

8 August 2024



Ultraflex Holdings Pty Ltd
11/20 Young Street
NEUTRAL BAY NSW 2089

Dear Sir/Madam

Application Number: Mod2023/0617
Address: Lot 11 DP 1258355 , 5 Skyline Place, FRENCHS FOREST NSW 2086
Proposed Development: Modification of Development Consent DA2021/0212 granted for demolition works and construction of a mixed development, comprising seniors housing, commercial uses, carparking, landscaping and stratum subdivision.

Please find attached the Notice of Determination for the above mentioned Application.

You should thoroughly read the Notice of Determination and be aware of any conditions imposed that affect the development and guide the next steps in the process before you can commence works and/or the use.

A copy of the Assessment Report associated with this application is available to view in the Planning and Development > Application Search section of Council's website at www.northernbeaches.nsw.gov.au

If you have any questions regarding the decision or the conditions, please contact Council to speak to the assessment officer or the undersigned on 1300 434 434 or via email quoting the Application number, property address and the description of works to council@northernbeaches.nsw.gov.au

Regards,



Steven Findlay
Manager Development Assessments

NOTICE OF DETERMINATION FOR MODIFICATION OF DEVELOPMENT CONSENT

Application Number:	Mod2023/0617 PAN-387614
Applicant:	Ultraflex Holdings Pty Ltd 11/20 Young Street NEUTRAL BAY NSW 2089
Property:	Lot 11 DP 1258355 5 Skyline Place FRENCHS FOREST NSW 2086
Description of Development:	Modification of Development Consent DA2021/0212 granted for demolition works and construction of a mixed development, comprising seniors housing, commercial uses, carparking, landscaping and stratum subdivision.
Determination:	Approved Consent Authority: Sydney North Planning Panel
Date of Determination:	25/07/2024
Date from which the consent operates:	07/08/2024

Under Section 4.56 Court Consent of the EP&A Act, notice is given that the above application to modify the original application has been approved, subject to the conditions specified in this notice and as described in the Modification Summary.

Reasons for approval

The development proposal meets the Objects of the Environmental Planning and Assessment Act 1979, contained in Section 1.3, having considered the relevant provisions under s.4.15 of the aforementioned Act. Consequently, the development is considered to be in the public interest, subject to conditions.

Community views

The application was notified in accordance with Council's Community Participation Plan and the Environmental Planning and Assessment Regulation 2021. Any submissions received representing community views were considered as part of the assessment of the application. Conditions of consent included within this Notice of Determination have been applied to ensure that the development satisfies the Objects of the Environmental Planning and Assessment Act and will not result in unacceptable environmental impacts.

Request a review of the determination

If you are dissatisfied with this determination, you may request a review of the determination:

- You do not have the right to request a review of the determination under section 8.3 of the EP&A Act if you are excluded from those developments listed under Section 8.2(2) of the EP&A Act.
- You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 28 days from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

Rights to appeal

You have a right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

Objector's right of appeal against the determination

An objector who is dissatisfied with the consent authority's determination to grant consent, in relation to Designated Development only has the right to appeal to the Court against the determination under section 8.8 of the EP&A Act within 28 days after the date that the objector was notified of the determination appealed against.

Dictionary

The Dictionary at the end of this consent defines words and expressions for the purposes of this determination.

Signed On behalf of the Consent Authority



Name Steven Findlay, Manager Development Assessments

Date 25/07/2024

NOTE: Signed by Northern Beaches Council in accordance with the Environmental Planning and Assessment Act 1979 and EP&A Regulation 2000 as determined by the Sydney North Planning Panel on 25/07/2024.

Modification Summary

The development consent is modified as follows:

MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
PAN #387614 MOD2023/0617	The date of this notice of determination	<ul style="list-style-type: none"> • Relocate the communal area from the Ground Floor of the western building to the Ground Floor of the central building; • Delete commercial uses at Level 1 of the eastern building and replace with 8 ILUs (resulting in overall increase of 6 ILU's, as apartment reconfiguration is proposed on other levels); • Revise design of pool and recreation facilities on Level 2; • Revise landscape design; • Minor changes to floor levels at each level to ensure floor to floor heights comply with the National Construction Code 2023 (NCC 2023) resulting in an increase in height to the western building of 0.5m; • Minor changes to layout of Independent Living Units and change to unit mix. • Minor changes to basement levels, including minor changes to floor levels, location of mechanical plant rooms, the waste collection and storage areas and deletion of garbage lift; • Relocate lift shaft in the eastern building to improve entrance and circulation; and • Reallocation of a minor area of communal space at Level 7 to apartment floor area in the eastern tower. <p>Add Condition No.1A - Modification of Consent - Approved Plans and supporting documentation Amend Condition No 2 Compliance with Other Department, Authority or Service Requirements Amend Condition 6 Employment Generating Uses Add Condition 9A Northern Beaches Section 7.12 Development Contributions Plan 2022 Amend Condition 10 Amended Landscape Plan Amend Condition 11 Amended Arboricultural Impact Appraisal and Method Statement Amend Condition 34 Project Arborist Amend Condition 58 Required Tree Planting Amend Condition 100 Presentation of Waste Bins for Collection Add Condition 105 Deliveries, waste and recycling collection hours</p>

Modified conditions

A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting documentation, to read as follows:

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
DA000	G	Cover Page	PA Studio	31/10/2023
DA201	G	Lower Basement Carpark	PA Studio	31/10/2023
DA202	I	Basement Carpark	PA Studio	31/05/2024
DA203	I	Ground Floor Plan	PA Studio	31/05/2024
DA204	G	Level 1 Floor Plan	PA Studio	31/10/2023
DA205	G	Level 2 Floor Plan	PA Studio	31/10/2023
DA206	G	Level 3 Floor Plan	PA Studio	31/10/2023
DA207	G	Level 4 Floor Plan	PA Studio	31/10/2023
DA208	G	Level 5 Floor Plan	PA Studio	31/10/2023
DA209	G	Level 6 Floor Plan	PA Studio	31/10/2023
DA210	G	Level 7 Floor Plan	PA Studio	31/10/2023
DA2111	G	Roof Plan	PA Studio	31/10/2023
DA301	G	Sections S1 and S2	PA Studio	31/10/2023
DA302	G	Sections S3 and S4	PA Studio	31/10/2023
DA303	G	Sections S5	PA Studio	31/10/2023
DA401	G	East Elevation	PA Studio	31/10/2023
DA402	G	North Elevation	PA Studio	31/10/2023
DA403	G	West Elevation	PA Studio	31/10/2023
DA404	G	South Elevation	PA Studio	31/10/2023
DA218	G	Draft Stratum Subdivision	PA Studio	31/10/2023
2046-01	1	Title sheet: Drawing Register, General Notes & Extent of Works Plan	Paddock Studio	08/11/2023
2046-02	1	Design Statement, Design Principles, Location Plan	Paddock Studio	08/11/2023
2026-04	1	Overall Site Plan	Paddock Studio	08/11/2023
2026-06	1	Landscape S.455 Plan 1 of 2 (Ground floor)	Paddock Studio	08/11/2023
2026-07	1	Landscape S.455 Plan 2 of 2 (Roof terrace & green roof)	Paddock Studio	08/11/2023
2026-08	1	Elevation A, Elevation B	Paddock Studio	08/11/2023

2026-09	1	Sectional Elevation C, NSW RFS Asset Protection Zone Requirements	Paddock Studio	08/11/2023
2026-10	1	Landscape Area Plan, Deep Soil Plan	Paddock Studio	08/11/2023
2026-11	1	Planting S.455 Plan 1 of 2 Ground floor building surrounds	Paddock Studio	08/11/2023
2026-12	1	Planting S.455 Plan 2 of 2 Buffer zones	Paddock Studio	08/11/2023
2026-13	1	Plant Schedule 1 of 2 Ground floor Building Surrounds, Green Roof & Roof Terrace	Paddock Studio	08/11/2023
2026-14	1	Plant Schedule 2 of 2 Buffer zones	Paddock Studio	08/11/2023
2026-15	1	Existing Tree Canopy Cover Diagram Proposed Tree Canopy Cover Diagram	Paddock Studio	08/11/2023

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Bushfire Letter Ref210979C	-	Bushfire Code and Bushfire Hazard Solutions	23/11/2023
BCA Report Ref D2023-054	R00	Technical Inner Sight	5/12/2023
Access Report Ref 21026 - R1.3	R1.3	Code Performance	6/12/2023
BASIX Certificate No 117769M_09	09	Aspire Sustainability Consulting Pty Ltd	7/12/2023
Arboricultural Impact Appraisal and Method Statement	A	Naturally Trees	5/05/2024
Acoustic Addendum Report	0	GHD Pty Ltd	23/02/2024

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

B. Amend Condition No 2 Compliance with Other Department, Authority or Service Requirements to read as follows:

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDM
Ausgrid	Ausgrid
Rural Fire Service	RFS
Transport for NSW	Resplendence (SYL)

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

C. Amend Condition No 6 Employment Generating Uses to read as follows:

This consent does not authorize the first use of the floor areas marked "Employment Generating Uses" on the Approved Plans. Separate development consent is required for the use of these area.

A minimum gross floor area of 1079m² is to be retained on the site for "Employment Generating Uses". The areas marked "Employment Generating Uses" must not be used for residential purposes, or communal purposes associated with the seniors housing development.

Reason: To ensure the minimum requirements of the SEPP HSPD are achieved.

D. Add Condition 9A Northern Beaches Section 7.12 Development Contributions Plan 2022 as follows:

A monetary contribution of \$671,107.90 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$67,110,789.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate.

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

E. Amend Condition 10 Amended Landscape Plan as follows:

An Amended Landscape Plan shall be submitted for the approval of Council's Landscape Officer to include the following details:

i) The retention of Trees 71, 72, 73, 100, 101, 102, 103, 104, 105 and 106 identified in the Arboricultural Impact Appraisal and Method Statement dated 5 March 2024 prepared by Naturally Trees.

Written correspondence from Council's Landscape Officer confirming the suitability of the Amended Landscape Plan is to be provided to the certifying authority prior to the issue of the Construction Certificate.

Reason: To ensure the safe retention of existing canopy trees and for a suitable landscape treatment along the Skyline Place frontage.

F. Amend Condition 11 Amended Arboricultural Impact Appraisal and Method Statement to read as follows:

An amended Arborist Report shall be submitted for approval of Council's Landscape Officer to specifically address:

i) Any necessary design measures to ensure the safe retention of Trees 71, 72, 73, 100, 101, 102, 103, 104, 105 and 106.

Written correspondence from Council's Landscape Officer confirming the suitability of the Amended Arborist Report is to be provided to the certifying authority prior to the issue of the Construction Certificate.

Reason: To ensure the safe retention of existing canopy trees and for a suitable landscape treatment along the Skyline Place frontage.

G. Amend Condition 34 Project Arborist to read as follows:

A Project Arborist, with minimum AQF Level 5 in arboriculture, shall be engaged to provide tree protection measures in accordance with the recommendations of the Arboricultural Impact Appraisal and Method Statement dated 5 March 2024 prepared by Naturally Trees and Australian Standard 4970-2009 Protection of Trees on Development Sites. The Project Arborist is to specify and oversee all tree protection measures such as tree protection fencing, trunk and branch protection and ground protection.

The Project Arborist is to supervise all demolition, excavation and construction works near all trees to be retained including construction methods near the existing trees to protect tree roots, trunks, branches and canopy. Where required, manual excavation is to occur ensuring no tree root at or >25mm (Ø) is damaged by works unless approved by the Project Arborist.

Existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by the Project Arborist.

All tree protection measures specified must:

- a) be in place before work commences on the site, and
- b) be maintained in good condition during the construction period, and
- c) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Certifying Authority that all recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained

shall be recorded including at commencement, during the works and at completion.

Note:

- i) A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.
- ii) Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

I. Amend Condition 58 Required Tree Planting to read as follows:

Trees shall be planted in accordance with the following:

- i) All trees as indicated on Landscape Plans Dwg No.s 2046-011 Issue 1, 2046-012 Issue 1, 2046-013 Issue 1, and 2046-014 Issue 1 dated 08/11/23 prepared by Paddock Studio, and as amended by the Amended Landscape Plan required by Condition 10 of this consent.
- ii) Where the property is certified Bush Fire Prone Land, any new planting may be managed in accordance with Planning for Bushfire Protection 2019.
- iii) Existing native trees take priority over new tree planting where Asset Protection Zones restrict mature tree canopy cover.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To maintain environmental amenity.

J. Amend Condition 100 Presentation of Waste Bins for Collection to read as follows:

The storage and collection of waste bins shall be managed in the following way:

- a) Bins are to be available for collection from the street level holding bay between 6.00am and 6.00pm on the scheduled days of collection.
- b) Bins are to be transferred from the basement bin rooms to the street level holding bay no earlier than 4.00pm on the day prior to collection.
- c) Bins are to be transferred from the street level holding bay to the basement bin rooms as soon as possible after collection but no later the evening of the day of collection.
- d) Bins must be stacked in the street level holding bay in a manner that allows collection staff unimpeded access to each material type separately.
- e) The street bin level holding bay is only to be used for the presentation of bins and bulky goods for collection.
- f) The street bin level holding bay is not to be used for the storage of goods and other materials at any time.
- g) The waste loading bay is only to be used for the purpose of presentation and collection of bins and bulky goods.
- h) The waste loading bay is not to be used for the storage of goods and other materials at any time.
- i) The waste loading bay is not to be used for the parking of vehicles at any time.

Reason: To ensure bins are available for collection staff at the appropriate time. To ensure bins do not remain in the street level holding bay for an excessive period of time. To ensure waste bin collection is not obstructed.

K. Add Condition 105 Deliveries, waste and recycling collection hours to read as follows:

Deliveries, waste and recycling collection from the site is to be carried out between 6am and 10pm only to minimise noise.

Reason: To minimise noise to residential receivers.

Important Information

This letter should therefore be read in conjunction with DA2021/0212 dated 20 April 2023.

Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

Approved plans and documents means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

AS means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

Building work means any physical activity involved in the erection of a building.

Certifier means a council or a person that is registered to carry out certification work under the Building and Development Certifiers Act 2018.

Construction certificate means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

Council means Northern Beaches Council.

Court means the Land and Environment Court of NSW.

EPA means the NSW Environment Protection Authority.

EP&A Act means the Environmental Planning and Assessment Act 1979.

EP&A Regulation means the Environmental Planning and Assessment Regulation 2021.

Independent Planning Commission means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

Local planning panel means Northern Beaches Local Planning Panel.

Occupation certificate means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

Principal certifier means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

Site work means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

Stormwater drainage system means all works and facilities relating to: the collection of stormwater, the reuse of stormwater, the detention of stormwater, the controlled release of stormwater, and connections to easements and public stormwater systems.

Strata certificate means a certificate in the approved form issued under Part 4 of the Strata Schemes Development Act 2015 that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

Subdivision certificate means a certificate that authorises the registration of a plan of subdivision under Part 23 of the Conveyancing Act 1919.

Subdivision works certificate means a certificate to the effect that subdivision work completed in accordance with specified plans and specifications will comply with the requirements of the EP&A Regulation.

Sydney district or regional planning panel means Sydney North Planning Panel.