

17 October 2024



ARCLab Pty Ltd  
Po Box 1239  
NEWPORT BEACH NSW 2106

Dear Sir/Madam

**Application Number:** Mod2024/0365  
**Address:** Lot 2 DP 430766 , 38 Lagoon Street, NARRABEEN NSW 2101  
**Proposed Development:** Modification of Development Consent DA2022/0071 granted for Alterations and additions to a dwelling house

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](http://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](mailto:council@northernbeaches.nsw.gov.au)

Regards,



Mia Battisti  
**Planner**

## NOTICE OF DETERMINATION FOR MODIFICATION OF DEVELOPMENT CONSENT

|                                              |                                                                                                           |
|----------------------------------------------|-----------------------------------------------------------------------------------------------------------|
| <b>Application Number:</b>                   | Mod2024/0365<br>PAN-449296                                                                                |
| <b>Applicant:</b>                            | ARCLab Pty Ltd<br>Po Box 1239<br>NEWPORT BEACH NSW 2106                                                   |
| <b>Property:</b>                             | Lot 2 DP 430766<br>38 Lagoon Street NARRABEEN NSW 2101                                                    |
| <b>Description of Development:</b>           | Modification of Development Consent DA2022/0071 granted for Alterations and additions to a dwelling house |
| <b>Determination:</b>                        | Approved<br>Consent Authority: Northern Beaches Council                                                   |
| <b>Date of Determination:</b>                | 17/10/2024                                                                                                |
| <b>Date from which the consent operates:</b> | 17/10/2024                                                                                                |

Under Section 4.55 (2) Environmental Impact 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 Mia Battisti, Planner

Date 17/10/2024

## Modification Summary

The development consent is modified as follows:

### MODIFICATION SUMMARY TABLE

| Application Number         | Determination Date                       | Modification description                                                                                                                                                                                                                                                                                                 |
|----------------------------|------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| PAN-449296<br>Mod2024/0365 | The date of this notice of determination | Modification of Development Consent DA2022/0071 granted for Alterations and additions to a dwelling house<br><br>Add Condition No. 1B - Modification of Consent - Approved Plans and supporting Documentation<br><br>Add Condition No. 6A. Policy Controls<br><br>Modify Condition No. 16 Tree and Vegetation Protection |
| PAN-303098<br>Mod2023/0044 | 21/03/2023                               | Modification of Development Consent DA2022/0071 granted for Alterations and additions to a dwelling house<br><br>Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation<br><br>Add Condition 14A - Amendments to the approved plans                                                 |

### Modified conditions

#### **A. Add Condition No.1B - 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 |
| MOD-02         | B               | Site Analysis Plan      | Arclab   | 21/06/2024   |
| MOD-03         | B               | Ground Floor Plan       | Arclab   | 21/06/2024   |
| MOD-04         | B               | First Floor Plan        | Arclab   | 21/06/2024   |
| MOD-05         | B               | Roof Plan               | Arclab   | 21/06/2024   |
| MOD-06         | B               | North & South Elevation | Arclab   | 21/06/2024   |
| MOD-07         | B               | East & West Elevation   | Arclab   | 21/06/2024   |
| MOD-08         | B               | Section 1 & 2           | Arclab   | 21/06/2024   |
| MOD-09         | A               | Section 3 & 4           | Arclab   | 15/05/2024   |

|                                    |  |
|------------------------------------|--|
| Approved Reports and Documentation |  |
|------------------------------------|--|

| Document Title                          | Version Number | Prepared By             | Date of Document |
|-----------------------------------------|----------------|-------------------------|------------------|
| BASIX Certificate number: A445902_03    | -              | ARClab Pty Ltd          | 05/06/2024       |
| Flood Assessment                        | -              | Taylor Consulting       | 30/05/2024       |
| Arboricultural Impact Assessment Report | 1              | Our Garden Path Pty Ltd | 26/06/2024       |
| Waste Management Report                 | -              | ARClab Pty Ltd          | 03/07/2024       |

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. Add Condition No.6A - Policy Controls in relation to Modification Application No. MOD2024/0365, to read as follows:**

Northern Beaches 7.12 Contributions Plan 2021 (Modification Application No. MOD2024/0365)  
A monetary contribution of \$3,757.05 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 2021. The monetary contribution is based on a development cost for this modification of \$375,705.00, being an additional cost to the original cost of works initially approved by consent DA2022/0071.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2021 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au).

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

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

**C. Modify Condition No.16 - Tree and Vegetation Protection, to read as follows:**

- a) Existing trees and vegetation shall be retained and protected, including:
- i) all trees and vegetation within the site not approved for removal, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
  - ii) all trees and vegetation located on adjoining properties,
  - iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970- 2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment, and in particular:

- i) section 4.0 and works under appendix 4.

The Certifying Authority must ensure that:

- d) The arboricultural works listed in c) are undertaken and certified by an Arborist as compliant to the recommendations of the Arboricultural Impact Assessment.
- e) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree (s) is prohibited.

Reason: Tree and vegetation protection.

## Important Information

This letter should therefore be read in conjunction with DA2022/0071 dated 22 April 2022 and Mod2023/0044 dated 21 March 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.