

## Annexure A

### DETERMINATION OF APPLICATION FOR MODIFICATION OF DEVELOPMENT CONSENT

**Modification Application No:** DA518/2018/3

**Development Consent modified:** DA518/2018

**Description of development to be carried out under the consent:** Demolition of existing dwelling and construction of five-storey residential flat building with 6 residential units including 2 affordable rental housing units, associated basement car parking and site works.

**Address and particulars of title of land on which development to be carried out:** 164 Victoria Road, Bellevue Hill (Lot 8 of Deposited Plan 6028)

**Determination:** The development consent is modified by inserting conditions as follows:

#### A.7 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. (Issue No.):	Architectural Plans	Orosi	
DA 1004 (F)		(all drawings)	16/07/2021
DA 1101 (E)			21/06/2021
DA 1102 (F)			16/07/2021
DA 1103 (F)			16/07/2021
DA 1104 (F)			16/07/2021
DA 1105 (F)			16/07/2021
DA 1106 (F)			16/07/2021
DA 1107 (F)			16/07/2021
DA 2001 (F)			21/06/2021
DA 2002 (E)			21/06/2021
DA 2003 (D)			28/05/2021
DA 2004 (D)			28/05/2021
DA 3001 (E)			21/06/2021
DA 7031 (D)			28/05/2021

1162997M	BASIX Certificate	NSW Department of Planning and Environment	14 December 2020
Sheet No. s 1/A, 2/A, 3/E, 5/A, 6/A, 7/A, 8/D, 9, 10	Landscape Plan	TOPOS	A – 09/12/2020, E & D – 09/07/2021, sheet 9 – 09/07/2021, sheet 10 – 11/11/2020
Vehicle Queuing Analysis – Post S34 L&EC Case Number 2021/00046871 Proposed Residential Development with Basement Carpark 164 Victoria Road, Bellevue Hill	Vehicle Queuing Analysis	Hemanote Consultants	21 July 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)

## C.21 BASIX Commitments

The Applicant must submit to the Certifying Authority BASIX Certificate No. 1162997M 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

## H.6 Fulfillment of BASIX Commitments – clause 154B of the *Regulation*

All BASIX commitments must be effected in accordance with the BASIX Certificate No. 1162997M.

**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)

## H.7 Mechanical Parking Installation & Work-As-Executed Certification of Mechanical Systems (Special Condition)

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

- a) Compliance with conditions of development consent relating to mechanical parking installation;
- b) That the works have been constructed in accordance with the approved design.

**Note:** The PCA must supply a copy of the WAE Plans to Council together with the *Final Occupation Certificate*.

**Note:** The *Final Occupation Certificate* must not be issued until this condition has been satisfied.

## I.8 Maintenance of BASIX Commitments

All BASIX commitments must be maintained in accordance with the BASIX Certificate No. 1162997M.

**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

## I.9 Provision of Off-Street Parking

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

Use	Number of spaces
Car Parking	10
Bicycle Parking	7
Motorcycle Parking	1

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

## I.10 On-going Maintenance of the Mechanical Parking Installation Systems;

The Owner(s) must in accordance with this condition:

- a) Keep the systems clean and free of 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 the Council;
- c) Carry out the matters referred to in paragraphs (a) and (b) at the Owners 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 systems or by its act or omission cause it to be interfered with so that it does not function or operate properly;

- e) Permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this condition;
- 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 condition, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations;

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

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

**1) The following conditions are modified:**

**C.17 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) Amended landscape plan. The following amendments to the submitted landscape plan must be made:
  - Landscape plan No.LD01/B - Raised Planter Box on Slab Typical Section, drawn by Taylor Brammer, dated 09/09/2019 must be amended to delete the combined soil depth shown in blue text to a depth of 625mm inside the planter box drawing. The measurement on the outside of the planter box showing a minimum depth of 1200mm shall remain. The minimum measurement of 1200mm soil depth is to be drawn to scale; and
  - One additional replacement tree, 1x *Jacaranda mimosifolia* (Jacaranda), must be detailed in the front yard in accordance with the specifications provided in Condition E.27.
- b) **To ensure no unreasonable visual privacy impacts occur for the adjoining properties to the north and south, the following windows must be fixed and consist of translucent glazing to a height of 1.5m above the finished floor level:**
  - **The windows on the northern elevation of the master bedroom ensuite and living room on the second floor level.**

- **The windows on the southern elevation of the kitchen and dining room on the second, third and fourth floor levels.**
  - **The windows of the bedroom on the southern elevation of the third and fourth floor levels.**
- c) **To maintain visual privacy, the privacy louvres detailed on the southern elevation of the rear facing balconies on the third and fourth floor levels must be fixed and positioned to avoid direct sightlines to the private open space and windows of 166 Victoria Road.**

**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.

### C.18 Parking Facilities

The Construction Certificate plans and specifications required by clause 139 of the *Regulation*, must include detailed plans and specifications for all bicycle, car and commercial vehicle parking in compliance with AS2890.3:1993 *Parking Facilities - Bicycle Parking Facilities*, AS/NZS 2890.1:2004 : *Parking Facilities - Off-Street Car Parking* and AS 2890.2:2002 – *Off-Street Parking: Commercial Vehicle Facilities* respectively showing the following:

- a) 2m x 2.5m driveway splay, clear of obstructions to visibility, shall be provided on the northern side of the driveway, in accordance with Clause 3.2.4 of AS2890.1. This splay area shall be clear of any obstructions such as walls and stairs and this notation shall be clearly depicted on the drawings.
- b) **Signage and/or markings be provided to ensure that one (1) parking space is allocated to each affordable housing apartment.**
- c) **Signage and/or markings be provided to ensure that only B85 vehicles use the turntable to park at the western end of the proposed car park.**
- d) **Location of bicycle parking spaces and motorcycle parking space be exchanged to allow for safer access.**

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)

## C.20 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, referenced 200221-Rev A, dated 16/11/2020, prepared by SMART Consulting Engineers. other than amended by this and other conditions;
- b) Compliance with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management. In particular, all below ground structures must be fully tanked and no subsoil drainage/seepage water shall be collected and discharge into Council’s kerb and gutter;
- c) The discharge of stormwater from the site to Council’s kerb and gutter via the installation of OSD system and stormwater treatment system;
- d) The provision of stormwater treatment system by using minimum 3 x 690PSorb Stormfilter by Ocean Protect to achieve the water quality targets stipulated in Chapter E2 of Council’s DCP shall be provided. Details of the proposed stormwater treatment system shall be included in the stormwater plans;
- e) The capacity of the pump out system shall be designed to comply with Section 8.5.6 of AS3500.3 and in any case it shall be not less than 3m<sup>3</sup>. Full supporting calculations shall be clearly depicted on the stormwater plans.
- 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 19m<sup>3</sup>. The Permissible Site Discharge (PSD) leaving the site must not exceed 20l/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,

**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)

## E.27 Replacement/Supplementary trees which must be planted

Any replacement or supplementary tree shall be grown in accordance with Tree stock for landscape use (AS 2303:2015). The replacement tree shall be planted in a *deep soil landscaped area* and maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it is protected by Council's Tree Preservation Order, it must be replaced with another of the same species which complies with the criteria outlined below.

Species/Type	Planting/Location	Container Size/Size of Tree (at planting)	Minimum Dimensions at Maturity (metres)
6 x <i>Lagerstroemia indica x fauriei</i> 'Yuma' (Crepe Myrtle Yuma)	In accordance with the Landscape Plan Sheet Nos. 1/A, 2/A, 3/E, 5/A, 6/A, 7/A, 8/D, 9, 10, designed by TOPOS, dated A – 09/12/2020, E & D – 09/07/2021, sheet 9 – 09/07/2021, sheet 10 – 11/11/2020	45 litre each	4 x 4
2 x <i>Glochidion ferdinandii</i> (Cheese tree)		45 litre each	8 x 6 each
4 x <i>Livistonia australis</i> (Cabbage Tree palm)		100 litre each	10 x 3 each
1 x <i>Ginkgo biloba</i> 'Princeton Sentry' (Maiden-hair tree)		100 litre	11 x 4
5 x <i>Alocasia macrorrhizos</i> (Giant Taro)		200mm each	3 x 3 each
14 x <i>Alpinia purpurata</i> (Red Ginger)		200mm each	3 metres height
8 x <i>Bambusa textilis</i> var. 'Gracilis' (Slender weaver bamboo)		200mm each	5 metres height
1 x <i>Jacaranda mimosifolia</i> (Jacaranda)		600 litre	10 x 7

The project arborist shall document compliance with the above condition.

## F.2 Affordable Housing

- (a) **All of the apartments on the ground floor level must be allocated for affordable housing as defined in State Environmental Planning Policy (Affordable Rental Housing) 2009.**
- (b) A restriction must be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, that will ensure that for a period of 10 years from the date of the issue of the occupation certificate:
  - (i) **All of the ground floor level apartments must be used for the purposes of affordable housing, and**
  - (ii) All the accommodation that is used for affordable housing will be managed by a registered community housing provider.

**Note:** This condition is imposed in accordance with Clause 38 of the State Environmental Planning Policy (Affordable Rental Housing) 2009.

**Note:** The meaning of “affordable housing” is defined in Clause 6 of the State Environmental Planning Policy (Affordable Rental Housing) 2009.

## I.1 Affordable Housing

For a period of 10 years from the date of the issue of the occupation certificate:

- (i) **All of the ground floor level apartments must be used for the purpose of affordable housing; and**
- (ii) All the accommodation that is used for affordable housing must be managed by a registered community housing provider.

**Note:** This condition is imposed in accordance with Clause 38 of the State Environmental Planning Policy (Affordable Rental Housing) 2009.

**Note:** The meaning of “affordable housing” is defined in Clause 6 of the State Environmental Planning Policy (Affordable Rental Housing) 2009.