

Original signed by George Youhanna on 2/5/2019

Aqualand North Sydney Lavender Development Pty Ltd
Level 47, 100 Barangaroo Avenue
BARANGAROO NSW 2000

D112/01
GJY (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 112/01/13 – APPROVAL**

Development Consent Number: **112/01/13**

Land to which this applies: 61 Lavender Street, Milsons Point
Lot No.: 2, DP: 549159

Applicant: Aqualand North Sydney Lavender Development Pty Ltd

Proposal: Section 4.55 application to modify DA112/01

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. **112/01/13** 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: -

Condition A1 to be modified 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	S	Basement B3	PTW	14/2/19
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)

Condition G1 to be deleted.

Condition H1 to be deleted.

Condition I3 to be modified as follows:

Space Enclosure & Allocation

- I3. (a) No parking spaces, or access thereto shall be constrained or enclosed without prior consent.
(b) All off-street carparking spaces are to be allocated in the Strata Plan-

(Reason: Compliance, Convenience)

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.

Reason for approval:

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 and the reduction in parking spaces to 96 spaces is satisfactory. The proposed height, bulk and scale are unchanged by the proposed modifications.

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 the modification application be approved and the relevant conditions modified.

How community views were taken into account:

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 **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.
- (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
**GEORGE YOUHANNA
EXECUTIVE PLANNER**