

Aqualand North Sydney Developments 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
SECTION 4.55 MODIFICATION 486/15/5 – APPROVAL**

Development Consent Number: 486/15/5

Land to which this applies: 168 Walker Street, North Sydney
Lot No.: 100, DP: 1172241

Applicant: Aqualand North Sydney Developments Pty Ltd

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

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. **486/15/5** 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, C36, C37, C40, C41, C45, G10, G13 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	F	Cover Sheet	Woods Bagot	21 October 2020
DA-1005	A	Demolition	Woods Bagot	22 December 2015
DA-1011	A	Site Plan	Woods Bagot	22 December 2015
DA-1206	A	B6 plan	Woods Bagot	21 October 2020
DA-1207	D	B3 – B5 plans	Woods Bagot	21 October 2020
DA-1208	D	B2 plan	Woods Bagot	21 October 2020

DA-1209	D	Lower Ground plan	Woods Bagot	21 October 2020
DA-1210	C	Upper Ground plan	Woods Bagot	21 October 2020
DA-1211	D	Commercial plan	Woods Bagot	21 October 2020
DA-1218	G	L02 - 08 plan	Woods Bagot	21 October 2020
DA-1219	D	L09 plan	Woods Bagot	21 October 2020
DA-1220	E	L10 – L22 plan	Woods Bagot	21 October 2020
DA-1232	F	L23 plan	Woods Bagot	21 October 2020
DA-1233	C	L24 plan	Woods Bagot	21 October 2020
DA-1234	F	L25 plan	Woods Bagot	21 October 2020
DA-1235	G	L26 plan	Woods Bagot	21 October 2020
DA-1236	B	L27 plan	Woods Bagot	21 October 2020
DA-1238	A	L29 plan + plant	Woods Bagot	21 October 2020
DA-1300	E	North elevation	Woods Bagot	21 October 2020
DA-1301	E	South elevation	Woods Bagot	21 October 2020
DA-1302	E	East elevation	Woods Bagot	21 October 2020
DA-1303	E	West elevation	Woods Bagot	21 October 2020
DA-1310	D	Site Section	Woods Bagot	21 October 2020
DA-1311	D	Site Long Section	Woods Bagot	21 October 2020
DA-9200	A	External Finishes	Woods Bagot	22 December 2015
L-DA-16	F	Landscape Masterplan	Turf	21 October 2020
L-DA-17	F	Lower ground	Turf	21 October 2020
L-DA-18	F	Upper ground	Turf	21 October 2020
L-DA-19	F	Design Sections	Turf	21 October 2020
L-DA-20	F	Design Sections	Turf	21 October 2020
L-DA-21	F	L26 rooftop	Turf	21 October 2020
L-DA-22	F	Rooftop sections	Turf	21 October 2020
L-DA-23	F	Sandstone cladding	Turf	21 October 2020
L-DA-24	F	Terrace pavement	Turf	21 October 2020
L-DA-25	F	Streetscape works	Turf	21 October 2020
L-DA-26	F	Materials	Turf	21 October 2020
L-DA-27	F	Ground level planting	Turf	21 October 2020

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

Section 7.11 Contributions

C33. A monetary contribution pursuant to the provisions of Section 7.11 of the Environmental Planning and Assessment Act 1979, in accordance with the North Sydney Council Section 7.11 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	\$20,156.02
Community Centres	\$170,238.97
Child Care Facilities	-
Library and Local Studies Acquisitions	\$30,180.63
Library Premises & Equipment	\$94,320.77
Multi-Purpose Indoor Sports Facility	\$19,785.11
Olympic Pool	\$64,435.96
Open Space Acquisitions	\$1,576,847.83
Open Space Increased Capacity	\$3,125,586.93
North Sydney Public Domain	-
Traffic Improvements	\$65,748.98
The total contribution is	<u>\$5,167,301.20</u>

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 7.11 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	\$17,200.00
Engineering Construction Bond	\$471,000.00
TOTAL BONDS	\$703,200.00

Note: The following fees applicable

Section 7.11 contributions \$5,167,301.20

(Reason: Compliance with the development consent)

Protection of Trees

C36. The following trees are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 – Protection of trees on development sites:

Species	Location	Height
<i>Tree 16 Cinnamomum camphora</i>	Near boundary with 54 McLaren St	18
<i>Tree 35 Agantis robusta</i>	Northern garden near boundary	22
<i>Trees 58-60 Platanus x hybrida</i>	Street trees on Walker St footpath	8, 9, 16

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.

Any tree(s) shown as being retained on the approved plans (regardless of whether they are listed in the above schedule or not) must be protected and retained in accordance with this condition.

(Reason: Protection of existing environmental and community assets)

Privacy

C39. The following privacy devices are to be provided:

- The level 9 communal room shall have fixed screening to a minimum height of 1.6m (from floor level) to the windows/doors to direct views to the Harbour and away from the RFB opposite.
- The level 9 balcony adjacent to the communal room shall be landscaped and non-trafficable to occupants of the building to ensure privacy to the residents opposite.

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 an adequate level of privacy is provided to properties opposite)

Adaptable Housing

C40. Sixty (60) 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 aging 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_05 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)

Approval for removal of Trees

C45. The following tree(s) are approved for removal in accordance with the development consent:

Tree	Tree Identification No Dwg L-DA-10	Location
<i>Banksia integrifolia</i>	1-2, 20-30, 63, 66	Southern garden, eastern gardens, driveway
<i>Ulmus parvifolia</i>	3, 14-15	Southern gardens
<i>Melaleuca quinquenervia</i>	4-6, 11-12, 64	Southern and eastern gardens
<i>Lophostemon confertus</i>	7	Southern gardens
<i>Ficus rubiginosa</i>	8	Southern gardens
<i>Banksia serrata</i>	9	Southern gardens
<i>Syzygium sp.</i>	10	Southern gardens
<i>Platanus x hybrida</i>	13, 17, 74	Western garden and McLaren St footpath
<i>Tristaniopsis laurina</i>	18-19	Western gardens
<i>Cinnamomum camphora</i>	31, 50-56	Western and eastern gardens
<i>Pheonix canariensis</i>	33	Western garden
<i>Araucaria heterophylla</i>	34	Western garden
<i>Celtis occidentalis</i>	46	Northern garden
<i>Pittosporum undulatum</i>	47,49	Northern garden
<i>Macadamia integrifolia</i>	48	Northern garden
<i>Lagunaria patersonia</i>	57	In garden near Walker St boundary
<i>Banksia integrifolia</i>	61-62	In garden near Walker Street boundary
<i>Olea sp.</i>	65	Corner Walker & McLaren St gardens
<i>Banksia integrifolia</i>	67-73	In garden on corner of Walker and McLaren Streets
<i>Elaeocarpus reticulatus</i>	75-77	In garden on McLaren St frontage

Removal or pruning of any other tree on the site is not approved, excluding species exempt under Council’s Tree Preservation Order.

Any tree(s) shown as being retained on the approved plans (regardless of whether they are listed in the above schedule or not) must be protected and retained in accordance with this condition.

(Reason: Protection of existing environmental and community assets)

Detailed Landscape Plan

C46. A detailed landscape plan shall be submitted to and approved by Council’s Landscape Development Officer prior to the issue of the Construction Certificate for the building construction. The landscape plan shall be for the whole site and be in accordance with the approved concept landscape plans.

The proposed garden beds on the SE corner of the site shall include additional canopy tree planting, to compensate for the removal of the Banksias. The detailed landscape plan shall indicate plant species, numbers and pot size.

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.

Note: A minimum of 21 days will be required for Council to assess the landscape plan. Early submission is recommended to avoid any delays in obtaining a Construction Certificate. A fee to cover cost of assessment (set out in Council's adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees.

(Reason: To ensure appropriate landscaping of the site)

Landscaping

G10. The landscaping shown in the approved landscape plans as amended by the detailed landscape plan required under condition C46:

L-DA-16	F	Landscape Masterplan	Turf	21 October 2020
L-DA-17	F	Lower ground	Turf	21 October 2020
L-DA-18	F	Upper ground	Turf	21 October 2020
L-DA-19	F	Design Sections	Turf	21 October 2020
L-DA-20	F	Design Sections	Turf	21 October 2020
L-DA-21	F	L26 rooftop	Turf	21 October 2020
L-DA-22	F	Rooftop sections	Turf	21 October 2020
L-DA-23	F	Sandstone cladding	Turf	21 October 2020
L-DA-24	F	Terrace pavement	Turf	21 October 2020
L-DA-25	F	Streetscape works	Turf	21 October 2020
L-DA-26	F	Materials	Turf	21 October 2020
L-DA-27	F	Ground level planting	Turf	21 October 2020

must be completed prior to the issue of the relevant Occupation Certificate.

(Reason: To ensure compliance)

Use of Car Parking Spaces

I2. A maximum of 362 car parking spaces shall be provided on site.

The spaces are to be allocated as follows:

- 352 spaces to residential apartments including 62 spaces to the 60 adaptable apartments
- 7 spaces to the commercial/retail
- 1 spaces for car wash bay
- 2 spaces for car share

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

Reason for approval:

The proposal was considered under the relevant Environmental Planning Instruments and policies including NSLEP 2013 and NSDCP 2013 and generally found to be satisfactory.

Council received three submissions that raised concerns about privacy, traffic and parking that have been discussed in this report and addressed with appropriate conditions of consent.

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 community views were taken into account:

The subject application was notified to surrounding properties and the Stanton precinct for 14 days where a number of issues were raised that have been addressed in this report and appropriate conditions of consent have been recommended to maintain the amenity of adjoining properties.

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.

- (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
GEOFF MOSSEMENEAR
EXECUTIVE PLANNER