

Aqualand Construction 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 - REFUSAL**

Development Number: 112/01/15

Land to which this applies: 61 Lavender Street, Milsons Point
Lot No.: 100, DP: 1250925

Applicant: Aqualand Construction Pty Ltd

Proposal: Modification of consent for conversion of a commercial building to a mixed use development – Extension of construction hours.

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. **112/01/15** 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 refused.

Reason for refusal:

- 1) The application for extended construction hours does not include the information required by P3 in section 11 Construction Management, in NSDCP 2013. In particular, the following information has not been provided:
 - a) A detailed management plan including the nature of the proposed works and how impacts will be mitigated;
 - b) Supporting traffic report demonstrating that the impacts on the community can be minimised; and
 - c) Details of how the extended works will be of benefit to the community and the environment generally.

- 2) In the absence of the information required by P3 in section 11 of NSDCP 2013, it has not been demonstrated that the proposed extended hours will not have an adverse impact on the adjoining residential dwellings.
- 3) The Construction Noise Vibration Management Plan - Extended Work Hours applies the background noise level of 56 dB(A) measured between 7.00am and 6.00pm. Background noise levels should be provided for the period between 6.00pm and 10.00pm, as it is considered likely that the background noise levels would be lower during this period.

How community views were taken into account:

The issues raised in submission have been considered in the assessment of this application. It is agreed that the background noise levels should be measured until 10pm.

It is noted that the application seeks approval for extended construction hours in relation to internal fitout works only, and subject to conditions to limit noise impacts to an acceptable level. Regardless, the application has not adequately addressed the requirements of P2 and P3 in section 11 of NSDCP 2013 and as such the application cannot be supported in its present form.

Any variation to the Development Consent can only be made with the written approval of the Council. Major variations will require a new or amended Development Consent.

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.

Section 4.55 of the Act confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court pursuant to Section 8.7 of the Environmental Planning and Assessment Act, 1979.

Endorsed for and on behalf of North Sydney Council

DATE

Signature on behalf of consent authority
**GEORGE YOUHANNA
EXECUTIVE PLANNER**