

**Annexure A****DETERMINATION OF APPLICATION FOR MODIFICATION OF DEVELOPMENT CONSENT**

**Modification Application No:** DA-416/2020/4

**Development Consent modified:** DA-416/2020

**Description of development to be carried out under the consent (as previously modified):** Demolition of the existing dwelling house at 117-119 O'Sullivan Road, Bellevue Hill NSW 2023 and construction of a seniors housing development comprising of 10 self-contained dwellings over part two, part three and part four storeys ((inclusive of roof level) and basement and lower ground parking levels for 21 on-site car spaces

**Address and particulars of title of land on which development to be carried out:** The land legally described as Lot 9 in Section 1 in Deposited Plan 5932 also known as 117-119 O'Sullivan Road, Bellevue Hill NSW 2023.

**Description of modification to the development consent:** Internal layout modifications, external modifications to façade, landscaping including spas, entrance, relocation of substation kiosk; reconfiguration of the basement to allow 2 additional parking spaces.

**Determination:**

1. Condition A9 is added as follows:

**A9. Approved Amended (section 4.55) Plans and Supporting Documents  
Filed and approved in proceedings in Land and Environment Court Proceedings  
2022/00054589.**

Reference	Description	Author/Drawn	Date(s)
LEC 03	Site & roof plan	Luigi Rosselli Pty Ltd	3/08/2022
LEC 04	Basement level plan		27/07/2022
LEC 05	Lower ground floor plan		27/07/2022
LEC 06 LEC 07	Ground floor plan		27/07/2022
LEC 08	First floor plan		27/07/2022
LEC 09	Attic floor plan		27/07/2022
LEC 10	Front fence elevation		19/07/2022
LEC 11 LEC 12	Elevation east		27/07/2022
LEC 13	Elevation south		27/07/2022
LEC 14	Elevation north		19/07/2022
LEC 15			

LEC_C.1.L	Elevation west		19/07/2022
LEC_C1..N	Long Section a		27/07/2022
LEC_C.1.H	Short Section b		27/07/2022
	Parking Exhaust		27/07/2022
	Storage		27/07/2022
	Sight Diagrams		27/07/2022
LEC_29	Plan_Basement - Services	Luigi Rosselli Pty Ltd	27/07/2022
LEC_30	Plan_Lower Ground - Services		27/07/2022
LEC_31	Plan_Ground - Services		17/10/2022
LEC_35	Street Front		27/07/2022
LEC_36	Street Front Sections		27/07/2022
0292r05v01	Further Parking Design Statement	PDC Consultants (Aust) Pty Ltd	27/02/2022
SRPT- 21154.02A	Structural Report	Lindsay & Associates Civil and Structural Consulting Engineers	12 October 2022
Ref 33492Slet	Geotechnical Advice	JK Geotechnics	12 October 2022

2. Condition C1.1(h) is amended as follows:

h) The privacy measures approved on the Land and Environmental Court Plans are to be implemented and details shown on the Construction Certificate Plans. Further, the following additional privacy measures are to be incorporated:

- Window openings 2.6, 2.8 and 2.19 are to be screened by fixed and inoperable shutters.
- Window opening 2.8 is to be screened by fixed upward screen louvre up to 1500mm (being at RL 16.55) and operable above;
- The Window opening to the bedroom 3 of Unit 7 (Unnumbered) is to be screened with fixed and inoperable shutters, and the window opening W3.6 is to be screened by fixed and inoperable shutters.
- Window opening 2.7 is to be screened by fixed upward screen louvre up to 1500mm (being at RL 19.62) and operable above.
- Architectural ground floor plans S456\_06 C are to be amended to detail restricted operable shutters to window opening 2.17 and 2.18 to match the detailing to the south elevation drawing S456\_11 C.
- All translucent glazing shall be glazing rather than translucent film

3. Condition C1.1(l) is deleted.

4. Condition C1.1(m) is deleted.

5. Condition C1.1(o) is deleted.

6. Condition C1.1(p) is deleted.

7. Condition C1.1(q) is deleted.

8. Condition C.13 (f) is deleted.

9. C.13(g) is amended as follows:

- (g) The car park is to provide 10 accessible parking spaces in accordance with AS 2890.6 and all vehicles are to enter and leave the car park in a forward direction ~~parking space No. 15 is to be a turning bay.~~

10. Condition D12 is amended as follows:

A significant subsidence or collapse of any one of the adjoining properties may have a severe impact in the Applicant's financial ability to personally pay for repairs. Accordingly, an insurance policy shall be purchased to cover any damage and up to full loss and re-instatement of the properties at 113 O'Sullivan Road, 115 O'Sullivan Road, 121 O'Sullivan Road, 10 Latimer Road and 12 Latimer Road. The policy shall cover any loss of access to these properties in the event the damage is so severe access is lost/significantly hampered the residents may need equivalent alternate accommodation during repairs/restitution. The cover shall be in the order of ~~20,000,000~~ 25,000,000 ~~(or an appropriately agreed amount between effected property owners and the Applicant)~~ dollars to ensure adequate cover for the benefit of any one or all the ~~owners~~ properties affected.

11. Condition H.6 is inserted as follows:

**H6. Positive Covenant for Mechanical Parking Installation & Work-As-Executed Certification of Mechanical Systems (Special Condition)**

On completion of construction work, mechanical parking installations are to be certified by a professional engineer with works-as-executed drawings supplied to the Principal Certifier detailing:

- a) Compliance with conditions of development consent relating to mechanical parking installation including car lift and traffic light system;
- b) That the works have been constructed in accordance with the approved design;
- c) A positive covenant pursuant to Section 88E of the Conveyancing Act 1919 must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions and for the on-going maintenance of the vehicle traffic light system incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered at the Land and Property Information NSW.

12. Condition I.1 is amended as follows:

The owner and occupier, in compliance with AS2890.3:1993 2015 Parking Facilities - Bicycle Parking Facilities, and AS/NZS 2890.1:2004: Parking Facilities - Off-Street Car Parking, must maintain unimpeded public access to off-street parking as follows:

Use	Number of spaces
Vehicle parking (residents)	<del>48</del> <u>20</u>
Vehicle parking (visitors)	3
Bicycle parking	11
Motorbike parking	2

This condition has been imposed to ensure adequate on-site parking is maintained.

Standard Condition: I21

13. Condition I.3 is amended as follows:

**I.3 On-going Maintenance of the Mechanical Parking Installation Systems Including ~~Traffic Light~~ Car Lift System**

The Owner(s) must in accordance with this condition and any positive covenant:

Keep the systems clean and free of rubbish and debris;

Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner and in doing so complete the same within the time and in the manner reasonably specified in written notice issued by the Council;

Carry out the matters referred to in paragraphs (a) and (b) at the Owners expense;

Not make any alterations to the systems or elements thereof without prior consent in writing of the Council and not interfere with the systems or by its act or omission cause it to be interfered with so that it does not function or operate properly;

Permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant;

Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time reasonably stated in the notice;

Where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations;

Indemnify the Council against all claims or actions and costs arising from those claims or actions which Council may suffer or incur in respect of the systems and caused by an act or omission by the Owners in respect of the Owner's obligations under this condition.

This condition has been imposed to ensure that owners are aware of maintenance requirements for their mechanical systems.

Note: This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant.