

Annexure A

DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF CONSENT

Development Application No: DA18/2022/1

Development: To amend Development Consent No. DA206/2019, involving a change of use from an approved 6 unit apartment building to a new single dwelling and associated works.

Site: 11 – 13 Buller Street, Bellevue Hill (Lots 10 and 11 in Deposited Plan 979515)

The above development application has been determined by the granting of consent subject to the conditions specified in this consent.

Date of determination: 23 June 2022

Date from which consent takes effect: Date of determination.

TERMINOLOGY

In this consent:

- (a) Any reference to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to such a certificate as defined in the *Environmental Planning and Assessment Act 1979*.
- (b) Any reference to the “applicant” means a reference to the applicant for development consent or any person who may be carrying out development from time to time pursuant to this consent.
- (c) Any reference to the “site”, means the land known as 11 – 13 Buller Street, Bellevue Hill (Lots 10 and 11 in Deposited Plan 979515).

The conditions of consent are as follows:

A. General Conditions

A.1 Conditions

Consent is granted subject to the following conditions imposed pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* ("the *Act*") and the provisions of the *Environmental Planning and Assessment Regulation 2000* ("the *Regulation*") such conditions being reasonable and relevant to the development as assessed pursuant to section 4.15 of the *Act*.

Standard Condition: A1 (Autotext AA1)

A.2 Definitions

Unless specified otherwise, words have the same meaning as defined by the *Act*, the *Regulation* and the *Interpretation Act 1987* as in force at the date of consent.

Applicant means the applicant for this consent.

Approved Plans mean the plans endorsed by Council referenced by this consent as amended by conditions of this consent.

AS or ***AS/NZS*** means Australian Standard® or Australian/New Zealand Standard®, respectively, published by Standards Australia International Limited.

BCA means the Building Code of Australia as published by the Australian Building Codes Board as in force at the date of issue of any Construction Certificate.

Council means Woollahra Municipal Council

Court means the Land and Environment Court

Local native plants means species of native plant endemic to Sydney's eastern suburbs (see the brochure titled "Local Native Plants for Sydney's Eastern Suburbs" published by the Southern Sydney Regional Organisation of Councils).

Stormwater drainage system means all works, facilities and documentation relating to:

- the collection of stormwater,
- the retention of stormwater,
- the reuse of stormwater,
- the detention of stormwater,
- the controlled release of stormwater; and
- connections to easements and public stormwater systems.

Owner means the owner of the *site* and successors in title to the *site*.

Owner-builder has the same meaning as in the *Home Building Act 1989*.

PC means the Principal Certifier under the *Act*.

Principal Contractor has the same meaning as in the *Act*, or where a Principal Contractor has not been appointed by the Owner of the land being developed Principal Contractor means the Owner of the land being developed.

Professional engineer has the same meaning as in the *BCA*.

Public place has the same meaning as in the *Local Government Act 1993*.

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

SEE means the final version of the Statement of Environmental Effects lodged by the Applicant.

Site means the land being developed subject to this consent.

Woollahra LEP means *Woollahra Local Environmental Plan 2014*

Woollahra DCP means *Woollahra Development Control Plan 2015*

Work for the purposes of this consent means:

- the use of land in connection with development,
- the subdivision of land,
- the erection of a building,
- the carrying out of any work,
- the use of any site crane, machine, article, material, or thing,
- the storage of waste, materials, site crane, machine, article, material, or thing,
- the demolition of a building,
- the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- the delivery to or removal from the *site* of any machine, article, material, or thing, or
- the occupation of the *site* by any person unless authorised by an occupation certificate.

Note: Interpretation of conditions - Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.

Standard Condition: A2 (Autotext AA2)

A.3 Notice of Modification of DA 206/2019

Pursuant to section 4.17(5) of the *Environmental Planning and Assessment Act 1979*, a Notice of Modification of Development Consent DA 206/2019 in accordance with clause 97 of the *Environmental Planning & Assessment Regulation 2000* (**Notice of Modification**) is required to be delivered to Council prior to works commencing under this consent.

The Notice of Modification is to provide for DA 206/2019 to be modified in accordance with **Condition A.4** of this consent.

A.4 Modification of DA 206/2019

The consent granted to DA 206/2019 is required to be modified as follows:

Deletion of Conditions:

Conditions A.5, C.1(c), F.2, F.7, G.1 and I.1 are to be deleted.

Modification of Condition:

Condition C.5 is to be modified as follows:

C.5 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 the issuing of any Construction Certificate. The infrastructure works must be carried out at the applicant's expense:

Road & Footpath Works

- a) *The removal of all existing redundant vehicular crossings including layback and gutter and reinstated into Council's Standard kerb and gutter and nature strip as specified in the approved drawing no. 101 Rev-5 prepared by TORINEX Consulting Engineers and in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works.*
- b) *The construction of a new **3 metres** wide vehicular crossing in accordance with Council's standard driveway drawing RF2_D. The new crossing shall be constructed in plain concrete. The layout and levels of the new crossing shall be in accordance with the approved drawings no. 101 & 102 Rev-5 prepared by TORINEX Consulting Engineers. All existing levels across the nature strip must remain unaltered.*
- c) *The reconstruction of the existing 1.8m wide concrete footpath for the full frontage of the site in Buller Street to match the levels of the approved drawings no. 101 Rev-5, 104 Rev-3 & 105 Rev-2 prepared by TORINEX Consulting Engineers to Council's Specification.*
- d) *The relocation of the existing Telstra pit – The construction of the new 3 metres wide vehicular crossing will require the relocation of an existing Telstra pit. The new Telstra pit must be located at least 1 metre away from the proposed vehicular crossing to comply with Council's Crossing Specification.*
- e) ***Linear reflective strips/similar treatment be affixed to the power pole all around for better visibility in dark conditions.***
- f) *Full removal and reconstruction of the existing stairway leading to the roadway with new handrails in accordance with Council's Standard drawings MS1 & MS5 and Specification for Roadworks, Drainage and Miscellaneous Works.*
- g) *Reinstatement of all damaged road pavement, footpath, kerb and gutter to match existing and in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works.*
- h) *The developer shall be responsible for carrying out all service investigations to allow a gravity connection.*
- i) *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.*
- j) *Stormwater drainage connection to the back of Council's kerb as per the approved drawing no.102 Rev-1 prepared by TORINEX Consulting Engineers. The developer shall be responsible for carrying out all service investigations to allow a gravity connection.*

Bond

- a) *A bond of \$14,650 will be used as security to ensure the satisfactory completion of the infrastructure works. The security or bank guarantee must be the original unconditional bank guarantee with no expiry date.*
- b) *Council may use all or part of the Infrastructure Bond as well as the Property Damage Security Deposit to meet the cost of removing or*

completing the works if they do not meet Council's requirements.

- c) The Deposit/Bond will not be released until Council has inspected the site and is satisfied that the Works have been completed in accordance with Council approved drawings and to Council requirements

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. Advising of this Consent titled Roads Act Application.
Standard Condition: C13 (Autotext CC13)

Deletion and Replacement of Conditions:

Condition A.3 is to be deleted and replaced with new condition A.3 as follows:

A.3 Approved Plans and Supporting Documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp "Approved" and supporting documents listed below as submitted by the Applicant unless modified by any following condition.

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

Reference	Description	Author/Drawn	Date(s)
Dwg. No.	Architectural Plans	<i>All prepared by Bureau SRH</i>	
DA051 C	Site Plan & Site Analysis Plan		07.06.2022
DA101 A	Basement Floor		17.12.2021
DA102 B	Ground Floor		24.05.2022
DA103 C	First Floor		07.06.2022
DA104 C	Second Floor		01.06.2022
DA105 D	Roof		07.06.2022
DA200 D	Elevation North - West		07.06.2022
DA201 D	Elevation South - East		07.06.2022
DA300 D	Sections		07.06.2022
DA550 A	West Elevation Materials Schedule		07.06.2022
DA 900 A, DA901 A, DA902 A	Landscape Plan	<i>All prepared by Bureau SRH</i>	<i>All dated 17.12.2021</i>
1269404S_02	BASIX Certificate	<i>NSW Department of Planning, Industry and Environment</i>	<i>20.06.2022</i>
2000202 STW-000-Rev 1 STW-101-Rev 2 STW-102-Rev 2 STW-103-Rev 2 STW-104-Rev 2 STW-105-Rev 2 STW-301-Rev 1 STW-302-Rev 2 STW-303-Rev 2	Stormwater Management Plan	<i>Torinex Consulting Engineers</i>	<i>10/12/21 17/12/21 17/12/21 17/12/21 17/12/21 17/12/21 10/12/21 17/12/21 16/12/21</i>

Reference	Description	Author/Drawn	Date(s)
21-171	Traffic & Parking Impact Assessment	Stanbury Traffic Planning	December 2021
DA Guide – Attachment 1	Site Waste Minimisation and Management Plan	Rosana J. Kusuma	17/12/2021
32208PNrpt	Geotechnical Investigation Report	JK Geotechnics	18 Mar 2019
V2 Final	Excavation Methodology Report	Structural Holdings P/L	03.06.2019
Issue 5	Traffic Impact Assessment	PTC Consultants	6 Jun 2019
Unreferenced	Updated Car Park Design Certification – Letter + Swept Path Analysis	PTC Consultants	12 Mar 2020
Ref Number: 700006567	Ausgrid Power Pole Relocation approval (Preliminary Enquiry)	Ausgrid	24.03.2020
Project Number: 39210	MEMO – Telstra Scope of Works (Relocation of pits)	Wood & Grieve Engineers	26 July 2029
DWG NO. 00 to 15 (Rev B)	Landscape Plan	CTLA Landscape Architects	Mar 2020 (Issue B)
Issue A	Root Mapping Investigation (Brushbox Tree)	Landscape Matrix	11 Jul 2019
Project No. 217094 (Rev P1)	Memorandum Arborist Advice – Root Mapping	Rothelowman	29/07/2019
Job Number: 8121 ADR_8121_v1.1	Accessibility Design Review – DA Review	ABE Consulting	05 Jun 2019
Final – updated plans Rev 2	BCA Capability Statement	MBC Modern Building Certifiers	06 Jun 2019
No reference	Site Waste Minimisation and Management Plan (title: <i>Operational, Construction and Demolition Waste Management Plan</i>)	Waste Audit and Consultancy Services	March 2019

Note: Warning to Accredited Certifiers – You should always insist on sighting the original Council stamped approved plans. You should not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plan.

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

Standard Condition: A5 (Autotext AA5)

Condition C.4 is to be deleted and replaced with new condition C.4 as follows:

C.4 BASIX Commitments

The Applicant must submit to the Certifying Authority BASIX Certificate No. 1269404S_02 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 are 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

Condition C.11 is to be deleted and replaced with new condition C.11 as follows:

C.11 Car Parking Details

The Construction Certificate plans and specifications required by clause 139 of the Regulation, must include detailed plans and specifications for any car parking demonstrating compliance with AS/NZS 2890.1:2004 : Parking Facilities - Off-Street Car parking showing the following:

- a) *Pursuant to Clause 3.2.4 of AS2890.1, a 2m x 2.5m splay, clear of obstructions to visibility, shall be provided at the driveway exit in order to ensure adequate sight lines are provided to pedestrians in the frontage footpath and vehicles in the frontage road. As such, these splay areas must be kept clear from any obstructions to visibility to comply with Clause 3.2.4 of AS2890.1. This sight splays must be clearly depicted on the architectural drawing.*

Access levels and grades must comply with access levels and grade required by Council under the Roads Act 1993.

The Certifying Authority has no discretion to reduce or increase the number and/or area of car parking and/or the model of the car stacker system required to be provided and maintained by this consent.

Standard Condition: C45 (Autotext: CC45)

Condition C.12 is to be deleted and replaced with new condition C.12 as follows:

C.12 Stormwater Management Plan

Prior to issue of any Construction Certificate, the applicant must submit, for approval by the Certifying Authority, detailed stormwater management plans prepared by a suitably qualified and experienced civil engineer, which include the following:

- a) *General design in accordance with stormwater management plans, referenced 2000202, dated 17/12/2021, prepared by Torinex Consulting Engineers, other than amended by this and other conditions;*
- b) *the discharge of stormwater from the site to Council's kerb and gutter located within the frontage of the site;*
- c) *All below ground is to be fully tanked or appropriately design to ensure subsoil drainage/seepage water is NOT to be collected and directed to kerb and gutter to comply with Chapter E2.2.5 of Council's DCP;*
- d) *Provision of a basement pump out system to collect surface runoff from the proposed driveway. The storage capacity and the pumpout system shall be designed to comply with Section 8.5.6 of AS3500.3 and in any case it shall be not less than 3m³. Full supporting calculations and details of the proposed pumpout system shall be clearly depicted on the revised stormwater plans.*
- e) *The installation of proprietary 3 x 460mm PSORB Stormfilter cartridges and Enviropod 200 by Ocean Protect to achieve the water quality targets for stormwater treatment system stipulated in Chapter E2.2.3 of Council's DCP;*
- f) *Compliance the objectives and performance requirements of the BCA;*

- g) *General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.*

OSD Requirements

The minimum Site Storage Requirements ("SSR") for the proposed on-site detention system shall be 23.2m³. The Permissible Site Discharge (PSD) discharging to the kerb and gutter must not exceed 19 l/s.

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 Councils drainage infrastructure, and*
- f) Overland flow paths over impervious areas.*

On-site Detention (OSD) details:

- a) Any potential conflict between existing and proposed trees and vegetation,*
- b) Internal dimensions and volume of the proposed detention storage,*
- c) Diameter of the outlet to the proposed detention storage basin,*
- d) Plans, elevations and sections showing the detention storage basin invert level, centre-line level of outlet, top water level, finished surface level and adjacent structures,*
- e) Details of access and maintenance facilities,*
- f) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products,*
- g) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the on-site detention system,*
- h) Non-removable fixing details for orifice plates where used,*

Where any new Stormwater Drainage System crosses the footpath area within any road, separate approval under section 138 of the Roads Act 1993 must be obtained from Council for those works prior to the issue of any Construction Certificate.

All Stormwater Drainage System work within any road or public place must comply with Woollahra Municipal Council's Specification for Roadworks, Drainage and Miscellaneous Works (2012).

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".*
Standard Condition: C.51 (Autotext CC51)

Condition H.1 is to be deleted and replaced with new condition H.1 as follows:

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

All BASIX commitments must be effected in accordance with the BASIX Certificate No. 1269404S_02.

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)

Condition I.2 is to be deleted and replaced with new condition I.2 as follows:

I.2 Provision of Off-Street Parking

The owner and occupier, in compliance with AS 2890.1:2004 Parking facilities - Off-street car parking, must maintain access to off-street parking as follows:

<i>Use</i>	<i>Number of spaces</i>
<i>Resident parking</i>	<i>6 (total)</i>

This condition has been imposed to ensure adequate on-site parking is maintained.
Standard Condition: I21

Condition I.4 is to be deleted and replaced with new condition I.4 as follows:

I.4 Maintenance of BASIX Commitments

All BASIX commitments must be maintained in accordance with the BASIX Certificate No. 1269404S_02.

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