

**Original signed by: Geoff Mossemenear Dated: 11/2/2019**

## **Development Consent No. 486/15**

### **Section 4.55 Application**

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#### **Applicant's Name**

Aqualand North Sydney Developments Pty Ltd  
Level 47, Tower 1, 100 Barangaroo Avenue  
BARANGAROO NSW 2000

#### **Land to which this applies**

168 Walker Street, North Sydney  
Lot No. 100, DP 1172241

#### **Proposal**

To modify consent for demolition of existing office building and the construction of a mixed use development comprising basement levels, retail/commercial floor space, and residential apartments with regard to increase in apartment numbers and parking.

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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. **486/15/3** 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 B2, C1 and D5 of the consent and insert in lieu thereof the following new conditions namely:

#### **Ausgrid Requirements**

B2. The following matters are requirements of Ausgrid:

Ausgrid substation S.3680 and associated high and low voltage underground electricity cables are located within the proposed development site. Unimpeded access is to remain available to these assets 24 hours per day, 7 days per week up until the time they have been decommissioned. Prior to decommissioning all substation doors must be fully operable and accessible at all times and are not to be blocked by construction fencing / hoarding / construction materials / etc, and the finished surface levels over all associated electricity cables must not be altered.

The finished surface levels over the existing underground electricity cables within the public reserve at the Walker St and McLaren St frontages must not be altered or the land use changed from footway to roadway without permission from Ausgrid.

The developer will need to contact the Contestability Group on 8569 6727 or [contestability@ausgrid.com.au](mailto:contestability@ausgrid.com.au) as required to proceed with substation decommissioning and/or any cable relocation works.

The future supply of electricity to the proposed development will be dependant upon the proposed maximum demand of the development and the existing electrical loading of the surrounding area, and should not be assumed to be available until confirmed by Ausgrid.

(Reason: Ausgrid has infrastructure within site)

### Staged Construction

- C1. The works may be carried out in stages with the relevant conditions being satisfied prior to the issue of a construction certificate for each stage as follows:

Stage	Conditions to be satisfied
Prior to demolition of existing building and existing basement car parking,	B1, B2, C2, C8, C22, C30 and C36
Prior to bulk excavation of site, and below ground structure CC	C3, C4, C5, C6, C7, C10, C17, C33, C34, C35 and C43
Prior to building construction CC	The remainder of C conditions

### Public Art

- D5. The Public Art Strategy submitted by Virginia Wilson Art shall be amended in consultation with Council's Arts and Culture Co-ordinator to include:

- A response to the broader location, whether it be the history of the site or the current wider urban form; and
- Engagement with the local community: the successful concept from the shortlisted artists shall be promoted to the wider community, prior to construction of the above ground works.

(Reason: To provide public art in consultation with the community)

### **Reason for approval**

The proposed modifications are considered to be generally consistent with the originally approved development application and s.4.55 of the EP & A Act 1979. Furthermore, the modifications do not result in any material amenity impact to adjoining properties or the surrounding area. The proposed modifications are consistent with the reasons for the granted of development consent to the originally approved development and is considered to be acceptable.

Having regard to the provisions of section 4.55 & 4.15(1) of the Environmental Planning and Assessment Act 1979, the proposed development as modified is substantially the same development as originally consented to. The application is therefore recommended for **approval**.

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

Notification was not required under Council's policy.

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) 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  
GEOFF MOSSEMENEAR  
EXECUTIVE PLANNER