

## Annexure A

### DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF CONSENT

**Development Application No:** DA536/2020/1  
**Development:** Lot 1 in Deposited Plan 773310  
**Site:** 23 Wolseley Road POINT PIPER

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

**Date of determination:** 13 August 2021

**Date from which consent takes effect:** 13 August 2021

#### 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 23 Wolseley Road Point Piper (Lot 1 in Deposited Plan 773310)

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/484/2018:**

Pursuant to section 4.17(5) of the *Environmental Planning and Assessment Act 1979*, a Notice of Modification of Development Consent DA/484/2018 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/484/2018 to be modified in accordance with Condition A.4 of this consent.

### **A.4 Modification of DA/484/2018**

The consent granted to DA/484/2018 (as modified by DA/484/2018/2 and DA 484/2018/5) is required to be modified as follows:

#### **Deletion of Conditions:**

Conditions A.7 and A.8 are to be deleted.

**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 and supporting documents listed below as submitted by the Applicant unless modified by any following condition.*

<b>Reference</b>	<b>Description</b>	<b>Author/Drawn</b>	<b>Date(s)</b>
<b>Dwg. No.</b>	<b>Architectural Plans</b>	<i>All prepared by BKH Architects</i>	<i>All dated 09.07.2021</i>
A.00.01 – D	Site Plan		
A.01.01 – D	Basement Garage Level		
A.01.02 – D	Plan		
A.01.03 – D	Basement Mezzanine Plan		
A.01.04 – D	Lower Ground Floor Plan		
A.01.05 – D	Ground Floor Plan		
A.01.06 – F	Level 1 / 2 / 3 Plan		
A.01.07 – F	Level 4 Plan (Noted as 'Lvl 6')		
A.01.08 – C			
A.02.01 – D	Level 5 Plan		
A.02.02 – D	Roof Plan		
A.02.03 – D	Elevation 1: South		
A.02.04 – D	Elevation 2: North		
A.04.01 – D	Elevation 3: East		
A.04.02 – D	Elevation 4: West on Wolseley		
	Section AA		
	Section BB		
3416 - DA	Finishes Schedule	BKH Architects	09.07.2021
828307M_10	BASIX Certificate	NSW Department of Planning, Industry and Environment	11 July 2021
Cert. No. 0005522930	Nationwide House Energy Rating Scheme Certificate	NSW Department of Planning, Industry and Environment	11 July 2021
Ref: 19583	Queuing Analysis - Letter	Varga Traffic Planning	12 June 2021
Ref: 19583	Response to Contention 5 & 6(E) - Letter	Varga Traffic Planning	24 May 2021
	SEPP 65 Design Principles Report	Burley Katon Haliday	14 July 2021
	Arborist Report		
17.240r01v04	Transport Impact Assessment Proposed Residential Development 2 Wentworth Street, Point Piper	Traffix	27 Nov 2018
30656ZRpt Rev2	Geotechnical Report	JK Geotechnics	18 Mar 2019

No Reference	Construction Methodology Report	Istruct Consulting Engineers	28 Mar 2019
No. 7430	Construction Cost Estimate – 2 Wentworth Street Point Piper	Donald Cant Watts Corke	19.10.2018
No Reference	Site Waste Minimisation and Management Plan	BKH (Burley Katon Halliday) Architects	08.10.2018
Drawing No's TX.01 to TX.07 (Rev A)	Swept Path Analysis	TRAFFIX Transport & Transport Planners	17.01.2020
190466 C000-Rev S1 C101-Rev S1 C201-Rev S1 C202-Rev S1 C301-Rev S1 C302-Rev S1	Stormwater Management Plan	JHA	All dated 01.09.2020
LP01-2417 B; LP02-2417 B; LP03-2417 B; LP04-2417 B; & LP05-2417 B.	Landscape Plans	All prepared by Dangar Barin Smith	All dated 11.01.2021

**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.1 is to be deleted and replaced with new condition C.1 as follows:

**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) Vehicular egress sightlines**

*In order to ensure there is adequate entering sight distance to traffic on the frontage road and sight distance to pedestrians on the frontage footpath, the proposed:*

- a. (deleted) [as per DA 484/2018/2, approved on 18.03.2020]*
- b. (deleted) [as per DA 484/2018/2, approved on 18.03.2020]*
- c. 3 metre wide vehicular crossing shall be constructed at right angle to the street kerb. The centreline of the new crossing*

*shall be centrally aligned to the driveway opening at the property boundary.*

- b) (deleted) [as per Council letter of Confirmation of Compliance with Condition of Consent, dated 7.11.2019]*
- c) (deleted) [as per Council letter of Confirmation of Compliance with Condition of Consent, dated 7.11.2019]*
- d) (deleted) [as per Council letter of Confirmation of Compliance with Condition of Consent, dated 7.11.2019]*
- e) All north- and south-facing windows (referenced as No's 'W.03' and 'W.01' respectively) at Levels 1, 2, 3, 4 and 5 must incorporate full-height privacy screens that must be constructed with fixed louvres (vertical or horizontal) and must ensure that each individual blade is angled and spaced appropriately to prevent overlooking into windows of the adjacent windows at No 25 Wolseley Road and No 2B Wentworth.*

*Reason: to ensure the protection of visual privacy of adjoining properties.*

- f) All north-facing windows of Master Ensuites (referenced as No's 'W.07' and 'W.08') at Levels 1, 2, 3 and 4, are to be frosted and restricted such that they can only open to a 45 degree angle with such frosted glazing up to a minimum height of 1.5m measured from the respectively finished floor levels.*

*Reason: to ensure the protection of visual privacy of adjoining properties.*

- g) All north- and south-facing windows (referenced as No's 'W.03', 'W.04', 'W.05', 'W.10' and 'W.01') at Level 5 (Apt 6 upper level) must incorporate full-height privacy screens that must be constructed with fixed louvres (vertical or horizontal) and must ensure that each individual blade is angled and spaced appropriately to prevent overlooking into windows of the adjacent windows at No 25 Wolseley Road, No 2A and No 2B Wentworth Street.*

*Reason: to ensure the protection of visual privacy of adjoining properties.*

**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)

Condition C.7 is to be deleted and replaced with new condition C.7 as follows:

### **C.7 BASIX Commitments**

*The Applicant must submit to the Certifying Authority BASIX Certificate No. **828307M\_10** 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 H.7 is to be deleted and replaced with new condition H.7 as follows:

### **H.7 Fulfillment of BASIX Commitments – clause 154B of the Regulation**

*All BASIX commitments must be effected in accordance with the BASIX Certificate No. **828307M\_10**.*

**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.1 is to be deleted and replaced with new condition I.1 as follows:

### **I.1 Maintenance of BASIX Commitments**

*All BASIX commitments must be maintained in accordance with the BASIX Certificate No. **828307M\_10**.*

**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

Condition C.10 is to be deleted and replaced with new condition C.10 as follows:

### **C.10 Car and Commercial 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 showing the following:*

- a) *A traffic light system shall be installed at both ends of the ramp to regulate traffic and ensure safe manoeuvring, in particular considering the length of the driveway and the lack of sight lines at either end of the ramp. The traffic light system should give traffic entering basement level priority to minimise the disruption to vehicle and pedestrian flow along Wolseley Road frontage.*
- b) *Control point at the basement carpark entry should be setback from the property boundary for at least 6 metres.*
- c) **(deleted)**

*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 or area of car parking or commercial parking spaces required to be provided and maintained by this consent.*

*Standard Condition: C45 (Autotext: CC45)*

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

#### **I.3 Provision of Off-street Parking**

*The owner and occupier, in compliance with AS 2890.1:2004 Parking facilities -*

*Off-street car parking, must maintain unimpeded off-street parking as follows:*

<b>Use</b>	<b>Number of spaces</b>
<b>Resident parking</b>	12 (2 per unit)
<b>Vehicle parking (visitor)</b>	1
<b>Motorbike parking</b>	2
<b>Bicycle parking</b>	6

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

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

#### **I.4 Ongoing Maintenance of the On-Site Stormwater Treatment System and Mechanical Parking Installation Systems (including Traffic Light System and Car Lift)**



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

- a) Keep the systems clean and free of silt rubbish and debris.*
- b) 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 Council.*
- c) Carry out the matters referred to in paragraphs (a) and (b) at the owner's expense.*
- d) Not make any alterations to the systems or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly.*
- e) Permit Council or its authorised agents from time to time upon giving reasonable notice (but at anytime 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.*
- f) 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.*
- g) Where the owner fails to comply with the owner's obligations under this covenant, permit 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.*
- h) 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 system and caused by an act or omission by the owners in respect of the owner's obligations under this condition.*

**Note:** *This condition has been imposed to ensure that owners are aware of require maintenance requirements for their stormwater systems.*

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

*Standard Condition: I29*

### **New Conditions to be inserted:**

**The following new conditions are inserted:**

#### **C.17 Electric vehicle circuitry and electric vehicle charging point requirements**

*An accurate electrical plan and specifications for all off-street car parking must be prepared by a suitably qualified person, demonstrating the following;*

- a) That each off-street car parking space will be provided with electrical circuitry to support the installation of a Level 2 electric vehicle charger point. The construction certificate plans are to:
- Identify the power capacity to each car parking space.
  - identify the load management system on each level of parking such as a distribution board.
  - identify the conduit system to allow each car space to install an electric vehicle charger point - such as cable trays and/or buried cables underground. This system should allow future installation of cabling to power electric vehicle charger points and allow internet access (run Ethernet cable or install 4G modem).
- b) A minimum of one Level 2 electric charger must be provided and Level 2 chargers must be provided to not less than 10% of all car parking spaces. The location of all electric vehicle chargers must be shown on the construction certificate plans.
- c) The certifier must be satisfied that the electrical plans and specifications are consistent with (a) and (b) prior to the issue of the construction certificate.

**Note:** The minimum electric circuitry requirements for 'Level 2' electric vehicle charging points are:

- a) Privately available spaces including visitor spaces: 'Level 2' slow – single phase 7kW power; and
- b) Publicly available spaces: 'Level 2' fast – three-phase 11-22kW power  
Standard Condition: C57 (Autotext CC57)

#### **C.18 (b) Payment of Long Service Levy, Security, Contributions and Fees**

The Certifying Authority must not issue any certificates under section 6.4 of the Act until provided with the original receipt(s) for the payment of all of the following levy, security, contributions, and fees prior to the issue of a Construction Certificate, Subdivision Certificate or Occupation Certificate, as will apply.

<b>Description</b>	<b>Amount</b>	<b>Indexed</b>	<b>Council Fee Code</b>
<b>LONG SERVICE LEVY</b> under Building and Construction Industry Long Service Payments Act 1986			
<b>Long Service Levy</b> <a href="http://www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator">www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator</a>	Contact LSL Corporation or use online calculator	No	
<b>SECURITY</b> under section 4.17(6) of the Environmental Planning and Assessment Act 1979			
<b>Property Damage Security Deposit</b> -making good any damage caused to any property of the Council	\$22,417	No	T115
<b>DEVELOPMENT LEVY</b> under Woollahra Section 94A Development Contributions Plan 2011 This plan may be inspected at Woollahra Council or downloaded at <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a>			

<b>Development Levy</b> (section 7.12)	\$7,527 + Index Amount	Yes, quarterly	T96
<b>INSPECTION FEES</b> under section 608 of the Local Government Act 1993			
Security Administration Fee	\$202	No	T16
<b>TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES</b>	<b>\$30,146.00*</b> plus any relevant indexed amounts and long service levy		

**\*THE TOTAL SECURITY, CONTRIBUTIONS AND LEVIES AND FEES IS IN ADDITION TO THOSE APPLICABLE UNDER DA-369/2017 & DA-484/2018**

#### **Building and Construction Industry Long Service Payment**

The long service levy under section 34 of the Building and Construction Industry Long Service Payment Act 1986, must be paid and proof of payment provided to the Certifying Authority prior to the issue of any Construction Certificate. The levy can be paid directly to the Long Service Corporation or to Council. Further information can be obtained from the Long Service Corporation website [www.longservice.nsw.gov.au](http://www.longservice.nsw.gov.au) or the Long Service Corporation on 131 441.

#### **How must the payments be made?**

Payments must be made by:

- cash deposit with Council,
- credit card payment with Council, or
- bank cheque made payable to Woollahra Municipal Council.

The payment of a security may be made by a bank guarantee where:

- the guarantee is by an Australian bank for the amount of the total outstanding contribution,
- the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable],
- the bank agrees to pay the guaranteed sum without reference to the Applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent,
- the bank guarantee is lodged with the Council prior to the issue of the Construction Certificate, and
- the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

#### **How will the section 7.12 levy (formerly known as 94A levy) be indexed?**

To ensure that the value the development levy is not eroded over time by increases in costs, the proposed cost of carrying out development (from which the development levy is calculated) will be indexed either annually or quarterly (see table above). Clause 3.13 of the Woollahra Section 94A Development Contributions Plan 2011 sets out the formula and index to be used in adjusting the levy.

#### **Do you need HELP indexing the levy?**

Please contact Council's Customer Service Team on ph 9391 7000. Failure to correctly calculate the adjusted development levy will delay the issue of any certificate issued under section 6.4 of the Act and could void any such certificate (eg Construction Certificate, Subdivision Certificate, or Occupation Certificate).

**Deferred or periodic payment of section 7.12 levy (formerly known as 94A levy) under the Woollahra Section 94A Development Contributions Plan 2011**

Where the Applicant makes a written request supported by reasons for payment of the section

7.12 levy other than as required by clause 3.9, the Council may accept deferred or periodic payment. The decision to accept a deferred or periodic payment is at the sole discretion of the Council, which will consider:

- the reasons given,
- whether any prejudice will be caused to the community deriving benefit from the public facilities,
- whether any prejudice will be caused to the efficacy and operation of the Plan, and
- whether the provision of public facilities in accordance with the adopted works schedule will be adversely affected.

Council may, as a condition of accepting deferred or periodic payment, require the provision of a bank guarantee where:

- the guarantee is by an Australian bank for the amount of the total outstanding contribution,
- the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable],
- the bank agrees to pay the guaranteed sum without reference to the Applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent,
- the bank guarantee is lodged with the Council prior to the issue of the Construction Certificate, and
- the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

Any deferred or periodic payment of the section 7.12 levy will be adjusted in accordance with clause 3.13 of the Plan. The Applicant will be required to pay any charges associated with establishing or operating the bank guarantee. Council will not cancel the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.

Standard Condition: C5

## **F.9 Letter Box(es)**

All letter boxes must be constructed and located in accordance with AS/NZS 4253:1994 Mailboxes and to Australia Post's satisfaction.

**Note:** This condition has been imposed to ensure that mail can be delivered to occupiers of the site.

Standard Condition: F12 (Autotext FF12)

## **F.10 Certification of Electric Vehicle Charging System**

Prior to the issue of any Occupation Certificate or occupation or use of part of the building, the Principal Contractor or Owner-builder must submit to the satisfaction of the Principal Certifier, certification by a suitably qualified person that the electric vehicle charger points and/or electric vehicle circuitry, has been installed in accordance with the construction

*certificate plans and specifications as required by Condition C.19 (Electric vehicle circuitry and electric vehicle charging point requirements).*  
*Standard Condition: F22 (Autotext FF22)*

### ***I.11 Clothes Drying etc***

*No clothes, linen or the like must be hung from any balcony, terrace or verandah such that they are visible from any public place.*

**Note:** *This condition has been imposed to ensure that the visual amenity of the neighbourhood is not detrimentally affected by a proliferation of such practices.*  
*Standard Condition: I26*