

Annexure A

DETERMINATION OF APPLICATION FOR MODIFICATION OF DEVELOPMENT CONSENT

Modification Application No:	DA/353/2021/2
Development Consent modified:	DA353/2021/1
Description of development to be carried out under the consent (as previously modified):	Construction of a new dwelling with swimming pool
Address and particulars of title of land on which development to be carried out:	Lot 1 DP 538009 known as 36 Beresford Road, Rose Bay
Description of modification to the development consent:	Modifications to the approved scheme including the modification of Conditions A.3, C.2, C.4, H.1 and 1.1 and the deletion of Conditions C.2(a), (b), (c) and (d) of the Development Consent

Determination: The development consent is modified as follows:

1. The following conditions are added:

A.6 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 alterations or additions only those works shown in colour or highlighted are approved.

<u>Reference</u>	<u>Description</u>	<u>Author/Drawn</u>	<u>Date(s)</u>
<u>A0002 Issue D</u>	<u>Site Plan / CMP / SCP</u>	<u>MAP ARCHITECTS</u>	<u>20.07.23</u>
<u>A2100, Issue D</u>	<u>Basement Plan</u>		
<u>A2101, Issue D</u>	<u>Ground Floor Plan</u>		
<u>A2102, Issue D</u>	<u>First Floor Plan</u>		
<u>A2103, Issue D</u>	<u>Second Floor Plan</u>		
<u>A2104, Issue D</u>	<u>Roof Plan</u>		
<u>A3100, Issue D</u>	<u>East Elevation</u>		
<u>A3101, Issue D</u>	<u>North Elevation</u>		
<u>A3102, Issue D</u>	<u>West Elevation</u>		
<u>A3103, Issue D</u>	<u>South Elevation</u>		
<u>A3200, Issue D</u>	<u>Section AA</u>		
<u>A3201, Issue D</u>	<u>Section BB</u>		
<u>A3202, Issue D</u>	<u>Section CC</u>		
<u>A3203, Issue D</u>	<u>Section DD</u>		
<u>A3204, Issue D</u>	<u>Section EE</u>		
<u>G21064RB-R03F</u>	<u>Geotechnical, Hydrogeological and Acid Sulfate Soil Investigation Report</u>	<u>Geo-environmental Engineering</u>	<u>11/10/2022</u>
<u>Nos. C1 to C4, Rev G</u>	<u>Landscape Plan</u>	<u>Contour Landscape Architecture</u>	<u>13/06/2023</u>

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)

This condition was added by the approval of DA/353/2021/2 by the LEC in proceedings 2023/00074031.

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 and Council's property.

This condition was added by the approval of DA/353/2021/2 by the LEC in proceedings 2023/00074031.

C.22 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 and Council's property.

Any structural design is not to incorporate any temporary or permanent underpinning works or ground anchors, bolts, etc which encroach outside the boundaries of the subject property. Engineer certification to this effect shall be submitted to the Certifying Authority prior to issue of any amended Construction Certificate.

This condition was added by the approval of DA/353/2021/2 by the LEC in proceedings 2023/00074031.

2. Modify conditions A.3, C.2, C.4, C.5, C.8, C.11, C.13, H.1 and I.1 to read 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)
A2100, Issue C	Basement Plan	MAP ARCHITECTS	26.05.22
A2101, Issue C	Ground Floor Plan		
A2102, Issue C	First Floor Plan		
A2103, Issue C	Second Floor Plan		
A2104, Issue C	Roof Plan		
A3100, Issue C	East Elevation		
A3101, Issue C	North Elevation		
A3102, Issue C	West Elevation		
A3103, Issue C	South Elevation		
A3200, Issue C	Section AA		
A3201, Issue C	Section BB		

A3202, Issue C	Section CC		
A3203, Issue C	Section DD		
A3204, Issue C	Section EE		
G21064RB-R02F	Geotechnical Report	Geo-environmental Engineering	11 Aug 2021
212049 000-B 201-B 202-B 203-B 204-B 205-B	Stormwater Management Plans	ACE Civil Stormwater Services P/L	06/09/2021
Nos. C1 to C4, Rev D	Landscape Plan	Contour Landscape Architecture	4/2/2022
HPE 22/23363	Arboricultural Impact Assessment Report	Michael Todd	2/2/2022

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)

This condition was modified by the approval of DA/353/2021/2 by the LEC in proceedings 2023/00074031.

C.2 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) ~~The areas of the proposed basement and ground levels shaded in red in the diagrams below, which includes the proposed 'store/plant' area and "entertainment/sitting" rooms must be deleted with all associated excavation similarly deleted and shall remain unexcavated.~~

Reason: ~~To minimise the non-compliance with Council's excavation controls C1 and C4 in Part B3.4.1 of the Woollahra DCP 2015.~~

- ~~b) The existing single garage at the northern end of the site and the area of the proposed basement level shaded in red in the diagram below must be deleted with all associated excavation similarly deleted and shall remain unexcavated and reinstated as deep soil area including the planting of no less than 3 canopy trees. **Details are to be submitted to Council and approved by Council's Tree Officer prior to the issue of a Construction Certificate.**~~

~~**Reason:** To minimise the non-compliance with Council's residential parking rates (Table 1) in Part E1.4.2 and Section B3.5.1 (Streetscape and Local Character) of the Woollahra DCP 2015.~~

- ~~c) Minimum dimensions of 5.4m x 5.4m, clear of any obstructions, shall be provided for the double garage to comply with AS2890.1. In this regard, the proposed hinged door shall either be swung outward or replaced with sliding door.~~
- d) In order to provide a compliance compliant on-street parking space of min. 5.4m in between the layback wings, the proposed crossing shall have a maximum width of 4.4 metres. The new crossings must be constructed at right angle to the street kerb to comply with Council's Crossing Specification. The layout of the vehicular crossings showing compliance of the above requirement shall be clearly depicted on the drawings.
- e) The Construction Certificate plans must clearly indicate the 2m radius area around Tree 6 to be retained with existing natural ground levels. ~~As such the conversation pit is to be deleted.~~
- f) In order to ensure sufficient soil is available for the long term viability of the proposed *Banksia integrifolia* in the entrance court, all CC plans must show a 5m x 3m elevated/retained garden bed (with min 600mm soil depth) included in that area.

Details are to be submitted to Council and approved by Council's Tree Officer prior to the issue of a Construction Certificate.

The garden bed will require fill consisting of a 50/50 mix of clean site soil and imported Organic Garden Mix. All mixes are to comply with *AS 4419 Soils for landscaping & garden use* & *AS 4454 Composts, Soil conditioners & mulches*.

- g) The stormwater plan will require amendment to remove all elements from an area within 2m of the centre of trunk of Tree 6.

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

This condition was modified by the approval of DA/353/2021/2 by the LEC in proceedings 2023/00074031.

C.4 BASIX Commitments

The Applicant must submit to the Certifying Authority BASIX Certificate No. 1230283S_03, dated 14 September 2022, 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

This condition was modified by the approval of DA/353/2021/2 by the LEC in proceedings 2023/00074031.

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:

1. Road & Footpath Works

- a) The removal of the existing single width and double width redundant vehicular crossings including layback and gutter and reinstate into Council's standard kerb and gutter and nature strip in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers.

- b) The removal of the existing vehicular crossings including layback and gutter and the construction of a new ~~4.5~~ 4.4 metres wide vehicular crossing in accordance with Council's standard drawing RF2_D, Crossing Specification and to the satisfaction of Council's Assets Engineers. The new vehicular crossing shall be constructed at right angle to the street kerb in plain concrete. The centreline of new crossing shall be aligned with the centreline of the double garage door. Design longitudinal surface profiles along each side/edge of each proposed vehicular crossing must be submitted for assessment.
- c) The reconstruction of the existing kerb and gutter including associated road restoration for the full frontage of the site in accordance with Council's standard drawing RF2_D, Crossing Specification and to the satisfaction of Council's Assets Engineers.
- d) 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.

2. Drainage Works

- a) The construction of a new kerb inlet pit (KIP) with a 1.8m precast lintel over the Council's underground drainage pipe for the proposed stormwater connection in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers. The new precast lintel shall be located at a minimum distance of 0.5m from any vehicular crossing.
- b) The developer shall be responsible for carrying out all service investigations to allow a gravity connection.

3. Bonds

- a) A bond of **\$21,150** 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 section K. *Advisings* of this consent titled *Roads Act Application*.

Standard Condition: C13

This condition was modified by the approval of DA/353/2021/2 by the LEC in proceedings 2023/00074031.

C.8 ~~Structural Adequacy of Existing Supporting Structures~~

~~A certificate from a professional engineer (structural engineer), certifying the adequacy of the existing supporting structure to support the additional loads proposed to be imposed by the development, must be submitted with the Construction Certificate application.~~

~~**Note:** This condition is imposed to ensure that the existing structure is able to support the additional loads proposed.~~

~~Standard Condition: C35~~

This condition was modified by the approval of DA/353/2021/2 by the LEC in proceedings 2023/00074031.

C.11 Ground Anchors

This development consent does NOT give approval to works or structures over, on or under public roads or footpaths ~~excluding minor works subject to separate Road Opening Permit~~ adjoining properties, public roads and/or footpaths. Prior written consent must be obtained from all relevant adjoining property owner(s) for the use of any Ground Anchors extending beyond the boundaries of the subject property.

The use of permanent ground anchors under Council land is not permitted. Temporary ground anchors under Council's land may be permitted, in accordance with Council's "Rock Anchor Policy", where alternative methods of stabilisation would not be practicable or viable, and where there would be benefits in terms of reduced community impact due to a shorter construction period, reduced disruption to pedestrian and vehicular traffic on adjacent public roads, and a safer working environment.

If temporary ground anchors under Council land are proposed, a separate application, including payment of fees, must be made to Council under Section 138 of the *Roads Act 1993*. Application forms and Council's "Rock Anchor Policy" are available from Council's website. Approval may be granted subject to conditions of consent. Minimum Four weeks should be allowed for assessment.

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: Clause 20 of the *Roads (General) Regulation 2000* prohibits excavation in the vicinity of roads as follows: “**Excavations adjacent to road** - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road.” Separate approval is required under the *Roads Act 1993* for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.

Standard Condition: C41 (Autotext: CC41)

This condition was modified by the approval of DA/353/2021/2 by the LEC in proceedings 2023/00074031.

C.13 Flood Protection

The Construction Certificate plans and specifications, required by clause 139 of the *Regulation*, must include a Flood Risk Management Plan on the basis of the Flood Planning Level (FPL) detailing:

- a) A permanent flood risk management plan shall be installed in a prominent area of the ~~both~~ garages.
- b) The Garage floors shall be at or above the flood planning level set at a minimum of 300mm above the adjacent kerb invert.
- c) Permanent plaques shall be mounted in a prominent position in the garages stating “The roadway frontage is subject to flooding take caution exiting and entering this garage after rain”.
- d) The garage floor level shall be graded up from the front to rear at minimum grade of 1%.
- e) Flood compatible materials shall be used for all flood exposed construction.
- f) All flood exposed electrical wiring and equipment is to be waterproofed.

Flood protection is to comply with Woollahra DCP 2015, Part E General Controls for All Development, Chapter E2 –Stormwater and Flood Risk Management.

Note: The revised driveway profile, gradients and transitions must be in accordance with Australian Standard 2890.1 – 2004, Part 1: *Off-street car parking*. The driveway profile submitted to Council must contain all relevant details: reduced levels, proposed grades and distances. Council will not allow alteration to existing reduced levels within the road or any other public place to achieve flood protection.

Standard Condition C.54

This condition was modified by the approval of DA/353/2021/2 by the LEC in proceedings 2023/00074031.

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

All BASIX commitments must be effected in accordance with the BASIX Certificate No. 1230283S 03, dated 14 September 2022.

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

This condition was modified by the approval of DA/353/2021/2 by the LEC in proceedings 2023/00074031.

I.1 Maintenance of BASIX Commitments

All BASIX commitments must be maintained in accordance with the BASIX Certificate No. 1230283S 03, dated 14 September 2022.

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

This condition was modified by the approval of DA/353/2021/2 by the LEC in proceedings 2023/00074031.