



<b>DATE OF DETERMINATION</b>	25 July 2024
<b>DATE OF PANEL DECISION</b>	25 July 2024
<b>PANEL MEMBERS</b>	Brian Kirk (Chair), Susan Budd, Sue Francis, Graham Brown
<b>APOLOGIES</b>	Annelise Tuor, Nicole Gurran and Peter Debnam
<b>DECLARATIONS OF INTEREST</b>	Annelise Tuor

Papers circulated electronically on 2 July 2024.

#### **MATTER DETERMINED**

##### **PPSSNH-445 - Mod2023/0617 – Northern Beaches - Lot 11 DP 1258355, 5 Skyline Place FRENCHS FOREST**

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. (as described in Schedule 1).

#### **PANEL CONSIDERATION AND DECISION**

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings listed at item 8 in Schedule 1.

#### **Application for modification of consent**

The Panel determined to approve the modification application pursuant to section 4.56 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

#### **REASONS FOR THE DECISION**

The initial development application was refused by the Sydney North Planning Panel but subsequently approved by the NSW Land and Environment Court on 20 April 2023 (*Platino Properties Pty Ltd v Northern Beaches Council [2023] NSWLEC 1186*).

This is the first modification application that has been submitted. The Panel is satisfied that the proposed development as modified will remain substantially the same as the development for which the consent was originally granted; and has determined to approve this application for the reasons outlined in the Council Assessment Report.

This application seeks a number of modifications to the approved plans and the consent conditions. The extent of changes is listed in the Council's Assessment Report. Of significance is the proposed reduction of employment generating floor space from the approved total of 2,048m<sup>2</sup> to 1,079m<sup>2</sup>; a 47% reduction. This reduction involves the deletion of the first floor of employment generating floor space in the eastern building facing Skyline Place. It is also proposed to relocate the communal open space to a more central location within the ground floor plate and place the reduced quantum of commercial floor space within the ground floor of the western building.

The application was accompanied by an Economic Impact Assessment providing justification for the removal of the commercial floor space. Council engaged a suitably qualified economic expert to undertake a peer review of the applicant's economic impact assessment. The Panel concurs with Council that the proposed reduction in the commercial floor area will not result in significant economic impacts that would warrant refusal of the application; and the proposal meets the intent of the SEPP (Housing for Seniors or People with a Disability) 2004; and is consistent with the state policy framework for the supply of apartments for seniors or people with a disability.

The proposed design changes to the development maintain consistency with SEPP 65 - Design Quality of Residential Flat Buildings. The proposal seeks a minor increase to the building height (0.5m), however this will not result in any unreasonable impacts on the surrounding properties or fundamentally change the visual appearance of the development; with the general footprint, setbacks and scale being maintained.

**CONDITIONS**

The Development Application was approved subject to the conditions in the Council Assessment Report with the amendments shown below to the second paragraph of draft new Condition 9A:

**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 \$671,107.90. This development cost does not include costs for the 14 approved dwellings for community housing being managed by a community housing provider in perpetuity.~~ *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.

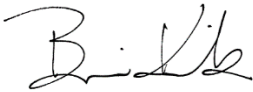
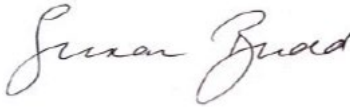


A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council’s website at Northern Beaches Council - Development Contributions.

This amendment to draft new Condition 9A is agreed between the Council and the applicant.

**CONSIDERATION OF COMMUNITY VIEWS**

In coming to its decision, the Panel considered the two written submissions made during public exhibition. The Panel notes that issues of concern relate to the location of the driveway access to the basement level parking. In this regard, the vehicular access point is not being changed via this modification application.

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report.

PANEL MEMBERS	
 Brian Kirk (Chair)	 Susan Budd
 Sue Francis	 Graham Brown

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-445 – Northern Beaches - Mod2023/0617
2	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.
3	STREET ADDRESS	Lot 11 DP 1258355, 5 Skyline Place FRENCHS FOREST NSW 2086
4	APPLICANT/OWNER	Ultraflex Holdings Pty Ltd The Owners Of Strata Plan 49558 George Andrew Revay Ross Jon Munro Graeme Watman
5	TYPE OF REGIONAL DEVELOPMENT	Section 4.56 Modification Application
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Building Sustainability Index: BASIX)</li> <li>○ State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</li> <li>○ State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>○ State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65)</li> <li>○ Warringah Local Environmental Plan 2011 (WLEP 2011)</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Warringah Development Control Plan 2011</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i></li> <li>• Coastal zone management plan: Nil</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>• The suitability of the site for the development</li> <li>• Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>• The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>• Council Assessment Report: 26 June 2024</li> <li>• Written submissions during public exhibition: two</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Briefing: 28 February 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Peter Debnam (Chair) and Brian Kirk</li> <li>○ <u>Council assessment staff</u>: Jordan Davies and Peter Robinson</li> <li>○ <u>Applicant representatives</u>: Joshua Palmer, Paula Mottek, Martin Hill, Sammy Hamilton, George Revay and Serge Bolgarschii</li> <li>○ <u>Department staff</u>: George Dojas, Adam Iskander and Suzie Jattan</li> </ul> </li> <li>• Final briefing to discuss council’s recommendation: 24 July 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Brian Kirk (Acting Chair), Susan Budd, Sue Francis, Graham Brown</li> <li>○ <u>Council assessment staff</u>: Jordan Davies</li> </ul> </li> </ul>

		○ <u>Department staff</u> : Adam Iskander and Joel Burgess
<b>9</b>	<b>COUNCIL RECOMMENDATION</b>	Approval
<b>10</b>	<b>DRAFT CONDITIONS</b>	Attached to the Council Assessment Report, as amended.