

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2025/0603
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Responsible Officer:	Brittany Harrison
Land to be developed (Address):	Lot 1 DP 1180405, 33 Sturdee Lane ELVINA BAY NSW 2105 Lot 2 DP 1180405, 31 Sturdee Lane ELVINA BAY NSW 2105 Lot LIC 645182, 31 Sturdee Lane ELVINA BAY NSW 2105
Proposed Development:	Construction of an inclinator and associated works
Zoning:	C3 Environmental Management
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Applicant:	Henry Raymond Stenning

Application Lodged:	30/05/2025
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	10/06/2025 to 24/06/2025
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	7.8 Limited development on foreshore area
Recommendation:	Approval

Estimated Cost of Works:	\$ 240,000.00
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EXECUTIVE SUMMARY

This development application seeks consent for the construction of an inclinator and associated works.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to a portion of the inclinator and associated retaining/excavation works being located within the foreshore building area, thereby contravening the non-numerical development standard of Clause 7.8 of the *Pittwater Local Environmental Plan 2014* (PLEP 2014). Additionally, it is noted that the subject properties, these being No. 31 and No. 33 Sturdee Lane are locally listed Heritage Items, with demolition works proposed.

In support of the variation of Clause 7.8 is a detailed written Clause 4.6 variation request has been provided which justifies that compliance with the development standard is considered unreasonable in the circumstances of this case. The variation arises from the constrained access arrangements to the subject properties located within Elvina Bay (which is limited to water access only) and the steep topography of the site along the waterfront which has a gradient of approximately 60.0% (area between the MHW and the FSBL), forming the fundamental reason for the proposal's acceptability. Notwithstanding this, the site benefit from an existing easement which straddles the boundary between both subject properties for the purposes of an inclinator structure for waterfront access. The proposed inclinator will be situated entirely within this easement in a shared access arrangement. The site disturbance will be limited to the excavation for the lower landing which will be located behind an existing heritage cottage, screening the inclinator access point. The design of the inclinator is considered to be consistent with other surrounding development and is similarly placed along the foreshore. Council's Heritage Advisor is in support of the proposal and has not identified any impact to the nearby heritage items.

The proposed development was notified in accordance with Council's Community Participation Plan (CPP) for a period of fourteen (14) days, resulting in no submissions.

Based on a detailed assessment of the proposal against the applicable planning controls, it is considered that, on balance the proposal is suitable for the site and presents an acceptable form of development for the reasons outlined in this report.

This report concludes with a recommendation that the NBLPP grant **approval** to the development application, subject to recommended conditions.

PROPOSED DEVELOPMENT IN DETAIL

This Development Application seeks consent for the construction of an inclinator and associated works.

Specifically, the works comprise of the following:

- Installation and construction of an inclined passenger lift (inclinator) located along the shared boundary of No. 31 & No. 33 Sturdee Lane, Elvina Bay.
- The inclinator will be positioned within Easement E3 - Easement for inclinator access variable width. The easement allows for the joint construction and use of an inclinator including the associated costs and maintenance. The usage rights are to be shared equally between both properties (Figure 1 - Location of Easement E3).
- Associated excavation approximately up to 3.9 metres in depth to accommodate lower landing (L1).
- A platform on each respective lot for Landing L2.
- Partly demolish low retaining wall and widen existing sandstone steps.
- No. 33 Sturdee Lane will include an extension to the waterway access stairs.
- Removal of one (1) non-locally native tree.

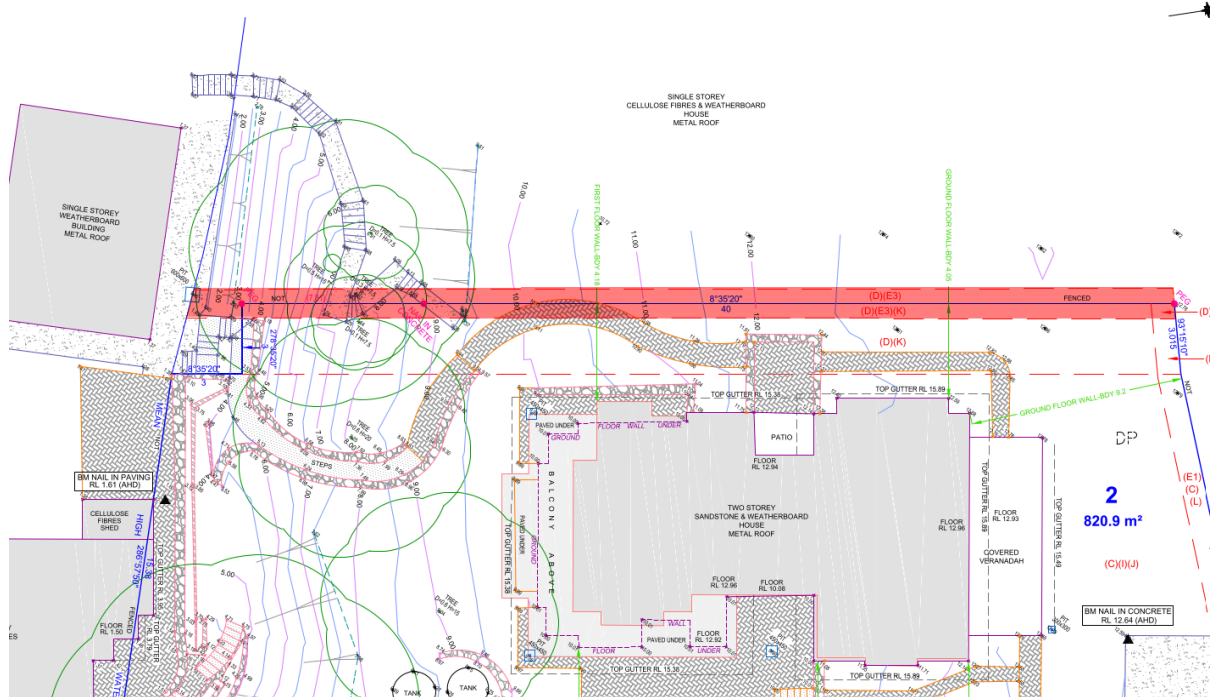


Figure 1: Submitted Survey (prepared by Chadwick Cheng Consulting Surveyors, dated 2 May 2024) - Red Shading indicating Easement E3 for Inclinator Access).

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - Zone C3 Environmental Management
Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards
Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils

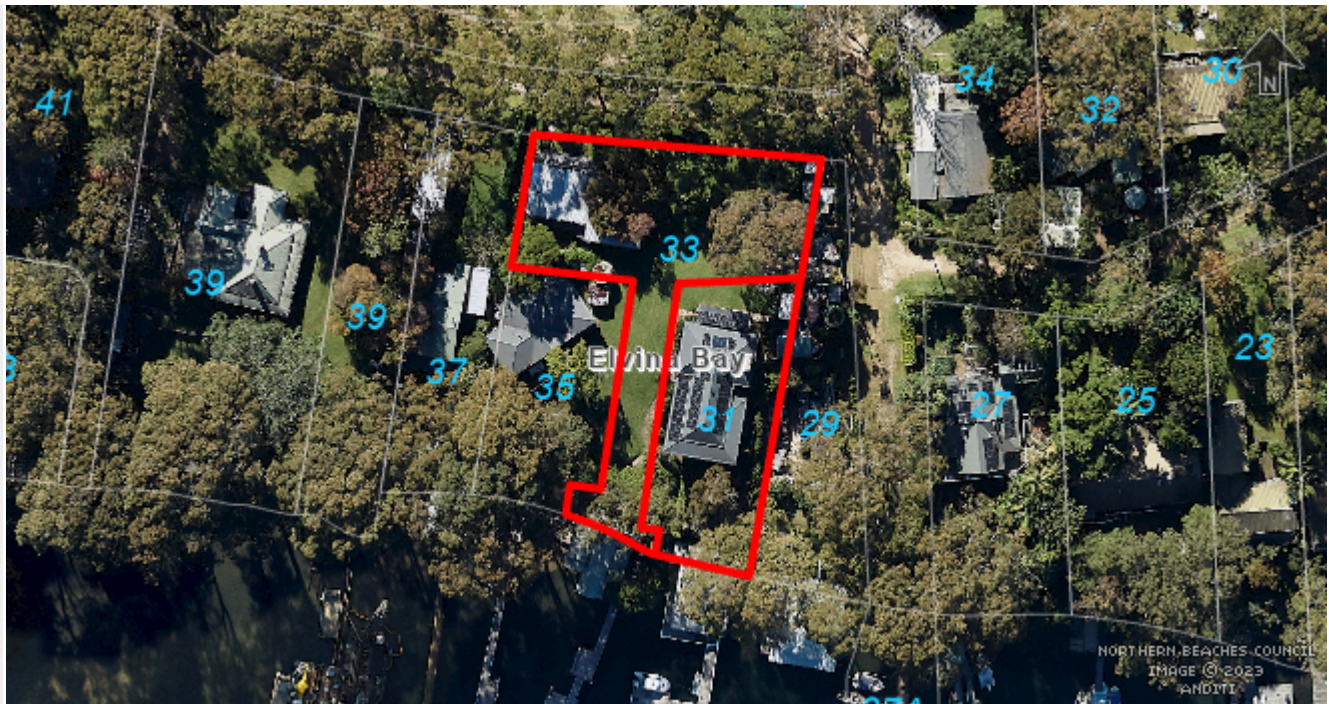
Pittwater Local Environmental Plan 2014 - 7.2 Earthworks
 Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection
 Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards
 Pittwater Local Environmental Plan 2014 - 7.8 Limited development on foreshore area
 Pittwater 21 Development Control Plan - B3.7 Estuarine Hazard - Low density residential
 Pittwater 21 Development Control Plan - B8.1 Construction and Demolition - Excavation and Landfill
 Pittwater 21 Development Control Plan - C1.19 Incline Passenger Lifts and Stairways
 Pittwater 21 Development Control Plan - D8.3 Building colours and materials
 Pittwater 21 Development Control Plan - D8.6 Side and rear building line
 Pittwater 21 Development Control Plan - D8.9 Landscaped Area
 Pittwater 21 Development Control Plan - D8.15 Site disturbance

SITE DESCRIPTION

Property Description:	Lot 1 DP 1180405 , 33 Sturdee Lane ELVINA BAY NSW 2105 Lot 2 DP 1180405 , 31 Sturdee Lane ELVINA BAY NSW 2105 Lot LIC 645182 , 31 Sturdee Lane ELVINA BAY NSW 2105
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Detailed Site Description:	The subject site consists of two (2) allotments located on the northern and eastern side of Sturdee Lane. The allotments being: - No. 31 Sturdee Lane, Elvina Bay - Lot 2 DP 1180405. - No. 33 Sturdee Lane, Elvina Bay - Lot 1 DP 1180405. Both allotments are irregular in shape with the following dimensional characteristics: - No. 31 Sturdee Lane: 15.38m, frontage to the waterway, approx. 48.75m depth and an overall area of 820.9m². - No. 33 Sturdee Lane: 15.56m frontage to the waterway, approx. 62.48m depth and an overall area of 1290.0m² Both allotments are located within the C3 Environmental Management zone pursuant to the <i>Pittwater Local Environmental Plan 2014</i> and accommodates the following structures: - No. 31 Sturdee Lane: Two (2) storey stone/clad dwelling, single storey building (seaward of MHWM) and a jetty/pontoon. - No. 33 Sturdee Lane: Two (2) storey clad dwelling, single storey building/boatshed (seaward of MHWM) and a jetty/pontoon. These site's do not have vehicular access but rather access via the Pittwater waterway. The site topography is relatively steep sloping downward from the northern most point to the south (toward the waterfront). Both allotments include large open grassed areas with various trees and pathways. Both allotments are Locally Heritage Listed. Detailed Description of Adjoining/Surrounding Development Adjoining and surrounding development is characterised by dwelling houses, boatsheds and other waterfront development including heritage listed cottages below the MHWM.
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Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been used for residential purposes for an extended period of time.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a recommended condition of consent. <u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application. <u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case. <u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a recommended condition of consent. <u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a recommended condition of consent.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application that included a certificate (prepared by Sydney Bushfire Consultants, dated 11 April 2025) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent. The proposed development is considered to satisfy Section 4.14 of the Act.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 10/06/2025 to 24/06/2025 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Acid Sulfate)	<i>Supported, subject to conditions.</i> <u>General Comments</u> The subject site is class 5 acid sulphate soils in accordance with the Pittwater Local Environmental Plan 2014. In consideration of the plans supplied with the proposal, the works described are unlikely to meet the criteria as follows to require an acid sulphate soils management plan: "Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land." Accordingly, the proposal is supported.
Landscape Officer	<i>Supported, subject to conditions.</i> The proposed shared inclinator lift is in proximity to existing trees and an Arboricultural Impact Assessment (AIA) is submitted that recommends the removal of one QLD Firewheel Tree (T3) and otherwise provides tree protection measures for the other trees in proximity. It is noted that the tree T3 is located within the Biodiversity Values Map (BVM) under the Biodiversity Conservation Act, and any tree removal within the BVM may trigger the Biodiversity Offsets Scheme (BOS) and may require a Biodiversity Development Assessment Report (BDAR). This specific matter is deferred to Council's Bushland & Biodiversity Referral team. Landscape Referral raise no concerns for removal of T3 subject to replacement with a locally native tree within the property, as recommended in the Biodiversity Report submitted. In consideration of the landscape setting outcomes for zone C3 Environmental Management, including: protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values; provide for residential development of a low density and scale integrated with the landform and landscape, and not visually prominent; encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors; and ensure the continued viability of ecological communities and threatened species; Landscape Referral consider that the landscape setting outcomes are maintained.

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	<i>Supported, subject to conditions.</i> The comments in this referral relate to the following applicable controls and provisions: • Pittwater LEP – Clause 7.6 Biodiversity Protection • Pittwater DCP – Clause B4.7 Pittwater Spotted Gum Forest – Endangered Ecological Community • SEPP (Resilience and Hazards) 2021 – Coastal Environment Area • NSW Biodiversity Conservation Act 2016 • NSW Biodiversity Conservation Regulation 2017 Portions of the site are identified on the Department of Climate Change, Energy, the Environment and Water (DCCEEW) Biodiversity Values Map (BV Map). According to the Ecologist consultation letter (ACS Environmental Pty Ltd, May 2025) the proposed development that will occur within the Biodiversity Values Mapped area is very minor and is not expected to have significant impact to the flora and fauna. A single non-locally native tree is proposed for removal, Tree 3 <i>Stenocarpus sinuatus</i>. No objections in relation to removal of identified tree subject to its replacement with at least two locally native canopy trees consistent with the species listed in Pittwater Spotted Gum Endangered Ecological Community scientific determination. Due to the inclinorail being elevated off the ground, the anticipated understory vegetation impact will be minimal and vegetation can be largely retained. Development shall ensure that at least 80% of any new planting incorporates native vegetation (as per species found on the site or listed in Pittwater Spotted Gum Endangered Ecological Community). The submitted Arborist report (Temporal Tree Management, March 2025) has identified incursions in the Tree Protection Zones of Trees 1, 4 and 5 but has identified these incursions as acceptable and that the trees will remain healthy. A tree protection plan has been developed and will be implemented. No objections in relation to biodiversity, subject to conditions. Note: The impacts to the marine environment will be assessed by the appropriate referral body.

Internal Referral Body	Comments
NECC (Coast and Catchments)	<i>Supported, subject to conditions.</i> The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Resilience & Hazards) 2021 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP. This referral has focussed on the impact of the proposal on coastal processes and hazards. The assessment of compliance with controls applying to visual amenity, scenic qualities or aesthetic appearance of the foreshore or surrounding coastal environment will be undertaken by the development assessment officer assessing this development application. Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore Coastal Management Act 2016 is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the Coastal Management Act 2016. State Environmental Planning Policy (Resilience & Hazards) 2021 The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021 (SEPP R & H). Hence, Clauses 2.10, 2.11 and 2.12 of the CM (R & H) apply for this DA. <u>Comment</u> On internal assessment, the DA satisfies requirements under clauses 2.10, 2.11 and 2.12 of the SEPP R&H. As such, it is considered that the application is generally consistent with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021. Pittwater LEP 2014 and Pittwater 21 DCP <i>Estuarine Risk Management</i> The subject property has also been identified as affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. As such, the Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant B3.7 Estuarine Hazard Controls will apply to any proposed development of the site. In accordance with the Pittwater Estuary Mapping of Sea Level Rise Impacts Study (2015), a base estuarine planning level (EPL) of RL 2.71m AHD would apply at the subject site. A reduction factor (RF) based upon the distance from the foreshore of proposed development may also apply at a rate of 0.06m reduction to the EPL for every 5.00m distance from the foreshore edge up to a maximum distance of 40.00m.

Internal Referral Body	Comments
	<u>Comment</u> On internal assessment, part of the proposed development is below the derived EPL for the site. The proposed development is therefore subject to conditions to satisfy the relevant estuarine risk management requirements of P21 DCP.
NECC (Riparian Lands and Creeks)	<i>Supported, subject to conditions.</i> This application was assessed in consideration of: - Supplied plans and reports; - Coastal Management Act 2016; - State Environmental Planning Policy (Resilience and Hazards) 2021; - Relevant LEP and DCP clauses; and - Northern Beaches Council Water management for development policy. This proposal is supported. Details below. <i>Riparian</i> The site drains to the Pittwater Estuary which supports vast meadows of seagrass include the endangered and protected species <i>Posidonia australis</i> . Seagrass meadows provide critical habitat for all estuarine and marine fauna. As such the proposed development must not significantly impact on the biophysical, hydrological or ecological integrity of the estuary or the quantity and quality of surface and ground water flows that it receives. <i>Sediment Management</i> Sediment and erosion controls must be installed prior to any disturbance of soil on site and maintained until all work is complete and groundcover re-established.
Parks, reserves, beaches, foreshore	<i>Supported, without conditions.</i> The development site adjoins Pittwater waterway that is located downslope of the property. All development works must ensure that surface sediment runoff and/or erosion is controlled, managed and contained within the site boundaries and prevented from travelling across the boundary and into the waterway. The development is not detrimental to the prevailing foreshore character when viewed from the adjoining waterway, and as such Parks, Reserves and Foreshores raise no concerns with the development proposal.

Internal Referral Body	Comments
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS
	Discussion of reason for referral
	<i>Supported, subject to conditions.</i> The proposal has been referred to Heritage as the subject properties - 33 Sturdee Lane and 31 Sturdee Lane are part of heritage items I2270444 and I2270443 respectively and are in close proximity to another heritage item I2270442 - 29 Sturdee Lane
	Details of heritage items affected

Internal Referral Body	Comments	
	Cottage (33 Sturdee Lane) <u>Statement of Significance</u> The Cottage at 33 Sturdee Lane in Elvina Bay was adapted around 1930s from an early boat shed that was originally part of Ventnor (c1910s). It is historically and aesthetically significant as a good example of a boat shed typical of the early settlement on the Western Foreshores. It is a modest structure that, together with its neighbouring cottages, boatsheds and jetties, contributes to the beautiful natural landscape of Pittwater.	
	Cottage (31 Sturdee Lane) <u>Statement of Significance</u> The Cottage at 31 Sturdee Lane in Elvina Bay is historically and aesthetically significant as a good example of a vernacular residence typical of the early settlement on the western foreshore. The cottage is both a rare and representative example of a small vernacular timber and fibro cottage built out over the water in Pittwater during the 1920s and 1930s, when Pittwater was becoming a prime holiday destination. It is a modest structure that, together with its neighbouring cottages, boatsheds and jetties, contributes a human scale to the beautiful natural landscape of Pittwater.	
	The close relationship between the cottage and the water over which it appears to float reflects the total reliance of its occupants on the water as the only physical means of communication with the mainland community of Sydney	
	Hove Cottage (29 Sturdee Lane) <u>Statement of Significance</u> Hove Cottage, at 29 Sturdee Lane in Elvina Bay is historically and aesthetically significant as a good example of vernacular residence typical of the early settlement of the Western Foreshores. The cottage is both a rare and representative example of a small vernacular timber and fibro cottage built out over the water in Pittwater during the 1920s. It is a modest structure that, together with its neighbouring cottages, boatsheds and jetties, contributes to the beautiful natural landscape of Pittwater. The close relationship between the cottage and the water over which it appears to float reflects the total reliance of its occupants on the water as the only physical means of transportation to the mainland community of Sydney. The weekender is representative of the popularity of cottage retreats in Pittwater built of local natural materials to simple designs with traditional construction techniques.	
	Other relevant heritage listings	
SEPP (Biodiversity and Conservation) 2021	No	

Internal Referral Body	Comments		
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
	National Trust of Aust (NSW) Register	No	
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	No	
	Consideration of Application		
	This proposal seeks approval for the installation of a new inclined passenger lift along the shared boundary of 31 and 33 Sturdee Lane, Elvina Bay. The proposed works include the construction of associated landings and retaining structures to facilitate safe and functional access.		
	It is noted that the proposed lift and associated retaining works are minor in scale, low in profile, and do not involve any physical alteration or modification of the heritage-listed cottages themselves. These works are proposed to be visually obscured from key public viewpoints, particularly when viewed from Elvina Bay.		
	As the proposed works do not affect the physical or visual integrity of the heritage items, the impact of the proposed works upon the significance of the heritage items is considered tolerable. However, given the proximity of the heritage-significant cottage to the proposed excavation and construction works, particular care must be taken to ensure that the structural and visual integrity of the heritage item is protected throughout the duration of the works. All excavation and construction activity must be undertaken in a manner that prevents any material impact on the heritage-listed cottage.		
	Therefore, Heritage supports the proposal subject to the above condition.		
	<u>Consider against the provisions of CL5.10 of PLEP 2014.</u> Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes		

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<i>Supported, subject to conditions.</i> The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
Aboriginal Heritage Office	<i>Supported, subject to conditions.</i> No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites. Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development. Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

Division 3 Coastal environment area

2.10 Development on land within the coastal environment area

- 1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
 - a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
 - b) coastal environmental values and natural coastal processes,
 - c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
 - d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
 - e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - f) Aboriginal cultural heritage, practices and places,
 - g) the use of the surf zone.
- 2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
 - a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or
 - b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment

The proposal has been reviewed by Council's Coastal, Biodiversity, Riparian, and Environmental Health (Acid Sulfate) Officers, who are all in support of the proposed works, subject to recommended conditions to ensure the protection of the environmental factors of the site and surrounds. The Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development. However, a recommended condition has been included to ensure Aboriginal Heritage Protection.

Division 4 Coastal use area

2.11 Development on land within the coastal use area

- 1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
 - a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - i) existing, safe access to and along the foreshore, beach, headland or rock
 - ii) platform for members of the public, including persons with a disability,
 - iii) overshadowing, wind funnelling and the loss of views from public places to
 - iv) foreshores,
 - v) the visual amenity and scenic qualities of the coast, including coastal headlands, Aboriginal cultural heritage, practices and places, cultural and built environment heritage, and
 - b) is satisfied that:
 - i) the development is designed, sited and will be managed to avoid an adverse
 - ii) impact referred to in paragraph (a), or
 - iii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or if that impact cannot be minimised—the development will be managed to mitigate that impact, and
 - c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment

The development is not likely to result in adverse impacts to the foreshore or waterway areas and will not detract from the scenic quality of the locality, maintaining an appropriate visual relationship with the surrounding built environment. Recommended conditions are included to ensure that the protection to the environmental environment is to occur, to mitigate any adverse impacts. Council's Heritage Team have no concerns with the development in reference to the existing heritage listed cottages, subject to conditions.

Division 5 General

2.12 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment

It is considered that the proposed development has been adequately designed, subject to recommended conditions to respond to the environmental constraints of the site, such that it can be stated that the proposed development is not likely to cause increased risk of coastal hazards within the locality.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and

therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Pittwater Local Environmental Plan 2014

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings	8.5m	Inclinor: 2.0m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	Yes
5.7 Development below mean high water mark	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.8 Limited development on foreshore area	No
7.10 Essential services	Yes
Schedule 5 Environmental heritage	Yes

Detailed Assessment

Zone C3 Environmental Management

The C3 Environmental Management zone objectives are addressed below:

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.***

Comment

The proposed development consists of elements to upgrade the access to the subject properties from the waterway. A portion of this development will be located within the foreshore

area and as such will be assessed in accordance with the objectives of Clause 7.8 Limited development on foreshore area.

- ***To provide for a limited range of development that does not have an adverse effect on those values.***

Comment

Portions of the subject land are identified on the Department of Climate Change, Energy, the Environment and Water (DCCEEW) Biodiversity Values Map (BV Map). The submitted Ecologist consultation letter (ACS Environmental Pty Ltd, May 2025) the proposed development that will occur within the Biodiversity Values Mapped area is very minor and is not expected to have significant impact to the flora and fauna, with the removal of only a single non-locally native tree. Council's Landscape and Biodiversity Teams support the development subject to conditions including tree replacement.

Both allotments are listed as heritage items, Council's Heritage Officer has no objection to the development, noting limited impacts on the heritage values of the land/items.

The subject properties has also been identified as affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. Council's Coastal Team supports the development subject to conditions.

In addition to the above, recommended conditions of consent have been included by Council's Acid Sulfate, Riparian Lands and Aboriginal Heritage Office to ensure that impacts to the ecological, heritage, scientific or aesthetic values of the site, are mitigated.

- ***To provide for residential development of a low density and scale integrated with the landform and landscape, and not visually prominent.***

Comment

The works have been designed to be integrated within the landform and landscape, with minimal scale consistent with similar development in the area.

- ***To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.***

Comment

Council's Riparian and Biodiversity and Acid Sulfate Officers have reviewed the proposal and support the development subject to recommended conditions of consent to ensure that the impacts to the riparian and native wildlife corridors are mitigated.

- ***To ensure the continued viability of ecological communities and threatened species.***

Comment

As noted above, Council's Biodiversity Team have raised no ecological issues.

4.6 Exceptions to development standards

The application seeks consent to vary a development standard as follows:

Development Standard: Clause 7.8 Limited Development on Foreshore Area.

Requirement: Foreshore Building Line (criteria as specified under Clause 7.8).

Proposed: A portion of inclinor and associated works i.e. excavation and retaining walls located within foreshore building area.

Percentage of Variation: N/A - Non-numerical Development Standard.

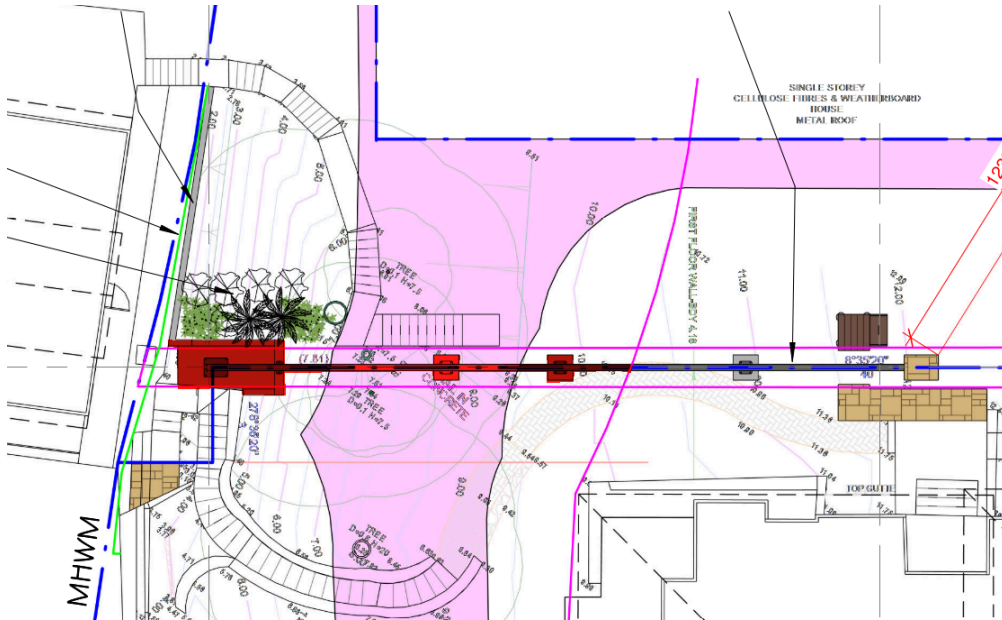


Figure 2: Development works within the foreshore building area - red shading).

With reference to Section 35B of the *Environmental Planning and Assessment Regulation 2021*, the development application is accompanied by a document that sets out the grounds on which the Applicant seeks to demonstrate the matters set out in Clause 4.6(3)(a) and (b) of the PLEP 2014 (the 'Clause 4.6 Request').

Subclause (1) of this clause provides that:

(1) *The objectives of this clause are as follows:*

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Comment

The objectives of this clause have been considered pursuant to Section 4.15(a)(i) of the *Environmental Planning and Assessment Act 1979*.

Subclause (2) of this clause provides that:

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Comment

Clause 7.8 is not expressly excluded from the operation of this clause.

Subclause (3) of this clause provides that:

(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

(a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment

Council is satisfied that the Applicant has demonstrated that compliance with Clause 7.8 is unreasonable or unnecessary in the circumstances of this application for the following reasons (extracted from submitted Clause 4.6 Written Variation Request):

- The location of works proposed within the foreshore area is predominantly within already disturbed land and in some respects heavily modified landform. Being above MHW and located directly behind the existing boatshed, natural foreshore processes will remain unaffected.*
- No change to private or public access will occur as a result of the proposed works.*
- The new inclinator and landings will be well screened from the waterway due to the existing and proposed additional vegetation. A substantial portion of the inclinator rail and its associated landings, will be difficult to view from the waterway due to the location width, and height of the boatshed in front of it.*
- Overall, the open nature of the landings and low levels of both the landings and the rail/ railcar above ground level will ensure the proposed structures are compatible with the general pattern of development in the foreshore along this part of Pittwater waterway, which typically includes access structures, boat sheds, water access facilities, and inclinators. The lower landing, rail, and rail car will be close to the existing stairs, boatshed and associated decks, ensuring that structures remain appropriately clustered but still remain viewed in a vegetated context.*
- In relation to compatibility with the surrounding area, we note that inclined lifts extending to the foreshore are an established purpose and structure in the vicinity.*
- It will also be improved by the provision of new plantings to provide screening as viewed from the water. The inclinator rail maintains a very minimal height above the ground line, and both the rail and rail car are to be finished in medium to dark colours to ensure the structures remain recessive in the landscape as viewed from the waterway.*

(b) there are sufficient environmental planning grounds to justify contravening the development standard.

Comment

In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the Applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 *at* [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

The Clause 4.6 Request argues, in part (extracted from submitted Clause 4.6 Written Variation Request):

- **Water access only sites:** Both 31 and 33 Sturdee Lane are water only access properties, being located on the Western foreshores of Pittwater. Northern Beaches Council has previously recognised that properties such as these experience challenging access arrangements and that facilitation of assisted access in these circumstances must be considered in deciding whether a variation to the development standard is warranted.
- **Distance and steep topography of the sites from the foreshore:** Both sites are burdened by a particularly steep frontage to the waterway. The gradient between the boat sheds at the southern boundary and the FBL is 60%. The inclinator will rise approximately 9m over the 15m length to the FBL. The travel distance for No. 33 Sturdee Lane is also excessive at over 50m from the waterway.
- **Shared inclinator use via an existing easement specifically for this purpose:** The allotment...purposely provides for an access corridor of approximately 1m width along the whole of the shared boundary between 31 and 33 Sturdee Lane. This corridor has been created for the specific purpose of providing waterfront inclinator access for both properties. The new inclinator will be located entirely within the easement.
- **No current connecting stair access to dwelling for 33 Sturdee Lane:** The journey from the existing dwellings to the existing boatsheds is over a significant distance and together with the steep land located within the foreshore area warrants a higher quality and more direct level of access than is provided by the existing stairs. It is noted that No. 33 particularly does not benefit from continuous stair access from the foreshore.
- **Facilitation of use and maintenance of heritage boatsheds:** The land within the foreshore area rises 9m over a distance of 15m, ie, a slope of greater than 1:2 and the existing stair configuration is steep and circuitous. The improved access provided by the inclinator not only facilitates the amenity and recreational value of the foreshore area, but also the maintenance of vegetation, canopy trees, and waterfront structures including the boatsheds. These cottages are heritage listed structures located in an environment that require high levels of maintenance for their conservation.
- **Absence of Impact:** The proposed new inclinator and associated landing No. 1, notwithstanding that they maintain a breach of the foreshore area, will have negligible impact on the privacy and visual amenity of neighbours, or on the visual amenity as viewed from the public domain of the waterway. The inclinator rail is designed to be as close to the ground line as possible. The sharing of the infrastructure provides a substantial benefit to the environment, including the built environment which includes structures of significant heritage value. As viewed from the waterway, the new inclinator and landing will be unobtrusive, and will maintain appropriate access at the foreshore.

It is considered that the Applicant has demonstrated that there are sufficient environmental planning grounds to justify the contravention of Clause 7.8. The proposed inclinator will be situated wholly within an easement (E3 - see Figure 2) nominated for the purpose of an inclinator for access, with the portions located within the foreshore being the lower landing (L1), three (3) footings and rail. This portion of the element will extend into the foreshore area for a maximum length of 14.7 metres. To further support this, the inclinator is designed close to existing ground level, with majority of the rail being situated below 0.5m in height., mitigating visual impact.

The portion of land to be excavated will be partially obscured by the existing heritage cottages, resulting in minimal change to the visual catchment when viewed from the waterway. It is noted that Council's Heritage Advisors do not foreshadow impacts to the heritage items, subject to conditions. The excavation is as a result of the steep gradient approximately 60.0% to the southern portion of the foreshore area. The property directly to the west No. 35 Sturdee Lane includes an inclinator of similar design, which would have necessitated similar excavation levels.

Both 31 and 33 Sturdee Lane are water only access properties, being located on the Western foreshores of Pittwater. Due to constraints of access i.e. no vehicular, the inclinator will provide the primary form of access to allow for ease of movement up and down the steep topography. It can be argued that the inclinator easement foreshadowed such arrangement. To conclude and based on the reasons above, the inclinator is considered to be of low impact, and due to the shared arrangement will limit site disturbance in comparison to two (2) separate inclinator structures, reducing the need for future built form within the foreshore area.

The proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, thereby satisfying objects 1.3(c) and (g) of the EPA Act.

Public Interest:

Matters relevant to public interest in respect of the development are considered in the relevant sections of this report as per Section 4.15(1)(e) of the EPA Act.

Conclusion:

Council is satisfied as to the matters set out in Clause 4.6 of the PLEP 2014.

It is considered on balance, that having regard to the particular circumstances, as described in detail above i.e. relating to steep gradient of land and limited access opportunities, the proposed departure from the development standard is acceptable and it is reasonable that flexibility to the standard be applied.

7.1 Acid sulfate soils

Clause 7.1 - 'Acid sulfate soils' requires Council to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. In this regard, development consent is required for the carrying out of works described on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

The site is located in an area identified as Acid Sulfate Soil Class 5, as indicated on Council's Acid Sulfate Soils Planning Map.

Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land is required to be assessed to determine if any impact will occur.

The development proposes to excavate to approximately 3.9 metres below the natural ground level and is within 500m of Class 1 Acid Sulfate Soils.

Council's Environmental Health Officer states that the works on the basis of the information submitted with the application do not meet the threshold criteria (as noted above) to require an Acid Sulphate Soils Management Plan. The submitted Geotechnical Assessment prepared by White Geotechnical Group makes reference to the following:

"Groundwater

Normal ground water seepage is expected to move over the denser and less permeable clay and weathered shale layers in the sub-surface profile. The water table was not encountered during the testing but is expected to sit just above the waterline. As such, it is expected to be below the base of the proposed excavation."

In this regard, Council's Environmental Health Officer has included a condition which requires the applicant to notify the principal certifying authority of any new evidence of the presence of acid sulfate soils.

7.2 Earthworks

The objective of Clause 7.2 - 'Earthworks' requires development to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

In this regard, before granting development consent for earthworks, Council must consider the following matters:

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development

Comment

The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

(b) the effect of the proposed development on the likely future use or redevelopment of the land

Comment

The proposal will not unreasonably limit the likely future use or redevelopment of the land.

(c) the quality of the fill or the soil to be excavated, or both

Comment

The excavated material will be processed according to the Waste Management Plan for the development.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties

Comment

The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during excavation/construction.

(e) the source of any fill material and the destination of any excavated material

Comment

The excavated material will be processed according to the Waste Management Plan for the development.

(f) the likelihood of disturbing relics

Comment

The development was referred to the Aboriginal Heritage Office who provided comments and conditions that have been included in the consent.

(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area

Comment

The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment

Conditions are included in the recommendation of this report that will minimise the impacts of the development.

(i) the proximity to and potential for adverse impacts on any heritage item, archaeological site or heritage conservation area.

Comment

The proposed earth works will not result in an adverse impact on No. 29, 31 or 33 Sturdee Lane.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of this clause. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

7.6 Biodiversity protection

Portions of the site are identified on the Department of Climate Change, Energy, the Environment and Water (DCCEE) Biodiversity Values Map (BV Map).

Before determining a development application for development on land to which this clause applies, this clause requires the consent authority to consider:

(a) whether the development is likely to have:

(i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and

(ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and

(iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and

(iv) any adverse impact on the habitat elements providing connectivity on the land, and

Comment

The development application was supported by documentation prepared by an Ecologist - ACS Environmental P/L (dated 23 May 2025) indicating the removal of a single non-locally native tree (Tree 3 *Stenocarpus sinuatus*) and notes that the proposed development that will occur within the Biodiversity Values Mapped area is very minor and is not expected to have significant impact to the flora and fauna. The development has been assessed by Council's Biodiversity Team, who raised no objections to approval, subject to conditions. The Biodiversity Team are satisfied that the development will not have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land; the importance of the vegetation on the land to the habitat and survival of native fauna; or the habitat elements providing connectivity on the land. It is therefore considered that the development will not unreasonably fragment, disturb, or diminish the biodiversity structure, function, or composition of the land.

The documentation provided by ACS Environmental P/L concludes that the application does not require a BDAR or assessment using the BAM (2020) in relation to very minor impacts to the few common components of the potentially occurring TEC vegetation (specifically Hunter Coast Lowland Spotted Gum Moist Forest: PCTID: 3234), that may occur in relation to the BV mapping.

(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment

The development has been assessed by Council's Biodiversity Team, who are satisfied that the proposal includes appropriate measures to avoid, minimise, or mitigate the impacts of the development. It is noted that the submitted Arborist report (Temporal Tree Management, March 2025) has identified incursions in the Tree Protection Zones of Trees 1,4 and 5 but has identified these incursions as acceptable and that the trees will remain healthy. A tree protection plan has been developed and will be implemented.

Before granting development consent, this clause also requires the consent authority to be satisfied that:

(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or

(b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or

(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment

Based on the above, and the referrals from Biodiversity and Landscape Team that the development is designed, sited and will be managed to any significant adverse environmental impact.

7.7 Geotechnical hazards

The site is identified as Geotechnical Hazard H1 on the Geotechnical Hazard Map.

Under Clause 7.7 Geotechnical Hazards, before determining a development application for development on land to which this clause applies, the consent authority must consider the following matters to decide whether or not the development takes into account all geotechnical risks:

- (a) site layout, including access,*
- (b) the development's design and construction methods,*
- (c) the amount of cut and fill that will be required for the development,*
- (d) waste water management, stormwater and drainage across the land,*
- (e) the geotechnical constraints of the site,*
- (f) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Comment

The proposed development is supported by a Geotechnical Investigation and Certified Forms 1 and 1A prepared by White Geotechnical Group (dated 16 April 2025) demonstrate geotechnical risks have been taken into account.

Development consent must not be granted to development on land to which this clause applies unless:

- (a) the consent authority is satisfied that the development will appropriately manage waste water, stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land, and*

Comment

The proposed development is not likely to cause adverse impact to the waste water, stormwater and drainage across the land.

(b) the consent authority is satisfied that:

- (i) the development is designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development, or*
- (ii) if that risk or impact cannot be reasonably avoided - the development is designed, sited and will be managed to minimise that risk or impact, or*
- (iii) if that risk or impact cannot be minimised - the development will be managed to mitigate that risk or impact.*

Comment

It is considered that subject to conditions, the proposed development has been designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development.

7.8 Limited development on foreshore area

Under Clause 7.8 Limited Development on Foreshore Area, development consent must not be granted for development on land in the foreshore area except for the following purposes:

- *the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, but only if the development will not result in the footprint of the building extending further into the foreshore area,*
- *boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).*

The proposed development includes the construction of an inclinor and associated retaining structures partially located within the foreshore area. Such development does not constitute waterway access stairs, therefore contravening Clause 7.8. The development however is found to be acceptable for the reasons as set out in 'Clause 4.6 Exceptions to development standards' elsewhere in this report.

Further works will occur to both the waterway access steps on both No. 31 and 33 Sturdee Lane which is permissible under this clause.

The proposed development is assessed against the objectives of this control below:

Development consent must not be granted under this clause unless the consent authority is satisfied that:

- *the development will contribute to achieving the objectives for the zone in which the land is located, and*
- *the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and*
- *the development will not cause environmental harm such as:*
 - *pollution or siltation of the waterway, or*
 - *an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or*
 - *an adverse effect on drainage patterns, or*
 - *the removal or disturbance of remnant riparian vegetation, and*
- *the development will not cause congestion or generate conflict between people using open space areas or the waterway, and*
- *opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and*
- *any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and*
- *in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and*
- *sea level rise, coastal erosion and recession, or change of flooding patterns as a result of climate change have been considered.*

Comment

The proposed development is consistent with the objectives of the C3 Environmental Management zone. The appearance of the proposed development is compatible with the surrounding area and similar developments. The proposed development will not cause environmental harm in relation to pollution, siltation, surrounding uses, marine habitat, wetland areas, flora or fauna habitats, drainage patterns or remnant riparian vegetation. The proposed development will not cause congestion or generate conflict between people using the adjacent open space or waterway as the works are located landward of the MHWL. The proposed development retains public access along the foreshore. The proposed development will not result in adverse impacts to any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land. The proposed development will not have an adverse impact on the amenity or aesthetic appearance of the foreshore. The proposed development will not impact upon sea level rise, coastal erosion or recession, or change flooding patterns.

In deciding whether to grant consent for development in the foreshore area, the consent authority must consider whether and to what extent the development would encourage the following:

- *continuous public access to and along the foreshore through or adjacent to the proposed development,*
- *public access to link with existing or proposed open space,*
- *public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,*
- *public access to be located above mean high water mark,*

- *the reinforcing of the foreshore character and respect for existing environmental conditions.*

Comment

The proposed development does not impact upon any public access. The proposed development is acceptable in relation to the foreshore character and the existing environmental conditions.

Pittwater 21 Development Control Plan

Built Form Controls

No. 31 Sturdee Lane - Built Form Table (Table 1 below)

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front Building Line	6.5m <i>Northern Boundary</i>	> 6.5m	-	Yes
Rear Building Line	Foreshore Building Line (FSBL)	Portion of the inclinator is located seaward of the FSBL	-	No <i>Refer to Clause 4.6 + 7.8</i>
Side Building Line	2.5m <i>Eastern Boundary</i>	> 2.5m	-	Yes
	1.0m <i>Western Boundary</i>	Inclinator: Nil Concrete Platform (Landing 2): 0.5m Waterway access sandstone steps: Nil	100.0%	No
Landscaped Area	73.0% 599.3m ²	61.5% <i>Approx. 505.4m²</i>	15.8% 93.9m ²	No

No. 33 Sturdee Lane - Built Form Table (Table 2 below)

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front Building Line	6.5m <i>Northern Boundary</i>	> 6.5m	-	Yes
Rear Building Line	Foreshore Building Line (FSBL)	Portion of the inclinator is located seaward of the FSBL	-	No <i>Refer to Clause 4.6 + 7.8</i>
Side Building Line	2.5m <i>Western Boundary</i>	> 2.5m	-	Yes
	1.0m <i>Eastern Boundary</i>	Inclinator: Nil Timber steps (Landing 2): 0.5m Waterway access timber stairs: 0.7m	100.0%	No
Landscaped Area	Impervious Area: 230.0m ²	Landscaped Area: 82.9% <i>1069.0m²</i> Impervious Area: Approx. 221.0m ²	-	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.8 Lower Western Foreshores and Scotland Island Locality	Yes	Yes
B1.1 Heritage Conservation - Heritage items, heritage conservation areas and archaeological sites listed in Pittwater Local Environmental Plan 2014	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.2 Bushfire Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.7 Estuarine Hazard - Low density residential	Yes	Yes
B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.16 Seagrass Conservation	Yes	Yes
B4.19 Estuarine Habitat	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D8.1 Character as viewed from a public place	Yes	Yes
D8.2 Scenic protection - General	Yes	Yes
D8.3 Building colours and materials	Yes	Yes
D8.6 Side and rear building line	No	Yes
D8.8 Building envelope	Yes	Yes
D8.9 Landscaped Area	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D8.11 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D8.13 Stormwater overflow	Yes	Yes
D8.15 Site disturbance	No	Yes
D15.11 Waterfront lighting	Yes	Yes
D15.12 Development seaward of mean high water mark	Yes	Yes
D15.14 Minimum frontage for waterfront development	Yes	Yes

Detailed Assessment

B3.7 Estuarine Hazard - Low density residential

The subject property is identified as being affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. As such, the Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant B3.7 Estuarine Hazard Controls apply to the proposed development of the site.

In accordance with the Pittwater Estuary Mapping of Sea Level Rise Impacts Study (2015), a base estuarine planning level (EPL) of RL 2.71m AHD would apply at the subject site. A reduction factor (RF) based upon the distance from the foreshore of proposed development may also apply at a rate of 0.06m reduction to the EPL for every 5.00m distance from the foreshore edge up to a maximum distance of 40.00m.

Portions of the proposed development is below the derived EPL for the site. The proposed development is therefore subject to conditions to satisfy the relevant estuarine risk management requirements of P21 DCP as noted by Council's Coastal Team.

B8.1 Construction and Demolition - Excavation and Landfill

Detailed Assessment

The proposed works will necessitate a depth of approximately 3.9 metres of excavation on the downhill side of the slope (landward of the existing cottage of No. 33 Sturdee Lane).

The excavation will be generally isolated to this area (as shown in the figure 3 for Landing L1, such excavation is a result of the steep topography occurring to the land in the location of Landing L1.

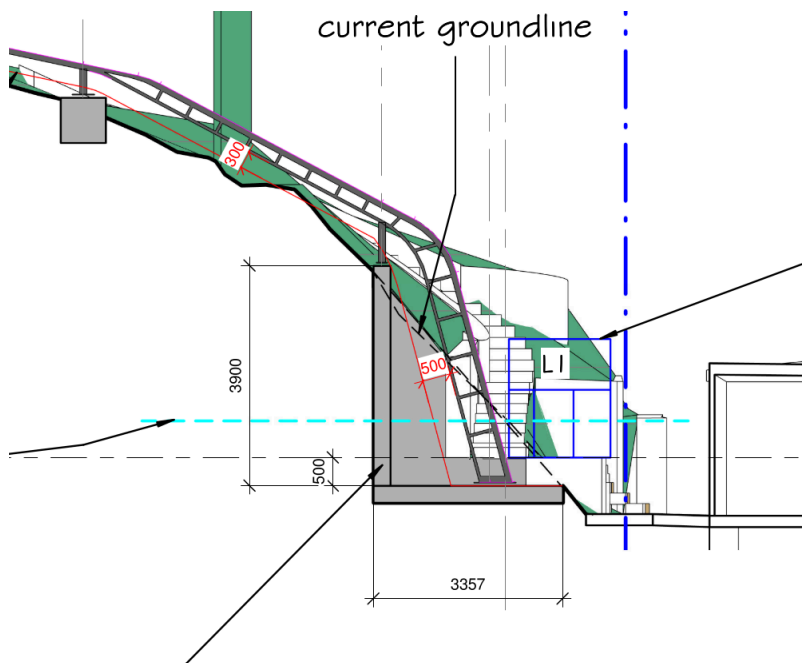


Figure 3: Extract from submitted Architectural Plans indicating location and depth of excavation.

As discussed earlier within this Assessment Report, a Geotechnical Investigation was undertaken and submitted with the application. Such recommendations of the report will be included as conditions of consent.

- **Site disturbance is minimised.**

Comment

Despite the proposed depth of excavation, the site disturbance will be minimised as the excavation is limited to the area of Landing L1. The excavation is considered to be unavoidable due to the extent of the topography's gradient within the foreshore area and ensuring the works are landward of the MHWL. The remainder of the inclinator rail is considered to be at ground level and excavation to occur for footings further up hill (considered minor). This design allows for the excavation to be contained to this said area rather than "shaving off" land along the entire slope to accommodate for the inclinator rail.

- **Excavation, landfill and construction not to have an adverse impact.**

Comment

Based on the supporting documentation provided, the development is considered to be of low impact, subject to the adherence of the recommended conditions.

- **Excavation and landfill operations not to cause damage on the development or adjoining property.**

Comment

The inclinator is a shared development for No. 31 and No. 33 Sturdee Lane and the application provides owner's consent for both properties. No. 35 is not within close proximity to the excavation, and it is not considered that this development would adversely impact adjoining properties, subject to the recommendations of the Geotechnical Investigation.

C1.19 Incline Passenger Lifts and Stairways

Detailed Assessment

Clause C1.19 Incline Passenger Lifts and Stairways stipulates that incline passenger lifts (aka inclinators) shall be designed in accordance with the following:

- be designed and located so they do not involve excessive excavation, or the removal of natural rock or trees, and
- be erected as near as possible to the ground level (existing) of the site, and shall not involve the erection of high piers or visible retaining structures, and
- be located and designed to minimise the effects of noise from the motor and overlooking of adjoining dwellings, and
- be painted to blend in with surrounding vegetation and screened by landscaping and
- be set back two (2) metres from the side boundary to the outer face of the carriage
- be located wholly on private land, and
- have a privacy screen where there is a direct view within 4.5 metres to a window of a habitable room of another dwelling.

A variation is included in the control where an incline passenger lift is shared between lots, the 2.0m side boundary setback does not apply to those lots.

The proposed inclinator generally complies with the above listed requirements. The inclinator will be shared between two (2) properties No. 31 and No. 33 Sturdee Lane within an easement with the intended purpose of inclinator access. The inclinator is located approximately 12.3 metres from the nearest adjoining dwelling house (No. 35 Sturdee Lane).

The inclinator landing (L1 - lower landing) will necessitate excavation within the foreshore area (such excavation is discussed within Clause 4.6 and B8.1 Construction and Demolition - Excavation and Landfill elsewhere in this report). The excavation for the inclinator is unavoidable due to the steep slope (southern portion of the foreshore area) and to be able to contain the inclinator wholly within the confines of private land (landward of the MHWL).

The proposed development is considered against the underlying outcomes of the control as follows:

- ***Incline passenger lifts and stairways that cause minimal visual and acoustic disturbance to the environment and neighbours. (En, S)***

Comment

The proposed inclinator is located close to ground level with the lower landing and excavation (steeper portion of the rail) being generally situated behind an existing cottage. The inclinator is minimal in design and is not considered to result in adverse visual impact nor impact the nearby heritage cottages.

A recommended condition is included to ensure that noise levels produced will not exceed 5dBA above background noise when measured from the nearest property boundary and that the colours of the inclinator carriage is to be of a medium to dark colour range, to contribute to the natural environment by mitigating any perceivable visual and acoustic impacts.

Having regard to the above assessment, it is concluded that the applicable outcomes of the control have been achieved. Therefore, the application is supported on merit.

D8.3 Building colours and materials

The submitted Statement of Environmental Effects notes that the inclinator will be painted in medium to dark colours to complement the surrounding natural environment. A condition will be included to ensure the proposed works are within a colour scheme that is dark and earthy. Subject to this condition, the proposed works will achieve the requirements outcomes of this control.

D8.6 Side and rear building line

Description of Non-compliance

Clause D8.6 Side and Rear Building Line prescribes a side setback of 2.5 metres to one side and 1.0 metre to the other.

For this assessment, the 2.5 metres side building line is applied to the eastern boundary for No. 31 Sturdee Lane and the western boundary for No. 33 Sturdee Lane. The 1.0 metre side building line will be applied to the western boundary for No. 31 Sturdee Lane and the eastern boundary for No. 33 Sturdee Lane.

Therefore, the proposed works do not comply with the 1.0 metre setback requirement and rather exhibits the following:

- Inclinator: Nil (on adjoining boundary of No. 31 and No. 33 Sturdee Lane).
- Timber steps for Landing L2 (No. 33 Sturdee Lane): 0.5 metres.
- Concrete platform for Landing L2 (No. 31 Sturdee Lane): 0.5 metres.
- Existing sandstone step extension: Nil.
- Timber step extension: 0.7 metres

The proposed inclinator is to be a shared structure between both subject sites and to be situated within an existing Easement intended for inclinator access.

Retaining walls are permitted within the side setback area as noted within in this control.

Merit Consideration

With regard to the consideration of a variation, the proposed development is considered against the underlying outcomes of this control as follows:

- ***To achieve the desired future character of the Locality. (S)***

Comment

The proposed development will maintain a landscaped setting, which is integrated with the landform and natural environment. Site disturbance will be minimised by limiting excavation to the lower portion of the inclinator rail and landing (within foreshore area) where the steeper slope is present. The development is not considered to be of excessive scale that would adversely impact the locality, such works are consistent with existing inclinator/waterway access stairs within the western foreshores and Elvina Bay.

- ***The bulk and scale of the built form is minimised. (En, S)***

Comment

The inclinator, waterway access stairs and platforms (for the landings) are lightweight and close to ground level. These elements are not considered to be visually dominating or obtrusive and will blend into the existing design of the surrounding built environment. Similar development nearby

are of similar spatial and height characteristics of this proposal.

- ***Equitable preservation of views and vistas to and/or from public/private places. (S)***

Comment

The proposed works are located close to ground level and will not result in adverse impact to views and vistas.

- ***To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.***

Comment

As stated above, the proposed works are not considered to adversely impact on any current view sharing of the adjoining properties.

- ***To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. (En, S)***

Comment

The works will not significantly alter the solar access currently obtained. It is noted that the inclinator is located approx. 12.3 metres from any adjoining dwelling house - No. 35 Sturdee Lane (in exception to No. 31 Sturdee Lane - subject site). It is considered that the proposal has been designed to provide for an acceptable level of amenity for the residents of both the subject sites and nearby neighbours. The inclinator is for travel and access purposes.

- ***Substantial landscaping, a mature tree canopy and an attractive streetscape. (En, S)***

Comment

Due to the minimal nature of the works i.e. access stairs and inclinator rail, the amount of net loss to landscaping will not be significant. Both properties are well vegetated, providing a landscaped presence when viewed from the waterway. Both sites are accessed by the waterway. A dirt road is located to the north and such works cannot be viewed from this location. The canopy trees will be retained, in exception to one (1) which will require removal - Tree 3 *Stenocarpus sinuatus* (non-locally native). Conditions included for tree replacement.

- ***Flexibility in the siting of buildings and access. (En, S)***

Comment

The addition of the inclinator will enhance the flexibility and access of both allotments.

- ***Vegetation is retained and enhanced to visually reduce the built form. (En)***

Comment

The surrounding canopy trees will aid in mitigating built form. Council's Landscape and Biodiversity Officers are in support, subject to conditions including tree replacements. Due to the inclinator rail being elevated off the ground, the anticipated understorey vegetation impact will be minimal and vegetation can be largely retained.

- ***To ensure a landscaped buffer between commercial and residential zones is established. (En, S)***

Comment

The subject site is located in and is surrounded immediately by either environmental protection or residential zones, this outcome does not apply.

Having regard to the above assessment, it is concluded that the outcomes of the clause have been achieved. Therefore, the application is supported on merit in this particular circumstance.

D8.9 Landscaped Area

Description of Non-compliance

Clause D8.9 Landscaped Area relevantly stipulates the following landscaped area requirements:

No. 31 Sturdee Lane:

- Site Area - 820.9m²
- 27.0% of the site may be impervious area, thereby 73.0% (599.3m²) is to be of soft landscaping. The proposed development will result in a landscaped area of 505.4m² or 61.5%. It is noted that the property exhibits an existing non-compliance in landscaped open space (approximately 510.0m²). The proposed development will contribute to a net loss of 4.6m².

No. 33 Sturdee Lane:

- Site Area - 1290.0m²
- 230.0m² of the site area may be impervious. The proposed development results in an impervious area of approximately 221.0m², with a landscaped area 82.9% (1069.0m²).

Variations

Provided the outcomes of this control are achieved, the following may be permitted on the landscaped proportion of the site:

- impervious areas less than 1 metre in width (e.g. pathways and the like);
- for single dwellings on land zoned E3 Environmental Management, up to 6% of the total site area may be provided as impervious landscape treatments providing these areas are for outdoor recreational purposes only (e.g. roofed or unroofed pergolas, paved private open space, patios, pathways and uncovered decks no higher than 1 metre above ground level (existing)).

In light of the above variations, the landscape calculations noted above, include any impervious areas less than 1 metre in width (e.g. pathways and the like) on site.

Merit Consideration

With regard to the consideration of a variation, the proposed development is considered against the underlying outcomes of this control as follows:

- ***To achieve the desired future character of the Locality. (S)***

Comment

The proposed development will maintain a landscaped setting, which is integrated with the landform and natural environment. Site disturbance will be minimised by limiting excavation to the lower inclinor rail and landing where the steeper slope is present.

- ***The bulk and scale of the built form is minimised. (En, S)***

Comment

The inclinator, waterway access stairs and platforms (for the landings) are lightweight and close to ground level. These elements are not considered to be visually dominating or obtrusive and will blend into the existing design of the surrounding built environment. Similar development nearby are of similar spatial and height characteristics of this proposal.

- ***To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to neighbouring properties. (En, S)***

Comment

The works will not significantly alter the solar access currently obtained. It is noted that the inclinator is located approx. 12.3 metres from any adjoining dwelling house - No. 35 Sturdee Lane (in exception to No. 31 Sturdee Lane - subject site). It is considered that the proposal has been designed to provide for an acceptable level of amenity for the residents of both the subject sites and nearby neighbours.

- ***Vegetation is retained and enhanced within the building design to screen the visual impact of the built form. In residential areas, buildings are to give the appearance of being secondary to landscaping and vegetation including tree canopy. (En)***

Comment

The inclinator is not likely to alter the current landscaped setting on the site by resulting in a minor net loss. The existing trees on site to be retained will contribute to visual screening.

- ***Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels. (En)***

Comment

The proposed development will not result in adverse impacts in relation to stormwater run off.

- ***To ensure the distribution of height and mass preserves, and enhances neighbourhood amenity and has regard to site characteristics and environmental constraints.***

Comment

The works are considered minimal in terms of bulk and scale i.e. inclinator being close to existing ground level. The relevant referral units have reviewed the application and are in support, subject to conditions.

- ***To conserve significant natural features of the site and contribute to effective management of biodiversity.***

Comment

Council's Biodiversity Team reviewed the proposal and include conditions to ensure the effective management of biodiversity. The significant features of the site will generally be maintained, with excavation being limited to the lower portion of the inclinator rail/landing due to the significant slope in the land (within the foreshore area).

- ***The area of site disturbance is minimised. (En)***

Comment

Site disturbance is considered to be limited and acceptable in this circumstance. Refer to Clause

D8.15 Site disturbance for further discussion.

- ***Soft surface is maximised. (En, S)***

Comment

The soft surface is considered to be maintained in a similar manner as existing, with the works including upgrades to waterway access stairs and the addition of inclinator landings. The inclinator itself will allow for minimal impact to the understorey vegetation.

Having regard to the above assessment, it is concluded that the outcomes of the clause have been achieved. Therefore, the application is supported on merit in this particular circumstance.

D8.15 Site disturbance

Merit Consideration

Clause D8.15 Site disturbance stipulates that land within the Western Foreshores should not at any time disturb more than 25.0% of the site area.

Within the site boundaries of No. 33 Sturdee Lane site disturbance will remain below 25.0% of the site area as a result of the new inclinator. It is noted that the existing arrangement at No. 31 Sturdee Lane i.e. dwelling house, landscaping and pathways would likely result in an overall site disturbance of more than 25.0% of the site area. As this is due to existing structures/site disturbance, any further works to this site will exhibit non-compliance to this control, and therefore is assessed on a merit basis.

Despite this, the site disturbance for the inclinator in terms of area is low and will maintain an acceptable balance between built form and natural landscape. The inclinator design is not considered to be overly visually dominant, being situated close to ground level. The design is sympathetic to both heritage items and the natural features and values of the immediate vicinity. Whilst excavation will occur on site - primarily No. 33 Sturdee Lane, this excavation is isolated to an area to accommodate the lower landing and steep topography. Excavation is addressed under Clause B8.1 Construction and Demolition - Excavation and Landfill, elsewhere in this report.

The inclinator will improve site access and a Site Erosion and Sedimentation Prevention Plan has been provided as per the control requirements, further conditions are provided to ensure that sediment and erosion controls are installed prior to any disturbance of soil on site and maintained until all work is complete and groundcover re-established.

Based on the above, it is considered that the development will achieve the objectives of the control.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2024

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2024.

A monetary contribution of \$2,400 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$240,000.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

Council is satisfied that the Applicant's written request under Clause 4.6 of the Pittwater Local Environmental Plan 2014 seeking to justify variation of the development standard contained within Clause 7.8 Limited Development on Foreshore Area has adequately addressed and demonstrated that:

- Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- There are sufficient environmental planning grounds to justify the variation.

PLANNING CONCLUSION

This proposal, for the construction of an inclinor and associated works has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to to a portion of the inclinor and associated

retaining/excavation works being located within the foreshore building area, contravening the non-numerical development standard of Clause 7.8 of the Pittwater Local Environmental Plan 2014 (PLEP 2014). Additionally, the subject properties are listed as Local Heritage items.

The proposed development was notified in accordance with Council's Community Participation Plan (CPP) for a period of fourteen (14) days, resulting in no submissions.

On balance, and considering the preceding detailed assessment of the application, including a detailed analysis of the variation to Clause 7.8 of the PLEP 2014, it is considered that the proposal, subject to recommended conditions will result in a development that is acceptable in design. The particular circumstances in reference to the acceptability of the placement of the inclinor relate to the primary access being from the waterway, steep gradient for the foreshore area and the existing easement with the intention to provide for inclinor access. It was concluded that the development shall not unacceptably impact the natural foreshore processes nor affect the heritage significance and amenity of the site's and surrounding area.

Overall, the development is a high quality design that performs well against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment. The proposal has therefore been recommended for **approval**.

REASON FOR DETERMINATION

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2025/0603 for Construction of an inclinator and associated works on land at Lot 1 DP 1180405, 33 Sturdee Lane, ELVINA BAY, Lot 2 DP 1180405, 31 Sturdee Lane, ELVINA BAY, Lot LIC 645182, 31 Sturdee Lane, ELVINA BAY, subject to the conditions printed below:

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

GENERAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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
A2 2417 01	A	Proposed Inclined Passenger Lift at 31-33 Sturdee Lane Elvina Bay	Peter Downes Designs	20 October 2025
A2 2417 02	A	Rail Plan	Peter Downes Designs	20 October 2025
A2 2417 03	A	Section 1	Peter Downes Designs	20 October 2025
A2 2417 04	A	Section 2 - West Sectional Elevation	Peter Downes Designs	20 October 2025
A2 2417 00A	A	Cover Sheet / South	Peter Downes Designs	20 October 2025

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Arboricultural Impact Assessment Ref. 250027	-	Temporal Tree Management Pty Ltd	13 March 2025
Bushfire Assessment Report Ref. Ref: 79BA – 3170	-	Sydney Bushfire Consultants	11 April 2025
Waste Management Plan	-	-	-

Impacts to vegetation mapped on the Biodiversity Values Map at 31 - 33 Sturdee Lane, Elvina Bay	-	ACS Environmental P/L	23 May 2025
Geotechnical Investigation Ref. J5936	-	White Geotechnical Group	16 April 2025

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

In the event of any inconsistency between 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.

2. **Compliance with Other Department, Authority or Service Requirements**

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Referral - Ausgrid	10 June 2025

(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.

3. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifier for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

4. **General Requirements**

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.
- (c) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (d) At all times after the submission of the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (e) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (f) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (g) Prior to the release of the Construction Certificate, payment of the following is required:
- i) Long Service Levy - Payment should be made to Service NSW (online or in person) or directly to the Long Service Corporation. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
 - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
 - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.

- (h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (i) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (j) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (l) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (m) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (o) Should any construction cranes be utilised on site, they are to be fitted with bird deterrents along the counterweight to discourage raptor (bird) nesting activity. Deterrents are to remain in place until cranes are dismantled. Selection of deterrent methods is to be undertaken in accordance with the recommendations of a suitably qualified ecologist.
- (p) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2018
- (iv) Australian Standard AS1926 Swimming Pool Safety

- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewerred areas or managed on-site in unsewerred areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

FEES / CHARGES / CONTRIBUTIONS

5. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2024

A monetary contribution of \$2,400.00 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 \$240,000.00.

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 or, if relevant, the Subdivision Certificate (whichever occurs first).

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.

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

6. No Clearing of Vegetation

Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

Details demonstrating compliance are to be submitted to the Certifier prior to issue of Construction Certificate.

Reason: To protect native vegetation.

7. **Amendment of Landscape Plans**

The submitted Landscape Plan is to be amended in accordance with the following:

- Any new landscaping is to incorporate a minimum 80% locally native vegetation species as a proportion of the total number of plants. Locally native species are to be consistent with the species listed in Pittwater Spotted Gum Endangered Ecological Community.
- At least 2 locally canopy trees consistent with the Pittwater Spotted Gum Forest Endangered Ecological Community are to be planted on the site to replace the protected tree approved for removal. Species are to have a minimum mature height of 8.5m and be consistent with the Native Planting Guide available on Council's website.

Tree plantings are to be retained for the life of the development and/or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.

The Landscape Plan is to be amended by a qualified landscape architect and provided to the Certifier prior to issue of the Construction Certificate.

Reason: To maintain and replace habitat on the site.

8. **Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Certifier.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of a Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

9. **Boundary Identification Survey**

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on a boundary identification survey, prepared by a Registered Surveyor, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of any Construction Certificate.

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

10. **Estuarine Planning Level Requirements**

An Estuarine Planning Level (EPL) of 2.71m AHD has been adopted by Council for the subject

site and shall be applied to all development proposed below this level as follows:

1. All structural elements below 2.71m AHD shall be of flood compatible materials;
2. All electrical equipment, wiring, fuel lines or any other service pipes and connections must be located either above 2.71m AHD or waterproofed to this level; and
3. The storage of toxic or potentially polluting goods, chemicals or materials, which may be hazardous or pollute the waterway, is not permitted below 2.71m AHD.

Reason: To ensure vulnerable components of the development are built at the appropriate level.

11. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

12. **Colour of Inclinor, Inclinor Pit and Retaining Walls**

The inclinor (including the rail, carriage and balustrades), inclinor pit (Landing 1) and associated retaining walls are all to be finished in a medium to dark colour range of earthy tones/materials.

Details demonstrating compliance as to be submitted to the Principal Certifying Authority prior to the issuing of a construction certificate.

Reason: To reduce the visual impact of the development.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

13. **Project Arborist**

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged prior to any commencement of works on site to provide tree protection measures in accordance with AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, and in particular:

- a) sections 6.2, 7.2, 7.3, and 7.4,
- b) Figure 13 Tree Protection.

All tree protection measures specified must: be in place before work commences on the site; be maintained in good condition during the construction period; and remain in place for the duration of the construction works. The Project Arborist shall provide certification to the Certifier that all tree protection measures under AS4970-2009 have been satisfied, and the 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: 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.

14. Tree Removal Within the Property

This consent approves the removal of existing prescribed trees on the subject site as identified in the Arboricultural Impact Assessment, being tree ID T3. A qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Reason: To enable authorised development works.

15. Sediment and Erosion Controls

For developments that include more than 2500sqm of disturbance:

A Soil and Water Management plan (SWMP), in accordance with section 2.3 of the Blue Book, must be prepared and certified by a suitably qualified professional.

For sites larger than 250sqm and less than 2500sqm of disturbance:

An Erosion and Sediment Control Plan (ESCP) must be prepared by a suitably qualified person in accordance with the following considerations and documents:

- Sites that have slopes exceeding 20% (measured in any direction across the site), and/or where works are within the high-water mark or adjacent to a waterway or watercourses are considered environmentally sensitive areas. These sites require a site-specific ESCP which must be prepared and certified by a suitably qualified professional,
- The guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate – Volume 1, 4th Edition (2004)' (the Blue Book), and
- The 'Guidelines for Erosion and Sediment Control on Building Sites' (Department of Planning, Housing and Infrastructure).

The ESCP must include the following as a minimum:

- Site Boundaries and contours,
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application),
- Location of site access, proposed roads and other impervious areas (e.g. parking area and site facilities),
- Existing and proposed drainage patterns with stormwater discharge points,
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected,
- North point and scale,
- Type of erosion control measures to divert and slow run-off around and within the site.

Environmentally sensitive areas (i.e. Sites that have slopes exceeding 20% and/or where works are within the high-water mark or adjacent to a waterway or watercourses) must also

consider:

- Identify and mark any environmentally sensitive areas on and immediately next to the site and how you will protect these, including any appropriate buffer zones (for example, marking them out as 'no-go' areas),
- Details on vegetation you will clear, as well as areas of vegetation you will keep (mark no go areas),
- Detail on soil information and location(s) of problem soil types, especially dispersive soils and potential or actual acid sulfate soils,
- Location of any natural waterways that could receive run-off and how these will be protected these from run-off.

For sites smaller than 250sqm or where the disturbance is less than 50sqm:

Run-off and erosion controls must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:

- Diverting uncontaminated run-off around cleared or disturbed areas, and
- Erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
- Preventing the tracking of sediment by vehicles onto roads, and
- Stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.
- Identifying any environmentally sensitive areas on and immediately next to the site, and demonstrating how these will be protected (for example, by designation as no-go areas).

Details demonstrating compliance with the relevant requirements above are to be submitted to the Certifier, and the measures implemented, prior to the commencement of works.

Reason: To ensure no substance other than rainwater enters the stormwater system and waterways.

DURING BUILDING WORK

16. Requirement to notify about new Acid Sulfate Soils evidence

Any new information revealed during excavation works that has the potential to alter previous conclusions about Acid Sulfate Soils shall be immediately notified to the Council and the Principal Certifier and a report be obtained from a suitably qualified person. Any recommendations provided by the report are to be complied with during works.

Reason: To protect the environment.

17. Tree and Vegetation Protection

a) Existing trees and vegetation shall be retained and protected, including:

- i) all trees within the site not approved for removal, including trees and vegetation nominated for retention on the approved Plans,
- ii) all trees and vegetation located on adjoining properties,
- iii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,

- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project 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/Project 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/Project 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/Project 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/Project 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/Project Arborist to the Principal Certifier,
- 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 AS4970-2009 Protection of trees on development sites,
- ix) the activities listed in section 4.2 of AS4970-2009 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 AS4373-2007 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.

The Principal Certifier must ensure that:

- c) The arboricultural works listed in a) and b) are undertaken as compliant to AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment and/or Project Arborist as applicable.

Reason: Tree and vegetation protection.

18. **Wildlife Protection**

If construction activity associated with this development results in injury or displacement of a native mammal, bird, reptile or amphibian, a licensed wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife.

19. **Protection of Habitat Features**

All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are to remain undisturbed during the construction works, except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

20. **Geotechnical Requirements**

All recommendations (if any) included in the Geotechnical Report referenced in Condition 1 of

this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

21. Survey Certificate

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier.

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

22. Maintenance of Sediment and Erosion Controls

Erosion and sediment controls must be adequately maintained and monitored at all times, particularly surrounding periods of rain, and shall remain in proper operation until all development activities have been completed and the site is in a state where no substance other than rainwater can enter the stormwater system and waterways.

All sediment control measures must be maintained at, or above, their design capacity.

Where more than 2500 square metres of land are disturbed or if the site has a slope of more than 20%, a self-auditing program must be developed for the site. A site inspection using a log book or inspection test plan (ITP) must be undertaken by the site supervisor:

- at least each week
- immediately before site closure
- immediately following rainfall events that cause runoff.

Details demonstrating compliance must be provided to the Certifier during demolition and building works.

Reason: Protection of the receiving environment and to ensure no substance other than rainwater enters the stormwater system and waterways.

23. Waste Management During Development

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifier.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

24. Protection of Heritage Significant Cottage During Works

Given the proximity of the heritage-significant cottage to the proposed excavation and

construction works, particular care must be taken to ensure that the structural and visual integrity of the heritage item is protected throughout the duration of the works. All excavation and construction activity must be undertaken in a manner that prevents any direct or indirect impact on the heritage-listed cottage. The minimum separation distance between the works and the heritage cottage must not be less than that shown in the approved plans.

Reason: To ensure the conservation of the heritage significant cottage.

25. **Stockpiling materials**

During construction, all material associated with works is to be contained at source, covered and must be within the construction area. All material is to be removed off site and disposed of according to local regulations. The property is to be kept clean and any building debris removed as frequently as required to ensure no debris enters receiving waters.

Reason: To ensure pollution control measures are effective to protect the aquatic habitats within receiving waters throughout the construction period.

26. **Pollution Control**

All stockpiles, materials, waste and slurry associated with works (including excavated material) is to be contained at source within the construction area and enclosed in waterproof covering and/or sediment and erosion control while not in use. All waste/debris is to be removed off site and disposed of as frequently as required in accordance to local regulations.

Reason: To protect the surrounding environment, and ensure that pollutants and building associated waste do not leave the construction site.

27. **Aboriginal Heritage**

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Planning, Housing and Infrastructure.

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the Department of Planning, Housing and Infrastructure.

Reason: Aboriginal Heritage Protection.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

28. **Required Tree Planting**

a) one Broad-leaved Mahogany (*Eucalyptus umbra*) shall be planted within the property, and in accordance with the following:

i) tree planting shall be a minimum pre-ordered planting size of 45 litres; meet the requirements of Australian Standard AS2303 - Tree Stock for Landscape Use; planted into a prepared planting hole 1m x 1m x 600mm depth generally, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established; and shall be located at least 3.0 metres from buildings or more, at least 1.5 metres from common boundaries; and located either within garden bed or within a prepared bed within lawn,

ii) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces,

b) Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To maintain environmental amenity.

29. Condition of Retained Vegetation

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Principal Certifier, assessing the health and impact on all existing trees required to be retained on the approved Plans or as listed in the Arboricultural Impact Assessment, including the following information:

- a) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- b) extent of damage sustained by vegetation as a result of the construction works,
- c) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree and vegetation protection.

30. No Weeds Imported On To The Site

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan) are to be imported on to the site prior to or during construction works.

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

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

31. Geotechnical Certification Prior to Occupation Certificate

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifier prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

32. Waste Disposal Verification Statement

On completion of demolition work:

- a signed statement must be submitted to the Certifier verifying that demolition work, and any recycling of materials, was undertaken in accordance with the waste management plan approved under this consent, and
- if the demolition work involved the removal of asbestos, an asbestos clearance certificate issued by a suitably qualified person, must be submitted to the Certifier within 14 days of completion of the demolition work.

Reason: To provide for the submission of a statement verifying that demolition waste management and recycling has been undertaken in accordance with the approved waste management plan.

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

33. Geotechnical Recommendations

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

34. **Inclinor (Noise)**

The inclinor must be installed and operated at times so as not to cause 'offensive noise'.

The inclinor is not create any noise which exceeds over 60dB(A) when measured one (1) metre from any adjoining premises.

Reason: To ensure compliance