

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2018/1676
<b>Responsible Officer:</b>	Seth Dias
<b>Land to be developed (Address):</b>	Lot 2 DP 878612, 127 Riverview Road AVALON BEACH NSW 2107
<b>Proposed Development:</b>	Alterations and additions to a dwelling house including construction of an inclinor
<b>Zoning:</b>	E4 Environmental Living
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Katherine Megan Watt
<b>Applicant:</b>	THW Architects
<b>Application lodged:</b>	12/10/2018
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	24/10/2018 to 07/11/2018
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Recommendation:</b>	Approval
<b>Estimated Cost of Works:</b>	\$ 80,000.00

### 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 - 7.8 Limited development on foreshore area

Pittwater 21 Development Control Plan - C1.19 Incline Passenger Lifts and Stairways

Pittwater 21 Development Control Plan - D1.8 Front building line

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 2 DP 878612 , 127 Riverview Road AVALON BEACH NSW 2107
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the western side of Riverview Road.</p> <p>The site is an irregular battle-axe lot with a frontage of 14.60m along a right of carriageway and easement for services which travels through 125 Riverview Road and ends along Riverview Road. The site has a depth a depth of 62.95m along the northern boundary and 48.98m along the southern boundary. The site has a surveyed area of 1498m<sup>2</sup>.</p> <p>The site is located within the E4 Environmental Living zone and accommodates a four-storey dwelling house.</p> <p>The site is steep, falling by an average of 39% from east to west.</p> <p>The site contains a large variety of vegetation including native species and other small shrubs and small trees. The site also contains large turfed grass areas.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by other dwelling houses with multiple different architectural styles.</p>

Map:



## SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

- N1114/00: Construction of a jetty, ramp, pontoon and berthing area
- N0275/15: Boundary adjustment between 125 & 127 Riverview Road and alterations and additions to residential house and new pool at 127 Riverview Road
- N0275/15/s96/1: Boundary adjustment between 125 & 127 Riverview Road and alterations and additions to residential house and new pool at 127 Riverview Road. Modifications proposed include changes to approved swimming pool.
- Mod2018/0394: Modification of Development Consent N0275/15 for the boundary adjustment between 125 and 127 Riverview Road and alterations and additions to residential house and new pool at 127 Riverview Road\*

\* This Modification sought approval for an incline passenger lift on the northern boundary of the lot. It was removed from the application after it was shown that it was not substantially related enough to the original Development Application. This new Development Application seeks approval for the Incline passenger lift from the previous Modification.

## PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks to construct an inclined passenger lift on the northern boundary of the site.

## 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	None applicable.
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 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 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.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 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.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>

Section 4.15 Matters for Consideration'	Comments
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	<p>(i) <b>Environmental Impact</b> 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.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
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 (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 not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

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

## MEDIATION

No requests for mediation have been made in relation to this application.

## REFERRALS

Internal Referral Body	Comments
Landscape Officer	The proposal for the construction of a inclined passenger lift, in terms of landscape outcome, is acceptable subject to the protection of existing trees and vegetation.

Internal Referral Body	Comments
	<p>Council's Landscape section has assessed the proposal against the following Pittwater 21 DCP 2014 Controls: B4.22 Preservation of Trees or Bushland Vegetation C1.1 Landscaping</p>
NECC (Bushland and Biodiversity)	<p><b>Updated Biodiversity Response 30 January 2019</b> This updated assessment is based upon the following additional information: - Site Plan, Dwg. A00-M (THW Architects, 7 December 2019) - Arboricultural Impact Appraisal and Method Statement, Revision C (Naturally Trees, 14 December 2018).</p> <p>It is noted that the amended site plan submitted as additional information for the current DA show works proposed but not approved under MOD2018/0394. Approval of the components marked yellow as "DA works" in the site plan submitted in support of this DA <u>does not</u> confer approval to those additional works shown on the site plan but not approved under MOD2018/0394.</p> <p>The amended site plan provides an indicative location of the inclinor piers with reference to capacity to relocate piers to avoid tree roots. This is consistent with the tree protection methodology outlined for Trees 8, 9 and 10 in the amended arboricultural impact statement. These measures are to be implemented.</p> <p>Subject to implementation of measures to ensure safe retention of all trees on site (noting that Trees 12 and 13 are the only protected trees approved for removal on the site), it is considered that the proposal is consistent with PLEP Clause 7.6 (Biodiversity Protection) and PDCP Clause B4.7 (Pittwater Spotted Gum Forest EEC).</p> <p><b>Biodiversity Response 11 November 2018</b> There is insufficient information to assess the impacts of the proposal.</p> <p>The following Natural Environment provisions apply to the site: - PLEP Clause 7.6 (Biodiversity Protection) - PDCP Clause B4.7 (Pittwater Spotted Gum Forest EEC) - PDCP Clause B4.15 (Saltmarsh EEC) - PDCP Clause B4.16 (Seagrass Conservation) - PDCP Clause B4.19 (Estuarine Habitat) - PDCP Clause B4.20 (Protection of Estuarine Water Quality)</p> <p>The proposed inclinor will encroach upon the Tree Protection Zones of Trees 8, 9 and 10, in addition to requiring the removal of Trees 12, 13, 14 and 15 which have been previously approved for removal through N0275/15 and a subsequent modification. The arborist report (Naturally Trees, 25 July 2018) submitted in support of the current DA predates the submitted plans (THW Architects, 11 September 2018) and does not adequately address the potential impacts to the three locally native and significant Red Bloodwood (<i>Corymbia gummifera</i>)</p>

Internal Referral Body	Comments
	<p>trees (Trees 8, 9, 10).</p> <p>The report also does not recommend targeted tree protection measures nor demonstrate how these trees can be safely retained. Given that these significant trees are characteristic of the Pittwater Spotted Gum Forest Endangered Ecological Community (EEC), as declared under the NSW <i>Biodiversity Conservation Act 2016</i> (BC Act), compliance with PDCP Clause B4.7 (Pittwater Spotted Gum Forest EEC) and PLEP Clause 7.6 (Biodiversity Protection) cannot be assessed without an arboricultural statement and tree protection plan addressing the impacts of the proposed inclinator on Trees 8, 9 and 10.</p> <p>Furthermore, in accordance with requirements of the NSW BC Act, should the proposal require the removal of significant trees characteristic of the Pittwater Spotted Gum Forest EEC, a 'test of significance' for impacts to the EEC is to be prepared by a suitably qualified ecologist in accordance with Section 7.3 of the BC Act.</p> <p>It is noted that Trees 12 and 13 are the only protected trees currently approved for removal at the site.</p> <p>It is considered that the proposal as submitted is consistent with PDCP Clauses B4.15, B4.16, B4.19 and B4.20.</p>
NECC (Coast and Catchments)	<p><b>Estuarine Risk Management</b></p> <p>The property at 127 Riverview Road, Avalon Beach has been identified as being affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. 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.</p> <p>Whilst it is not possible to determine the foreshore edge treatment type and crest height from survey submitted in support of the subject DA, in accordance with the Pittwater Estuary Mapping of Sea Level Rise Impacts Study (2015), an indicative base estuarine planning level (EPL) of RL 2.71m AHD has been adopted for the subject site.</p> <p>The development proposal for alterations and additions at 127 Riverview Rd, is able to satisfy the requirements of the Estuarine Risk Management Policy and relevant B3.7 Estuarine Hazard controls if all recommendations of the Coastal Engineering Review Report prepared by Coastal Environment Pty Ltd, dated 20 July 2018, are implemented and subject to conditions.</p> <p><b>State Environmental Planning Policy (Coastal Management) 2018.</b></p> <p><b>12 Development on land within the coastal vulnerability area</b></p> <p><i>Development consent must not be granted to development on land</i></p>

Internal Referral Body	Comments
	<p><i>that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:</i></p> <p>(a) <i>if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and</i></p> <p>(b) <i>the proposed development:</i></p> <p>(i) <i>is not likely to alter coastal processes to the detriment of the natural environment or other land, and</i></p> <p>(ii) <i>is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and</i></p> <p>(iii) <i>incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and</i></p> <p>(c) <i>measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.</i></p> <p><u>Comment:</u> The subject land has not been included on the Coastal Vulnerability Area Map under <i>State Environmental Planning Policy (Coastal Management) 2018</i> (CM SEPP) and in regard to clause 15 of the CM SEPP the proposed development is unlikely to cause increased risk of coastal hazards on the subject land or other land. As such, it is considered that the application complies with the requirements of <i>State Environmental Planning Policy (Coastal Management) 2018</i> as they relate to development on land identified as a coastal vulnerability area or land that may be affected by coastal hazards.</p>
NECC (Development Engineering)	The proposal for the inclinor does not require OSD and the submitted Geotechnical report addresses the relevant DCP controls. No objection to approval, subject to conditions as recommended.
NECC (Riparian Lands and Creeks)	This application does not raise any water quality concerns and does not impact a watercourse riparian area. The Coastal officer will respond to any waterfront issues.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)\*

All, Environmental Planning Instruments (SEPPs, REPs 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, REPs 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 55 - Remediation of Land**

Clause 7 (1) (a) of SEPP 55 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 Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

### **SEPP (Infrastructure) 2007**

#### Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

#### Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

### **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	1.84m	N/A	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
5.10 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

### Detailed Assessment

#### 7.8 Limited development on foreshore area

The application proposes an inclinor that extends from the jetty through the foreshore area and up to the dwelling. Whilst an inclinor is not specifically nominated as a permissible use under the provisions of Part 2(b) of this clause, nor is it defined in the dictionary of PLEP 2014, an inclinor is an alternate option to the waterfront area, and is considered to be reasonably described as being ancillary to the approved boatshed and waterfront facilities, as it provides a more direct and accessible connection from the waterfront to the dwelling which is at a level approximately 20 metres above the waterfront across a distance of almost 35 metres.

The proposed incline passenger lift will allow the waterfront to be better used by the occupants of the dwelling. By enabling better access, and by extension enabling a larger variety of people to use and enjoy the foreshore area, ecological and social value is added to a low-density residential area in an environmental protection zone. As such we can see that it helps to achieve the objectives of the E4 Environmental Living zone. The proposed development also requires very minor environmental interruption meaning it will not have an adverse impact on the ecological or environmental values of the area. Further satisfying clause 3 is the fact that through use of colours this development will be appropriately compatible with the natural environment. It will also not create significant levels of pollution or adversely affect the environment to a great extent. Lastly, clause 3 is satisfied through the fact that this development will not impede people's access to the foreshore area or cause unnecessary traffic or congestion in the area, in fact the development will allow people to easily access the foreshore area while still maintaining natural features and maintaining aesthetic significance for the area. A coastal engineer has also been consulted for this development.

Being a primarily residential area, the foreshore area in question is not readily accessible by the public unless arrival is by water. We can conclude that while access to the public is not readily available, it would greatly improve accessibility to a currently very inaccessible foreshore area. Therefore, this

means that the proposed incline passenger lift is in line with the relevant controls and considered permissible in this instance.

## Pittwater 21 Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	4.78m	26%	No*
Rear building line	6.5m	5.1m	N/A	No**
Side building line (Control C1.19 setback applies)	2.5m	20.1m	N/A	Yes
	1m	1.08m	N/A	Yes
Building envelope	3.5m	Within	N/A	Yes
	3.5m	Within	N/A	Yes
Landscaped area	50%	Unchanged	N/A	Yes

\* See detailed assessment for discussion on non-compliances

\*\* As the Foreshore Building Line applies, this encroachment will be discussed in section 7.8 of the Pittwater Local Environmental Plan

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.7 Estuarine Hazard - Low density residential	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.15 Saltmarsh Endangered Ecological Community	Yes	Yes
B4.16 Seagrass Conservation	Yes	Yes
B4.19 Estuarine Habitat	Yes	Yes
B4.20 Protection of Estuarine Water Quality	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
C1.7 Private Open Space	Yes	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	No	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.5 Building colours and materials	Yes	Yes
D1.8 Front building line	No	Yes
D1.9 Side and rear building line	Yes	Yes
D1.11 Building envelope	Yes	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D1.20 Scenic Protection Category One Areas	Yes	Yes
D15.12 Development seaward of mean high water mark	Yes	Yes
D15.13 Lateral limits to development seaward of mean high water mark	Yes	Yes
D15.14 Minimum frontage for waterfront development	Yes	Yes
D15.18 Seawalls	Yes	Yes

#### Detailed Assessment

#### **C1.19 Incline Passenger Lifts and Stairways**

The proposed incline passenger lift is less than 2 metres from the northern side boundary. Despite this encroachment, it is clear that this is the most logical and appropriate location for an incline passenger lift on this particularly unique site. This location will minimise any visual or acoustic impacts while still allowing for the inclinator to best serve its purpose.

#### **D1.8 Front building line**

The proposed inclinator encroaches into the front setback area by approximately 1.71 metres. This is the only logical stop for the proposed inclinator that allows it to be used from the hardstand parking area down to the waterfront. This site is a very steep battle-axe lot. There is a very significant rear setback

and sufficient screening in between the the development and the property in front. The steepness means that the development is completely invisible from the road. Due to these circumstances, the development is believed to be consistent with the aims and outcomes for this control and as such permissible in this instance.

## **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly effect 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**

### **Pittwater Section 94 Development Contributions Plan**

## **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 2000;
- 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

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

## **RECOMMENDATION**

THAT Council as the consent authority grant Development Consent to DA2018/1676 for Alterations and additions to a dwelling house including construction of an inclinor on land at Lot 2 DP 878612, 127 Riverview Road, AVALON BEACH, subject to the conditions printed below:

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

### 1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

#### a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
A00-M Site Plan	07/12/2018	THW Architects
A01-L Garage	11/09/2018	THW Architects
A02-L Lower Ground 1	11/09/2018	THW Architects
A03-L Lower Ground 2	11/09/2018	THW Architects
A04-L Lower Ground 3	11/09/2018	THW Architects
A05-L West Elevation	11/09/2018	THW Architects
A06-L North Elevation	11/09/2018	THW Architects
A15-L Inclinor 3DS	11/09/2018	THW Architects

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Statement of Environmental Effects	October 2018	Vaughan Milligan Development Consulting Pty Ltd
Preliminary Geotechnical Assessment	03/07/2018	Jack Hodgson Consultants Pty Limited
Coastal Engineering Review	20/07/2018	Coastal Environment Pty Ltd
Arboricultural Impact Appraisal and Method Statement (Revision C)	14/12/2018	Naturally Trees

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

c) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

d) The development is to be undertaken generally in accordance with the following:

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

## 2. **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 Certifying Authority 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 Certifying Authority 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 Certifying Authority 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

### 3. 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) At all times after the submission 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 a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) 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.
- (d) 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.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% 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.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) 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.
- (k) 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 2008
    - (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 sewered areas or managed on-site in unsewered 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**

### **4. Security Bond**

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)).

Reason: To ensure adequate protection of Council's infrastructure.

## **CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE**

### **5. 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 Reports prepared by Jack Hodgson Consultants Pty Limited dated 21 July 2015 and 3 July 2018 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 Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

### **6. Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

**7. Estuarine Hazard Design Requirements**

The following applies to all development:

All new development or activities must be designed and constructed such that they will not increase the level of risk from estuarine processes for any people, assets or infrastructure in surrounding properties; they will not adversely affect estuarine processes; they will not be adversely affected by estuarine processes; they will not reduce public access to or diminish the amenity of public foreshore land.

Reason: To minimise potential risk associated with estuarine hazards for development in the coastal zone.

**8. 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:

- All structural elements below 2.71m AHD shall be of flood compatible materials;
- All electrical equipment (including motors, wiring, fittings, switches and outlets), fuel lines or any other service pipes and connections must be located either above 2.71m AHD or waterproofed to this level; and
- 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 new development prone to tidal inundation and wave action is built at the appropriate level

**9. Compliance with Estuarine Risk Management Report**

The development is to comply with all recommendations of the approved Estuarine Risk Management Report prepared by Coastal Environment Pty Ltd, dated 20 July 2018 and these recommendations are to be incorporated into construction plans and structural specifications as necessary.

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

Reason: To minimise potential risk associated with estuarine hazards for development in the coastal zone.

**10. Compliance with Arborist's Recommendations – Pre-construction**

All pre-construction tree protection measures specified in the Arboricultural Method Statement and associated appendices of the submitted arborist report and these conditions of consent are to be implemented at the appropriate stage of development. Compliance with pre-construction measures is to be certified by the project arborist prior to issue of the Construction Certificate.

Reason: To confirm compliance with tree protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.

**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 Certifying Authority prior to the issue of the Construction Certificate.

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

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

### 12. **Project Arborist**

A Project Arborist with minimum AQF Level 5 qualification in Horticulture is to be appointed prior to commencement of works to supervise and certify works as identified in the Arboricultural Impact Appraisal and Method Statement (revision C) prepared by Naturally Trees, including Appendix 6: General Guidance for working in TPZ, Appendix 7: Schedule of Works and Responsibilities, and works as illustrated in Appendix 8: Tree Management Plan TMP01 (revision C).

The Project Arborist is to provide details to the Certifying Authority that all components of this condition have been satisfied.

In particular, the Project Arborist and Certifying Authority must ensure the tree protection works are undertaken near the following identified trees during works for the incline passenger lift: T8, T9, and T10

Reason: to ensure protection of vegetation is provided and maintained.

## CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

### 13. **Maintenance of Road Reserve**

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public Safety.

### 14. **Tree and vegetation protection**

A) Existing trees and vegetation shall be retained and protected as follows:

- i) all trees and vegetation within the site identified for retention in the Arboricultural Impact Appraisal and Method Statement (revision c), prepared by Naturally Trees,
- ii) exempt trees and palms within the site under the relevant planning instruments of legislation are excluded,
- iii) all trees and vegetation located on adjoining properties,
- iv) all road reserve trees and vegetation,

B) Tree protection shall be generally undertaken as follows:

- i) all tree protection shall be in accordance with AS4970- 2009 Protection of Trees on Development Sites, with particular reference to Section 4, and as recommended in the Arboricultural Impact Appraisal and Method Statement (revision c), prepared by Naturally Trees,
- ii) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF Level 5 Arborist,
- iii) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an Arborist. Details including photographic evidence of

works undertaken shall be submitted by an AQF Level 5 Arborist to the Certifying Authority,

- iv) to minimise the impact on trees and vegetation to be retained and protected, 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) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a Project Arborist on site,
- vi) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,
- vii) excavation for stormwater lines is not permitted within the tree protection zone, without consultation with a AQF Level 5 Arborist,
- viii) should either or all of v), vi) and vii) occur during site establishment and construction works, a AQF Level 5 Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- ix) 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 AS 4970-2009,
- x) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees.

Reason: to retain and protect significant planting on development and adjoining sites.

**15. Compliance with Arborist's Recommendations – During Construction**

All tree protection measures to be implemented during construction, as specified in the Arboricultural Method Statement and associated appendices (Naturally Trees, 14 December 2018) of the submitted arborist report and these conditions of consent are to be implemented at the appropriate stage of development. Compliance with these measures is to be certified by the project arborist prior to issue of the Occupation Certificate.

Reason: To confirm compliance with tree protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.

## CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

**16. Condition of retained vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by an AQF Level 5 Arborist (or equivalent), shall be submitted to the Certifying Authority, assessing the health and impact of trees and vegetation required to be retained as a result of the proposed development, including the following information:

- a) Compliance to Arborist recommendations for tree protection and 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: to ensure compliance with the requirement to retain and protect significant planting on development sites.

**17. Geotechnical Certification Prior to Occupation Certificate**

Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy is to be completed and submitted to the Principal Certifying Authority.

Reason: To ensure geotechnical risk is mitigated appropriately.

18. **Compliance with Arborist's Recommendations – Post-construction**

All tree protection measures to be implemented, as specified in the Arboricultural Method Statement and associated appendices of the submitted arborist report (Naturally Trees, 14 December 2018) and these conditions of consent are to be implemented at the appropriate stage of development. Satisfactory establishment/initiation of post-construction measures is to be certified by the consulting arborist prior to issue of the Occupation Certificate.

Reason: To confirm compliance with tree protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.

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

19. **Dead or Injured Wildlife**

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

**Reason:** To mitigate potential impacts to native wildlife resulting from construction activity.

In signing this report, I declare that I do not have a Conflict of Interest.

**Signed**



**Seth Dias, Planner**

The application is determined on 13/02/2019, under the delegated authority of:



**Renee Ezzy, Acting Development Assessment Manager**