

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

Modification Application No:	DA-494/2020/3
Development Consent modified:	DA-494/2020
Description of development to be carried out under the consent (as previously modified):	Demolition of a pair of semi-detached dwellings and double garages; construction of a new single dwelling and garage; modification of driveway crossing and new landscaping
Address and particulars of title of land on which development to be carried out:	The land legally described as Lot 135 in Deposited Plan 1269793 also known as 115 Victoria Road, Bellevue Hill NSW 2023.
Description of modification to the development consent:	Modifications to the approved new dwelling including increase to roof height, modifications to garage and additional various internal and external changes.

Determination:**1. The addition of the following conditions****A.6 (b) Approved Amended (section 4.55) Plans and Supporting Documents**

Those acting upon or under this amended consent must carry out all work and maintain the use and works in accordance with the approved plans and supporting documents listed in the original consent, as amended by the amended architectural approved plans to which is affixed a Council stamp "Approved" and supporting documents as submitted by the Applicant listed below otherwise than modified by further condition(s).

Where the plans relate to amendments, alterations or additions only those works shown in colour or highlighted are approved.

Reference	Description	Author/Drawn	Date(s)
Drawing No. DA-01, Rev 6	Cover Page	Thomas Hamel & Associates	0
Drawing No. DA-04 Rev-6	Proposed Ground Floor Plan		6/10/2022
Drawing No. DA-05 Rev-6	Proposed Lower Ground Floor Plan		
Drawing No. DA-06 Rev-6	Proposed Attic Floor Plan		
Drawing No. DA-07 Rev-6	Proposed Roof Plan		
Drawing No. DA-10 Rev-6	Street Elevation and South West Elevation		
Drawing No. DA-11 Rev-6	North West Elevation		

Drawing No. DA-12 Rev-6	North East Elevation		
Drawing No. DA-13 Rev-6	South East Elevation		
Drawing No. DA-14 Rev-6	Section A-A		
Drawing No. DA-15 Rev-6	Section BB		
33540PN2let2	Geotechnical Letter	JK Geotechnics	14/10/2021
2020H0183	Stormwater Plans	Partridge Hydraulic Services	29/10/2021
SW(S4.55) 2.1 P1			29/10/2021
SW(S4.55) 2.2 P1			29/10/2021
SW(S4.55) 2.3 P1			29/10/2021
SW(S4.55) 2.4 P1			29/10/2021
SW(S4.55) 2.5 P1			29/10/2021

Note: These plans and supporting documentation may be subject to conditions modifying the development imposed under section 4.17(1)(g) of the *Act* (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)
Standard Condition: A6 (Autotext AA6)

A.7 No Underpinning works

This development consent does **NOT** give approval to any works outside the boundaries of the subject property including any underpinning works to any structures on adjoining properties.

A.8 Development Consent is Not Granted in Relation to these Matters

This approval does not give consent to the building works and excavation associated with the geothermal plant room and drainage void (as shown on Drawing No. DA05_Rev 6) and now labelled sauna, steam shower, gym/spa room (as shown on Drawing No. DA.05 Rev 4 of the amended architectural drawings).

Any unauthorised building works are to be the subject of a building certificate application to Council under Section 6.26 of Environmental Planning and Assessment Act 1979.

Standard Condition: A9 (Autotext AA9)

E.27 Driveway Installation between Trees 1 and 2

A qualified Arborist (minimum AQF Level 5) shall supervise installation of the new driveway and crossover between Trees 1 and 2. This includes excavation, form works and any disturbance to the ground between the trees.

Installation of the driveway including excavation and formwork shall ensure tree sensitive methods are undertaken during the works. This must include hand excavation, small hand tools such as mattocks or using compressed air or water jetting only be used for excavation of the driveway and crossover and ensure tree roots equal to or greater than 100mm in diameter are not damaged or severed during the works.

Approval is not granted for the severance, damaging, pruning or removal of any tree roots equal to or greater than 40mm in diameter. The design and installation of the driveway and crossover shall be amended to ensure all tree roots equal to or greater than 40mm diameter are retained.

Exposed roots to be retained shall be covered with mulch or a geotextile fabric and kept in a moist condition and prevented from drying out.

All root pruning must be undertaken in accordance with the Australian Standard 4373 "Pruning of Amenity Trees" and carried out by a qualified Arborist (minimum qualification of Australian Qualification Framework Level 5 or recognised equivalent).

The project arborist shall document compliance with the above condition.

C.13 Engineer Certification

This development consent does NOT give approval to any works outside the boundaries of the subject property including any underpinning works to any structures on adjoining properties.

Any structural design is not to incorporate any underpinning works which encroaches outside the boundaries of the subject property. Engineer certification to this effect shall be submitted to the Certifying Authority prior to issue of any Construction Certificate.

I.5 Noise from Mechanical Plant and Equipment

The noise level measured at any boundary of the site at any time while the mechanical plant and equipment is operating must not exceed the *background noise level*. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed *background noise level* at any time.

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the $L_{A90, 15 \text{ minute}}$ level measured by a sound level meter.

Note: This condition has been imposed to protect the amenity of the neighbourhood.

Note: Words in this condition have the same meaning as in the *Noise Policy for Industry* (2017) [www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-\(2017\)](http://www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017)) and *Noise Guide for Local Government* (2013) www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government
Standard Condition: I59

2. The modification of the following conditions:

A.5 Tree Preservation & Approved Landscaping Works

All landscape works shall be undertaken in accordance with the approved landscape plan, arborist report, tree management plan and transplant method statement as applicable.

a) The following trees may be removed:

Council Ref No.	Species	Location	Dimension (metres)
3	Agonis flexuosa	Front Yard	9 x 5

6	Pittosporum undulatum	Rear Yard	4 x 3
---	-----------------------	-----------	-------

Note: Tree/s to be removed shall appear coloured red on the construction certificate plans.
 *This species is exempt from the WMC DCP Chapter E.3 - Tree Management and can be removed without consent.

B.4 Establishment of Tree Protection Zone (TPZ) Fence

Tree Protection Zones shall be established around all trees to be retained and in accordance with Section 4 of the *Australian Standard Protection of Trees on Development Sites* (AS 4970- 2009). Tree protection zones must also comply with the following requirements:

a) Tree Protection Zone areas

Council Ref No.	Species	Tree Location	Fence Radius from Centre of Trunk (Metres) / Specification
1	<i>Lophostemon confertus</i> (Brush Box)	Street tree. As plotted on the Myles Baldwin Design – <i>Existing Tree Plan</i> referenced 50 DA 03	Erect fencing in accordance with the submitted Tree Wise Men Tree Protection Plan Drawing referenced 2697TPP (drawings 1 & 2).
2	<i>Lophostemon confertus</i> (Brush Box)	Street tree. As plotted on the Myles Baldwin Design – <i>Existing Tree Plan</i> referenced 50 DA 03	Erect fencing in accordance with the submitted Tree Wise Men Tree Protection Plan Drawing referenced 2697TPP (drawings 1 & 2).

Note: Where this condition relates to street trees and the fence cannot be placed at the specified radius, the fencing shall be positioned so that the entire verge (nature strip) area in front of the subject property, excluding existing driveways, footpaths and bus stops is protected.

Note: Where this condition relates to trees on private property the radial distance of fencing shall be positioned only within the subject property.

- b) Tree Protection Zones shall be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence shall be established prior to any materials being brought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm. The soil within the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.
- c) Trunk protection shall be installed around the trunks of the following trees:

Council Ref No.	Species
1	<i>Lophostemon confertus</i> (Brush Box)
2	<i>Lophostemon confertus</i> (Brush Box)

Trunk protection shall consist of a padding material such as hessian or thick carpet underlay wrapped around the trunk. Hardwood planks (50mm x100mm or similar) shall be placed over the padding and around the trunk of the tree at 150mm centres. The planks shall be secured with 8 gauge wire at 300mm spacing. Trunk protection shall extend a minimum height of 2 metres or to the maximum possible length permitted by the first branches.

- d) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site.
- e) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in Condition B.2 of this consent.
- f) Temporary access within the TPZ for pedestrian and machinery movements shall only be permitted with the approval of the site arborist or unless specified in this consent.
- g) The site foreman must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.
- h) The project arborist shall provide written certification of compliance with the above condition.

B.5 Permissible work within Tree Protection Zones

The following works are permissible within the Tree Protection Zone:

Council Ref No.	Species	Approved works
1	<i>Lophostemon confertus</i> (Brush Box)	Demolition of existing driveway, garage and front wall; Construction of new front boundary wall.
2	<i>Lophostemon confertus</i> (Brush Box)	Demolition of the existing boundary wall. Excavation to accommodate the proposed driveway and garage undertaken utilising hand excavation.

The project arborist shall provide written certification of compliance with the above condition.

E.8 Hand excavation within tree root zones

Excavation of natural soil areas undertaken within the specified radius from the trunks of the following trees shall be hand dug.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
1	<i>Lophostemon confertus</i> (Brush Box)	Street tree. As plotted on the Myles Baldwin Design – <i>Existing Tree Plan</i> referenced 50_DA_03	5.6 metres
2	<i>Lophostemon confertus</i> (Brush Box)	Street tree. As plotted on the Myles Baldwin Design – <i>Existing Tree Plan</i> referenced 50_DA_03	7.3 metres
4	<i>Camellia sasanqua</i> (Camellia)	As plotted on the Myles Baldwin Design – <i>Existing Tree Plan</i> referenced 50_DA_03	3.6 metres
5	<i>Dracaena marginata</i> (Red-edged Dracaena)	As plotted on the Myles Baldwin Design – <i>Existing Tree Plan</i> referenced 50_DA_03	4.2 metres

11	<i>Rothmannia globosa</i> (Tree Gardenia)	Neighbouring property at 117 Victoria Road. As plotted on the Myles Baldwin Design – <i>Existing Tree Plan</i> referenced 50_DA_03	3 metres
12	<i>Camellia japonica</i> (Camellia)	Neighbouring property at 117 Victoria Road. As plotted on the Myles Baldwin Design – <i>Existing Tree Plan</i> referenced 50_DA_03	2.4 metres
13	<i>Persea americana</i> (Avocado)	Neighbouring property at 117 Victoria Road. As plotted on the Myles Baldwin Design – <i>Existing Tree Plan</i> referenced 50_DA_03	2.6 metres
14	<i>Camellia japonica</i> (Camellia)	Neighbouring property at 117 Victoria Road. As plotted on the Myles Baldwin Design – <i>Existing Tree Plan</i> referenced 50_DA_03	2.4 metres

Small hand tools such as mattocks or using compressed air or water jetting only shall be used. Roots with a diameter equal to or in excess of 50mm shall not be severed or damaged unless approved in writing by the project arborist.

Mechanical excavation is permitted beyond this radius when root pruning by hand along the perimeter line is completed. Exposed roots to be retained shall be covered with mulch or a geotextile fabric and kept in a moist condition and prevented from drying out.

All root pruning must be undertaken in accordance with the Australian Standard 4373 “Pruning of Amenity Trees” and carried out by a qualified Arborist (minimum qualification of Australian Qualification Framework Level 5 or recognised equivalent).

The project arborist shall document compliance with the above condition.

E.9 Footings in the vicinity of trees

Where excavation for new footings for any structure exposes tree roots greater than 50 mm in diameter within the specified radius from the trunks of the following trees, footings shall be constructed utilising an isolated pier and beam system.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
1	<i>Lophostemon confertus</i> (Brush Box)	Street tree. As plotted on the Myles Baldwin Design – <i>Existing Tree Plan</i> referenced 50_DA_03	5.6 metres
2	<i>Lophostemon confertus</i> (Brush Box)	Street tree. As plotted on the Myles Baldwin Design – <i>Existing Tree Plan</i> referenced 50_DA_03	7.3 metres
11	<i>Rothmannia globosa</i> (Tree Gardenia)	Neighbouring property at 117 Victoria Road. As plotted on the Myles Baldwin Design – <i>Existing Tree Plan</i> referenced 50_DA_03	3 metres
12	<i>Camellia japonica</i> (Camellia)	Neighbouring property at 117 Victoria Road. As plotted on the Myles Baldwin Design – <i>Existing Tree Plan</i> referenced 50_DA_03	2.4 metres
13	<i>Persea americana</i> (Avocado)	Neighbouring property at 117 Victoria Road. As plotted on the Myles Baldwin Design – <i>Existing Tree Plan</i> referenced 50_DA_03	2.6 metres

14	<i>Camellia japonica</i> (Camellia)	Neighbouring property at 117 Victoria Road. As plotted on the Myles Baldwin Design – <i>Existing Tree Plan</i> referenced 50 DA 03	2.4 metres
----	--	--	------------

Excavations for installation of piers shall be located so that no tree root with a diameter equal to or in excess of 50mm is severed or damaged. The smallest possible area shall be excavated which allows construction of the pier. The beam is to be placed a minimum of 100mm above ground level and is to be designed to bridge all tree roots with a diameter equal to or in excess of 50mm.

The project arborist shall document compliance with the above condition.

C.1 Modification of Details of the Development (section 4.17(1)(g) of the Act)

The approved plans and the Construction Certificate plans and specification, required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation*, must detail the following amendments:

- a) **Deleted.**
- b) Trees 4 and 5 must be depicted to be either removed completely or transplanted from their existing location to a suitable deep soil location within the site.
- c) To compensate for the removal of Trees 4 and 5 from their current location 2 x replacement trees must be depicted to be planted in the vicinity of their current location. Replacement trees must have the potential to grow to minimum dimensions at maturity of 5 metres in height and 3 metres in width and be planted in 75 litre container size at the time of planting.
- d) **Deleted.**
- e) **Approved rear landscaping in that area hatched to the approved lower ground floor plan (Drawing DA-05_Rev-4) is to be maintained in accordance with the annotation contained on the plan as follows: *Planting height restricted to RL 82.60 within hatched zone.***
- f) **Deleted.**
- g) **Window W103, W104 & W1.08 shall incorporate either fixed translucent glazing or fixed angled privacy louvers to a minimum height of 1.6m above respective finished floor level.**
- h) **Deleted.**
- i) **To achieve an acceptable streetscape outcome no approval is granted for the following:**
 - **Deleted**
 - **Any modification to the height of the front fence which shall not exceed the height of the approved front fence under DA 2020/494/2.**
- j) **Deleted**
- k) **Deleted**

Note: The effect of this condition is that it requires design changes and/or further information to be provided with the Construction Certificate drawings and specifications to address specific issues identified during assessment under section 4.15 of the *Act*.

Note: Clause 146 of the *Regulation* prohibits the issue of any Construction Certificate subject to this condition unless the Certifying Authority is satisfied that the condition has been complied with.

Note: Clause 145 of the *Regulation* prohibits the issue of any Construction Certificate that is inconsistent with this consent.

Standard Condition: C4 (Autotext CC4)

C.4 Road and Public Domain Works

A separate application under Section 138 of the *Roads Act* 1993 is to be made to, and be approved by Council as the road authority, for the following infrastructure works prior to issue of any Construction Certificate. Detailed engineering drawings prepared by a suitably qualified and experienced civil engineer for the following infrastructure works which must be carried out at the applicant's expense:

- a) The removal of the existing vehicular crossing including layback and gutter and the construction of a new 6.5 metres wide vehicular crossing in accordance with Council's Crossing Specification, Standard Driveway Drawing RF2_D and to the satisfaction of Council's Assets Engineer. The new crossing shall be constructed at right angle to the street kerb in plain concrete where the centreline of the new crossing shall be aligned with the centreline of the garage door. Design longitudinal surface profile along each edge/side of the new vehicular crossing, starting from the centreline of the road pavement to the parking slab must be submitted for assessment.
- b) The reinstatement of all damaged kerb and gutter, footpath and road pavement to the satisfaction of Council's Assets Engineer.
- c) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf.

Note: To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds.

Note: *Road* has the same meaning as in the *Roads Act* 1993.

Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any *Construction Certificate*. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Roads Act* 1993 approvals may necessitate design and levels changes under this consent. This may in turn require the applicant to seek to amend this consent.

Note: See condition K24 in *Section K. Advisings* of this Consent titled *Roads Act Application*.
Standard Condition: C13 (Autotext CC13)

C.10 Stormwater Management Plan

The *Construction Certificate* plans and specifications, required by clause 139 of the *Regulation*, must include a *Stormwater Management Plan* for the site. The *Stormwater Management Plan* must detail:

- a) General design in accordance with stormwater plans, prepared by Partridge Hydraulic Services, referenced 2020H0183, dated 29/10/2021, other than amended by this and other conditions;
 - 1) The invert level of the rainwater tank overflow must be designed at least 100mm above the top water level of the pumpout tank.
- b) The installation of 17.5m³ rainwater tank which is to be connected for non-potable uses such as toilet flushings, laundry devices and garden irrigations. Overflow from the rainwater tank shall be directed to the proposed 14m³ pumpout tank;
- c) Compliance the objectives and performance requirements of the BCA;
- d) No subsoil drainage shall be directed to the street drainage system;
- e) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

The *Stormwater Management Plan* must also include the following specific requirements:

Layout plan

A detailed drainage plan at a scale of 1:100 based on drainage calculations prepared in accordance with the Institute of Engineers Australia publication, *Australian Rainfall and Run-off*, 1987 edition or most current version thereof. It must include:

- a) All pipe layouts, dimensions, grades, lengths and material specification,
- b) Location of proposed rainwater tanks,
- c) All invert levels reduced to Australian Height Datum (AHD),
- d) Location and dimensions of all drainage pits,
- e) Point and method of connection to Council's drainage infrastructure, and
- f) Overland flow paths over impervious areas.

Rainwater Reuse System details:

- a) Any potential conflict between existing and proposed trees and vegetation,
- b) Internal dimensions and volume of the proposed rainwater storage,
- c) Plans, elevations and sections showing the rainwater tanks, finished surface level and adjacent structures,
- d) Details of access and maintenance facilities,
- e) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products,
- f) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the rainwater tanks,

Note: This Condition is imposed to ensure that site stormwater is disposed of in a controlled and sustainable manner.

Note: The collection, storage and use of rainwater is to be in accordance with *Standards Australia HB230-2008 "Rainwater Tank Design and Installation Handbook"*.

C.3 BASIX Commitments

The Applicant must submit to the Certifying Authority BASIX Certificate 1222538S_03 with any application for a Construction Certificate.

Note: Where there is any proposed change in the BASIX commitments the Applicant must submit of a new BASIX Certificate to the Certifying Authority and Council. If any proposed change in the BASIX commitments is inconsistent with development consent (see: clauses 145 and 146 of the *Regulation*) the Applicant will be required to submit an amended development application to Council pursuant to section 4.55 of the *Act*.

All commitments in the BASIX Certificate must be shown on the Construction Certificate plans and specifications prior to the issue of any Construction Certificate.

Note: Clause 145(1)(a1) of the *Environmental Planning and Assessment Regulation 2000* provides: "A certifying authority must not issue a Construction Certificate for building work unless it is satisfied of the following matters: (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires".

Standard Condition: C7

H.1 Fulfillment of BASIX Commitments – clause 154B of the *Regulation*

All BASIX commitments must be effected in accordance with the BASIX Certificate 1222538S_03.

Note: Clause 154B(2) of the *Environmental Planning and Assessment Regulation 2000* provides: "A *certifying authority* must not issue a final Occupation Certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."
Standard Condition: H7 (Autotext HH7)

I.1 Maintenance of BASIX Commitments

All BASIX commitments must be maintained in accordance with the BASIX Certificate 1222538S_03.

Note: This condition affects successors in title with the intent that environmental sustainability measures must be maintained for the life of development under this consent.
Standard Condition: I24

1.