/19
Date operates			7/2/19
Date lapses			7/2/24

## Development Consent No. 392/16

### Section 4.55 Application

#### Applicant's Name

Nettleton Tribe Pty Ltd

#### Land to which this applies

99 Mount Street, North Sydney  
 Lot No.: 112, DP: 632759

#### Proposal

Section 4.55 (1A) application to modify DA392/16 with regards to the deletion of the passenger lift to Mount Street.

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. **392/16** and registered in Council's records as Application No. **392/16/4** relating to the land described as **99 Mount Street, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 7 August 2017, has been determined in the following manner:

1. *Modify conditions A1, A4, C26 and G9 to read as follows:*

#### 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 of this consent

Plan No.	Issue	Title	Drawn by	Received
4613_DA012	A	Level 2 Demolition Plan	Nettleton Tribe	17/11/16
4613_DA013	A	Level 3 Demolition Plan	Nettleton Tribe	17/11/16
4613_DA014	C	Level 4 Demolition Plan	Nettleton Tribe	17/11/16
4613_DA021	B	Level 1 Plan	Nettleton Tribe	17/11/16
4613_DA022	F	Level 2 Plan	Nettleton Tribe	7/6/17
4613_DA023	<b>F</b>	Level 3 Plan	Nettleton Tribe	<b>28/3/18</b>
4613_DA024	<b>K</b>	Level 4 Plan	Nettleton Tribe	<b>28/3/18</b>
4613_DA025	F	Level 4 Roof Plan	Nettleton Tribe	7/6/17
4613_DA034	<b>I</b>	Proposed Elevations	Nettleton Tribe	<b>28/3/18</b>
4613_DA046	<b>E</b>	Podium Sections & Elevations	Nettleton Tribe	7/6/17

Except as amended in 'red cloud' on the following plans:

Plan No.	Rev/Issue	Title	Drawn by	Date
4613_DA001	C	Site Plan	Nettleton Tribe	13/11/18
4613_DA013	B	Level 3 Demolition Plan	Nettleton Tribe	13/11/18
4613_DA021	C	Level 1 Plan	Nettleton Tribe	13/11/18
4613_DA022	H	Level 2 Plan	Nettleton Tribe	13/11/18
4613_DA023	G	Level 3 Plan	Nettleton Tribe	13/11/18
4613_DA024	L	Level 4 Plan	Nettleton Tribe	13/11/18
4613_DA025	G	Level 4 Roof Plan	Nettleton Tribe	13/11/18
4613_DA034	J	Proposed Elevations	Nettleton Tribe	13/11/18
4613_DA046	G	Podium Section & Elevations	Nettleton Tribe	13/11/18

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

### External Finishes & Materials

- A4. External finishes and materials must be in accordance with the submitted schedules in drawings 4613\_DA034 (Rev. F) *Proposed Elevations* and DA0406 (Rev. E) *Podium Sections & Elevations* dated 31 May 2017, prepared by Nettleton Tribe and received by Council on 7 June 2017, except as amended by drawings 4613\_DA034 (Rev. J) *Proposed Elevations* and DA046 (Rev. G) *Podium Sections & Elevations* dated 13 November 2018, prepared by Nettleton Tribe.

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

### Provision of Accessible Paths of Travel

- C26. Access throughout the premises and the **Walker Street** entry to the building must be designed and constructed to provide access and facilities in accordance with the Building Code of Australia and Disability (Access to Premises – Buildings) Standards 2010. 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.

Notes:

1. If, in complying with this condition, amendments to the development are required, the design changes must be submitted for the approval of Council prior to a Construction Certificate being issued. Approval of a modification application may be required.
2. It is not within Council's power to set aside National legislation which requires the upgrade of buildings to meet modern access standards. Such decisions remain the jurisdiction of the Building Professionals Board Access Advisory Committee who may grant an exemption in certain exceptional circumstances.

3. Information on making an application for an “unjustifiable hardship exemption” under the accessibility standards can be found in the website of the NSW Building Professional Boards at <http://www.bpb.nsw.gov.au/page/premises-standards>

(Reason: To ensure the provision of equitable and dignified access for all people in accordance with disability discrimination legislation and relevant Australian Standards)

### **Landscaping**

G9. The landscaping shown in the approved landscape plans must be completed prior to the issue of any Occupation Certificate.

- (a) In relation to the ground level corner splay at Walker & Mount Streets, in accordance with Landscape Masterplan Ground Level – Public Domain (Rev.02), Landscape Sections Ground Level – Public Domain (Rev.02) & Setout + Grading – Ground Level – Public Domain (Rev.02) and received by Council on 17/7/17; and
- (b) In relation to the podium additions, in accordance with landscape drawings numbered 102, 103, 202, 203, 302, 303, 402, 403, 530, 531 & 532 (Issue 2) dated 12/10/17 prepared by Arcadia Landscape Architecture and received by Council on 28/5/18, as amended by condition A1 Development in Accordance with Plans/documentation.

Except as amended by the following landscape plans -

- (c) Drawing Numbered 000 Landscape Masterplan Ground Level – Public Domain, 102 Landscape Masterplan Level 03, 103 Landscape Masterplan Roof Level, 201 Setout + Grading Ground Level – Public Domain, 202 Setout + Grading Level 03, 203 Setout + Grading Roof Level, 301 Hardworks Ground Level – Public Domain, 302 Hardworks Level 3, 303 Hardworks Roof Level, 401 Softworks Ground Level – Public Domain, all Issue 05 all drawn by Acadia and all dated 14/11/18.

(Reason: To ensure compliance)

### **2. Add Condition G15 to read as follows:**

#### **Compliance with Performance Solution Report**

G15 Prior to the issue of the Occupation Certificate, the following provisions must be installed:

- i. Braille tactile directional signage indicating the location of the accessible entry location in Walker Street is to be mounted at the Mount Street entry in accordance with the requirements of NCC Clause D3.6 and NCC Specification D3.6, and

- ii. The doors in the path of travel connecting the Walker Street entry to the lift lobby be fitted with door assist or autodoor devices.

(Reason: To ensure compliance with the performance solution detailed in the report prepared by iaccess consultants dated 15 October 2018)

### **Reason for approval**

A Performance Solution Report was prepared by iaccess Consultants dated 15 October 2018 and submitted as part of the application. The report concludes that the proposed Walker Street entry and lift core which provides access to all levels of the building can provide access to the degree necessary for occupants and visitors to this development in accordance with the Performance Requirements specified in the NCC. The lift on the Mount Street frontage can therefore be deleted.

### **How were community views taken into account in making the decision**

The application was notified to surrounding property owners between 30 November 2018 and 14 December 2018. No submissions were received.

The conditions attached to the original consent for Development Application No.392/16 by endorsed date of 7 August 2017 still apply.

### **ADVISINGS**

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

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DATE

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