

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0776
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Responsible Officer:	Thomas Burns
Land to be developed (Address):	Lot 5 DP 17704, 16 Cabarita Road AVALON BEACH NSW 2107
Proposed Development:	Construction of inclinor lifts
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Susan Mary Holliday
Applicant:	Peter Downes Designs Pty Ltd

Application Lodged:	14/07/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	23/07/2020 to 06/08/2020
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 209,092.00
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PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for the construction of two incline passenger lifts and associated landings.

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 - 7.1 Acid sulfate soils
 Pittwater Local Environmental Plan 2014 - 7.2 Earthworks
 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 - A4.1 Avalon Beach Locality
 Pittwater 21 Development Control Plan - B3.7 Estuarine Hazard - Low density residential
 Pittwater 21 Development Control Plan - B8.3 Construction and Demolition - Waste Minimisation
 Pittwater 21 Development Control Plan - C1.1 Landscaping
 Pittwater 21 Development Control Plan - C1.5 Visual Privacy
 Pittwater 21 Development Control Plan - C1.6 Acoustic Privacy
 Pittwater 21 Development Control Plan - C1.12 Waste and Recycling Facilities
 Pittwater 21 Development Control Plan - C1.19 Incline Passenger Lifts and Stairways
 Pittwater 21 Development Control Plan - D1.8 Front building line
 Pittwater 21 Development Control Plan - D1.9 Side and rear building line
 Pittwater 21 Development Control Plan - D1.11 Building envelope
 Pittwater 21 Development Control Plan - D1.14 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot 5 DP 17704 , 16 Cabarita Road AVALON BEACH NSW 2107
Detailed Site Description:	<p>The subject site consists of one allotment located on the north-eastern side of Cabarita Road, Avalon Beach.</p> <p>The site is irregular in shape with a frontage of 13.26m along Cabarita Road and respective depths of 42.08m and 42.29m along the north-western and south-eastern side boundaries. The site has a surveyed area of 628.6sqm.</p> <p>The site is located within the E4 Environmental Living zone pursuant to the Pittwater Local Environmental Plan 2014 (PLEP 2014) and accommodates a part-one part-two storey detached dwelling house with a detached garage adjoining the road frontage. A boat shed is currently being constructed at the rear of the site pursuant to DA2018/1968.</p> <p>The site contains screen planting along portions of the front and side boundaries and accommodates a paper bark tree</p>

approximately 12m in height at the rear of the site. The site is mapped within a precinct known for containing the Pittwater Spotted Gum Forest endangered community.

The site is quite steep and experiences a fall of approximately 20m that slopes from the front boundary towards the rear, representing an approximate slope of 47.6%.

The site contains a drainage easement along the south-eastern side boundary.

Detailed Description of Adjoining and Surrounding Development

Adjoining and surrounding development is characterised by detached dwelling houses within a landscape setting. Waterfront structures and inclinor lifts are common on many surrounding properties.

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:

- Building Certificate **BC0124/11** for a one and two storey sole occupancy timber dwelling with a metal roof together with a concrete swimming pool, pontoon, jetty and detached timber garage approved by Council on 14 November 2011;
- Development Application **DA2017/1376** for the construction of a boat shed refused by Council on 29 June 2018; and
- Development Application **DA2018/1968** for the construction of a boat shed approved by Council on 6 May 2019.

Site Visit

A site visit was undertaken at the subject site on 12 August 2020.

Application History

Upon receipt of the application, Council's Assessment Officer requested that the applicant submit revised plans to depict the Foreshore Building Line that encroaches through the property. Revised plans were subsequently submitted to Council's satisfaction. Noting that the revised plans did not entail any amendments to the design, the application was not re-notified for an additional 14 days, in accordance with the Northern Beaches Community Participation Plan.

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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
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&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&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&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to revised plans.</p> <p><u>Clause 92</u> of the EP&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>

Section 4.15 Matters for Consideration'	Comments
	<p><u>Clauses 93 and/or 94</u> of the EP&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&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&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&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 (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) 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.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(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.</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	No submissions were received.
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 from 23/07/2020 to 06/08/2020 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.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The Arborist's Report submitted with the application is noted.</p> <p>The report indicates no trees are required to be removed to accommodate installation of the inclinator subject to tree protection recommendations..</p> <p>No objections are raised to approval subject to conditions.</p>
NECC (Bushland and Biodiversity)	<p>The submitted arborist report states that all trees characteristic of the mapped Spotted Gum Forest can be retained. Therefore the a development is proposed in the area of least impact on PSGF and or core bushland and there will be no significant net loss of PSGF vegetation and a significant impact to the biodiversity values of the site is considered unlikely.</p>
NECC (Coast and Catchments)	<p>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development.</p> <p>The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p>State Environmental Planning Policy (Coastal Management) 2018 As the subject site has been identified as being within the coastal zone and therefore SEPP (Coastal Management) 2018 is also applicable to the proposed development.</p> <p>The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps but not been included on the Coastal Vulnerability Area Map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 13, 14 and 15 of the CM SEPP apply for this DA.</p>

Internal Referral Body	Comments
	<p>Comment:</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Peter Downes Design dated UNDATED, the DA satisfies requirements under clauses 13, 14 and 15 of the CM SEPP.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>Pittwater LEP 2014 and Pittwater 21 DCP</p> <p>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.</p> <p>Estuarine Risk Management</p> <p>In accordance with the Pittwater Estuary Mapping of Sea Level Rise Impacts Study (2015), a base estuarine planning level (EPL) of RL 2.66m 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 0.07m reduction to the EPL for every 5.00m distance from the foreshore edge up to a maximum distance of 40.00m.</p> <p>An independently derived EPL of RL 2.45m AHD has been established for this DA through an Estuarine Risk Management Report prepared by Salients Pty. Ltd. dated 13 November 2018</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Peter Downes Designs dated UNDATED, the ground level for the landing site 5 of the proposed incline passenger lifts is below the derived EPL for the site.</p>

Internal Referral Body	Comments
	<p>The proposed development is therefore subject to conditions to satisfy the relevant estuarine risk management requirements of P21 DCP.</p> <p>Development on Foreshore Area</p> <p>However, a large section of the subject property is within the foreshore building line. Part 7, Clause 7.8 –Limited development on foreshore area of the Pittwater LEP 2014 applies for any development within the foreshore area.</p> <p>The DA proposes works to install Incline Passenger Lifts which serves the purpose of waterway access stairs. This proposed work is consistent with Clause 7.8(2)(b).</p> <p>On internal assessment , the DA satisfies the objectives and requirements of Part 7, Clause 7.8 of the Pittwater LEP 2014.</p> <p>Installation of Incline Passenger Lifts</p> <p>The DA proposes installation of two passenger lifts to access foreshores. The proposed work is subject to control C1.19: Incline Passenger Lifts and Stairways of the Pittwater DCP 2014.</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Peter Downes Designs dated UNDATED, the DA satisfies the objectives and requirements of the C1.19: Incline Passenger Lifts and Stairways of the Pittwater DCP 2014.</p>
NECC (Development Engineering)	The submitted Geotechnical report certifies that an acceptable risk is achievable for the development. No objection to approval, subject to conditions.
NECC (Riparian Lands and Creeks)	This application, for the construction of two lifts, has been assessed against relevant legislation for the protection of waterways. There is minimal increase to impervious surfaces therefore the applicant is not required to install a water quality improvement device. Standard sediment and Erosion controls are to be installed prior to commencement as detailed in the Erosion and Sediment Control Plan

Internal Referral Body	Comments
	<p>which has been supplied. The geotechnical report indicates that construction is unlikely to intercept groundwater. If groundwater is encountered during construction works must cease and a dewatering plan must be submitted to Council and WaterNSW.</p> <p>With the application of these conditions it is considered unlikely that this application will have an adverse impact on the integrity and resilience of the biophysical, hydrological and ecological environment. It is therefore recommended for approval.</p>

External Referral Body	Comments
Aboriginal Heritage Office	<p>Reference is made to the proposed development at the above area and Aboriginal heritage.</p> <p>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.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p> <p>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.</p>

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 (Coastal Management) 2018

The site is identified within the 'Coastal Use Area' and 'Coastal Environment Area' pursuant to the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Accordingly, the proposal is considered against Clauses 13, 14 and 15 of the CM SEPP as follows:

13 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 subclause (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 incline lifts are sited wholly within the subject site and involves minor ground disturbance for footings. As such, it is not anticipated that the development will have an adverse impact on the biophysical, hydrological and ecological environment, nor is the development likely to significantly affect

coastal environmental values and natural coastal processes. Sediment and erosion control measures have been conditioned to further alleviate adverse impacts upon the adjoining waterway. Furthermore, tree protection measures will be enforced during works to minimise the impacts on native vegetation. Noting that the incline lifts will be confined to private property, the development will not hinder access along the foreshore area. The development will provide for greater access to the foreshore for the occupants of the site. Council's Aboriginal Heritage Officer has reviewed the proposal and noted that the development is unlikely to have a significant impact on Aboriginal cultural heritage, places and practices. Having regard to the nature of the works, it is not anticipated that the development will cause an adverse impact on the use of the surf zone.

Based on the above, it is concluded that the development is reasonably designed, sited and will be managed to avoid an adverse impact upon the matters referred to in Clause 13.

14 Development on land within the coastal use area

(1)

- (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 platform for members of the public, including persons with a disability,*
 - (ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*
 - (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
 - (iv) *Aboriginal cultural heritage, practices and places,*
 - (v) *cultural and built environment heritage, and*
- (b) *is satisfied that:*
 - (i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
 - (ii) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (iii) *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:

As noted above, the development will not hinder access along the foreshore area, nor will it have an adverse impact upon Aboriginal cultural heritage, practices and places. Noting that inclinators are common features used ancillary to dwellings within the locality, the development is not likely to have an unreasonable visual impact on the adjoining Pittwater waterway. The lifts are not located within prominent view corridors and as such, will allow for reasonable view sharing. Moreover, the development will not result in excessive overshadowing impacts.

Based on the above, it is concluded that the development is reasonably designed, sited and will be managed to avoid an adverse impact upon the matters referred to in Clause 14.

15 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:

Having regard to the location and nature of the proposed development, the assessment concludes that the development is not likely to cause increased risk of coastal hazards on the subject site and surrounding land.

Concluding Remarks

Having regard to the above assessment, it is concluded that the proposed development demonstrates consistency with the relevant matters prescribed within the CM SEPP.

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	1.24m - 6.38m (carriageway)	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	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	Yes
7.10 Essential services	Yes

Detailed Assessment

7.1 Acid sulfate soils

The site is mapped within the 'Class 5' area on the Acid Sulfate Soils Map. Accordingly, the provisions of this clause apply to the development.

The development involves minimal ground disturbance for footings. As such, it is not anticipated that the proposed development will disturb, expose or drain acid sulfate soils and cause environmental damage. Therefore, no further consideration of this clause is required for this assessment.

7.2 Earthworks

The objective of Clause 6.2 - '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:

Noting the historic residential use of the site, it is not anticipated that the excavated material will be contaminated. The development will not involve imported fill.

(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 and construction.

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

Comment:

A Waste Management Plan was not submitted with this application. A condition has been included with this consent to ensure a detailed Waste Management Plan is submitted to the Certifying Authority prior to the issue of a Construction Certificate.

(f) the likelihood of disturbing relics

Comment:

The application 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:

Suitable conditions have been included with this consent to requiring sediment and erosion control measures to be in place during works to minimise impacts upon the adjoining Pittwater waterway.

(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. Overall, the development is considered to have an acceptable impact upon the natural and built environment.

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

Comment:

The site does not contain a heritage item, is not located within a heritage conservation area and not within visual proximity to a heritage item. Therefore, the development will not have an adverse impact upon heritage items. The site is not within proximity to an archaeological item and as such, will not have an adverse impact in this regard.

Concluding Remarks

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of Clause 6.2 of the PLEP 2014. Therefore, the application is supported in this particular circumstance.

7.7 Geotechnical hazards

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 Report (Geotechnical Investigation prepared by White Geotechnical Group dated 15 June 2020), which demonstrates that all geotechnical risks have been taken into account. The application has been reviewed by Council's Development Engineer, who is supported of the proposal, subject to the implementation of conditions.

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:

No significant additional stormwater runoff will be created from the development. Council's Development Engineer has reviewed the proposal with respect to stormwater management and raised no objections.

(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:

The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent. As such, Council can be satisfied that 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.

Concluding Remarks

Having regard to the above assessment, it is concluded that the proposal demonstrates consistency with the aims and objectives of Clause 7.7 of the PLEP 2014. Therefore, the application is supported in this particular circumstance.

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).*

Comment:

Clause 7.8 of the PLEP 2014 stipulates that consent can be granted for development on land within the foreshore area for the purposes of waterway access stairs. The proposed inclinor lift at the rear of the site is not specifically identified as a permitted development within the foreshore area. However, the proposed lift provides for safe and convenient access to and from the foreshore area. As the purpose of the inclinor lift is to provide access to the waterway, it is considered a form of waterway access, thereby permitted development under this clause.

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 E4 Environmental Living zone, given it is ancillary to the low density residential use, is integrated into the landform and landscape and will not have an adverse impact on the ecological and aesthetic values of the locality. The development will not result in the removal of significant vegetation or topographic features, nor will it 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. 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. Noting that incline passenger lifts are prevalent within the locality, the development is not likely to have an unreasonable visual impact on the adjoining Pittwater waterway. 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 will retain continuous public access to and along the foreshore. 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.

Concluding Remarks

Having regard to the above assessment, it is concluded that the proposal demonstrates consistency with the aims and objectives of Clause 7.8 of the PLEP 2014. Therefore, the application is supported in this particular circumstance.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	6.35m (landing 1)	2.31%	No
Rear building line	N/A - Foreshore Building Line (FBL) applies	incline lift partially below FBL	N/A	N/A
Side building line	2.5m (north-west)	0.29m - 1.91m (incline lift)	23.6% - 88.4%	No
	1m (south-east)	1.69m - 1.87m (landing and incline lift)	-	Yes
Building envelope	3.5m (north-west)	Outside envelope	63.32%	No
	3.5m (south-east)	Within envelope	-	Yes
Landscaped area	60% (377.16sqm)	No variations: 26.62% (167.35sqm) Allowable variations included: 32.62% (205.07sqm)	45.63% - 55.63%	No

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped area - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation).

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
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B3.7 Estuarine Hazard - Low density residential	No	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
B5.12 Stormwater Drainage Systems and Natural Watercourses	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	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	No	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
C1.12 Waste and Recycling Facilities	No	Yes
C1.13 Pollution Control	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	No	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	No	Yes
D1.11 Building envelope	No	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	No	Yes
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D1.20 Scenic Protection Category One Areas	Yes	Yes
D1.21 Masterplan - Careel Bay	Yes	Yes

Detailed Assessment

A4.1 Avalon Beach Locality

The proposal is ancillary to the low-density residential land use and is in harmony to the natural environment. The proposal will not present with excessive bulk when viewed from the waterway, thereby preserving the aesthetic values of the locality. The proposal will involve minimal ground disturbance and will not have an adverse impact on native flora and fauna. Moreover, the development

has been designed, sited and will be managed to respond to the natural hazards of the locality.

Based on the above, it is concluded that the development demonstrates consistency with the desired future character statement of the Avalon Beach locality.

B3.7 Estuarine Hazard - Low density residential

Council's Coastal Officer have included conditions to ensure compliance with Council's Estuarine Hazard requirements.

B8.3 Construction and Demolition - Waste Minimisation

A detailed Waste Management Plan was not submitted with this application. Accordingly, a suitable condition has been included with this consent requiring the applicant to submit a detailed Waste Management Plan to the Certifying Authority prior to the issue of a Construction Certificate. Subject to compliance with the conditions of consent, the application will comply with the requirements of this control.

C1.1 Landscaping

The additional landscape treatments required by condition under DA2018/1968 will ensure that a high quality landscape outcome is achieved.

C1.5 Visual Privacy

The proposed lift at the site frontage will be screened from the south-eastern adjoining property (18 Cabarita Road) by the existing dense screen planting located along the side boundary. As such, the subject lift will not result in unacceptable visual privacy impacts.

To ensure a reasonable level of visual privacy is retained between the subject site and north-western adjoining property (14 Cabarita Road), a condition has been included with this consent requiring a privacy screen to be included on the north-western elevation of the lift.

Subject to compliance with the conditions of consent, the development will be consistent with the outcomes of this control.

C1.6 Acoustic Privacy

Conditions have been included with this consent to ensure a reasonable level of acoustic privacy is maintained.

C1.12 Waste and Recycling Facilities

A detailed Waste Management Plan was not submitted with this application. Accordingly, a suitable condition has been included with this consent requiring the applicant to submit a detailed Waste Management Plan to the Certifying Authority prior to the issue of a Construction Certificate. Subject to compliance with the conditions of consent, the application will comply with the requirements of this control.

C1.19 Incline Passenger Lifts and Stairways

Description of non-compliance

The control requires incline lifts to be setback at least 2m from side boundaries. The proposed lift at the site frontage is setback between 1.69m - 1.87m from the south-eastern side boundary, numerically non-compliant with the control. Furthermore, the proposed incline lift at the rear of the site is setback between 0.29m - 1.91m from the north-western side boundary, which fails to comply with the control.

Merit Assessment

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

- *Incline passenger lifts and stairways that cause minimal visual and acoustic disturbance to the environment and neighbours.*

Comment:

Due to the constraints of the site, including the narrow allotment width and footprint of the existing dwelling, compliance with the 2m setback requirement is not achievable. Therefore, to determine consistency with this outcome the development is considered against the remaining provisions of this control as follows:

- i) be designed and located so they do not involve excessive excavation, or the removal of natural rock or trees, and

Comment:

The proposal involves minimal excavation works for footings and does not result in the removal of natural rocks or trees.

- ii) 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

Comment:

The existing screen planting located on the south-eastern boundary will screen the incline lift from 18 Cabarita Road. Moreover, given the lift will descend down from the road frontage, piers will not be visible from the public domain.

The lift at the rear of the property is generally located in close proximity to the ground level, with the exclusion of a small portion adjoining the dwelling which enables access from the upper and lower floor balconies. The existing screen planting along the north-western boundary will conceal the high pier from the adjoining property, thereby minimising any potential obtrusive visual impacts. The high pier is appropriately setback from the rear boundary and as such, will not have an unacceptable impact on the aesthetic values of the Pittwater waterway.

- iii) be located and designed to minimise the effects of noise from the motor and overlooking of adjoining dwellings, and

Comment:

A suitable condition has been included with this consent that requires noise to remain at an acceptable

level, in accordance with the requirements of this control. Moreover, a privacy screen has been conditioned for the north-western elevation of the rear incline lift to minimise any unreasonable privacy impacts prompted from overlooking.

iv) be painted to blend in with surrounding vegetation and screened by landscaping, and

Comment:

The Statement of Environmental Effects submitted with this application notes that both lifts will comprise medium to dark tones in harmony with the natural environment. The existing screen planting located on side boundaries will conceal the development from adjoining properties, whilst the landscape treatments required by condition pursuant to DA2018/1968 will further soften the visual impacts of the rear lift as presented from the Pittwater waterway.

vi) be located wholly on private land, and

Comment:

The proposed incline lifts are located wholly within private property.

vii) have a privacy screen where there is a direct view within 4.5m to a window of a habitable room of another dwelling.

Comment:

The proposed lift near the road frontage is concealed from the south-eastern adjoining property by the existing vegetation located along the side boundary. Existing vegetation located on the north-western boundary screens the high pier and a portion of the lift carriageway. To further minimise the privacy impacts, a privacy screen has been conditioned for the lower lift on the north-western elevation.

Concluding Remarks

Whilst the proposal is numerically non-compliant with the 2m setback requirement, this assessment has concluded that the development is consistent with the remaining controls and outcome of this control. The proposal will provide safe and convenient access to the foreshore, with conditions being included to minimise the amenity and acoustic impacts. Therefore, the application is supported on merit, subject to conditions.

D1.8 Front building line

Description of non-compliance

The control requires development (excluding driveways, fences and retaining walls) to be setback at least 6.5m from front boundaries. The landing associated with the proposed lift at the front of the site is setback 6.35m from the front boundary, which fails to satisfy the prescribed requirement.

Merit Assessment:

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

- *To achieve the desired future character of the Locality.*

Comment:

As discussed in the section of this report relating to Clause A4.1 of the Pittwater 21 Development Control Plan (P21DCP), the proposal is considered to demonstrate consistency with the desired future character statement of the Avalon Beach locality.

- *The amenity of residential development adjoining a main road is maintained.*

Comment:

The site does not adjoin a main road. Furthermore, the non-compliance pertains to a landing associated with an incline lift, with the existing dwelling having a compliant front setback. The non-compliant lift landing will not result in unacceptable acoustic impacts prompted from vehicular movement along the street, given the function of the landing and lift is for pedestrian movement and not habitation or private open space.

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

Comment:

The proposal does not require the removal of significant vegetation or topographic features. The landing is a minor element of the development in the context of the entire site. Given the locality is characterised by parking structures on the road frontage, the landing will not be visually imposing on the streetscape.

- *Vehicle manoeuvring in a forward direction is facilitated.*

Comment:

The proposed incline lifts will not alter the existing parking arrangement on the site.

- *To encourage attractive street frontages and improve pedestrian amenity.*

Comment:

The non-compliant landing will not be to the detriment of the streetscape. The incline railway components will be screened from the street frontage due to the steep topography, existing development and existing vegetation.

- *To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.*

Comment:

The landing is sited behind the existing double garage located along the front boundary. In this regard, the proposal is considered to respond to the spatial characteristics of the existing urban environment.

Concluding Remarks

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 in this particular circumstance.

D1.9 Side and rear building line

The side setback non-compliance is discussed in the section of this report relating to Clause C1.19 'Incline Passenger Lifts and Stairways' of the P21DCP. In conclusion, the development is considered to respond to the P21DCP outcomes, notwithstanding the numerical non-compliance.

D1.11 Building envelope

Description of non-compliance

Clause D1.11 of the P21DCP stipulates that buildings are to be projected at 45 degrees from 3.5m above the existing ground level, measured from the side boundaries. The proposed incline lift on the north-western elevation of the dwelling protrudes beyond the prescribed building envelope, representing a 63.32% departure from the prescribed control.

Merit Assessment

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

- *To achieve the desired future character of the Locality.*

Comment:

As discussed in the section of this report relating to Clause A4.1 of the P2DCP, the proposal is considered to demonstrate consistency with the desired future character statement of the Avalon Beach locality.

- *To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.*

Comment:

The incline lift subject to the non-compliance is located well below the ridge height of the existing dwelling and below the established tree canopy.

- *To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.*

Comment:

The existing screen planting located along the north-western side boundary will screen the incline lift from the north-western adjoining property (14 Cabarita Road). Moreover, the landscape treatments required by condition pursuant to DA2018/1968 will further soften the visual impacts of the rear lift as presented from the Pittwater waterway. Incline lifts are common on many surrounding properties due to the steep topography and as such, the proposed lifts will not be out of context with the existing built

environment.

- *The bulk and scale of the built form is minimised.*

Comment:

The non-compliant include lift will not exacerbate the overall bulk and scale of the residential development when viewed from the Pittwater waterway.

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

Comment:

Due to existing vegetation along the north-western side boundary, no prominent views are obtained along the north-western corridor of the site, when viewed from the street or adjoining properties. As such, the non-compliant incline lift will not obscure significant views. The development at large is considered to allow for reasonable view sharing, consistent with this outcome.

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

Comment:

As noted earlier within this report, a privacy screen has been conditioned on the north-western elevation of the subject lift to minimise opportunities for overlooking.

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

Comment:

The proposal does not require the removal of significant vegetation or topographic features. The landscape treatments required by condition pursuant to DA2018/1968 will further soften the visual impacts of the rear lift as presented from the Pittwater waterway.

Concluding Remarks

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 in this particular circumstance, subject to conditions.

D1.14 Landscaped Area - Environmentally Sensitive Land

Description of non-compliance

Clause D1.14 of the P21DCP requires at least 60% (377.16sqm) of the site area to be landscaped. The proposed landscaped area equates to 26.62% (167.35sqm) of the site area, which fails to comply with the control. It is noted that the site is currently deficient in landscaping, with only 27.86% (175.15sqm) of the site area being currently landscaped. The inclusion of allowable variations to the calculations (6% of site area if the impervious area is used for private open space) results in 32.62% (205.07sqm) of the

site area being landscaped.

Merit Assessment:

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

- *To achieve the desired future character of the Locality.*

Comment:

As discussed in the section of this report relating to Clause A4.1 of the P2DCP, the proposal is considered to demonstrate consistency with the desired future character statement of the Avalon Beach locality.

- *The bulk and scale of the built form is minimised.*

Comment:

The proposed incline lifts will not exacerbate the overall bulk and scale of the residential development when viewed from the public domain. Existing landscaping along side boundaries will conceal the development from adjoining properties, whilst landscape treatments required by condition under DA2018/1968 will further soften the visual impacts of the development.

- *A reasonable level of amenity and solar access is provided and maintained.*

Comment:

As noted earlier within this report, a privacy screen has been conditioned on the north-western elevation of the lower lift to minimise opportunities for overlooking. Moreover, the lifts are not located within prominent view corridors and as such, will allow for reasonable view sharing. Moreover, the development will not result in excessive overshadowing impacts.

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

Comment:

The proposal does not require the removal of significant vegetation or topographic features. The landscape treatments required by condition pursuant to DA2018/1968 will further soften the visual impacts of the rear lift as presented from the Pittwater waterway.

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

Comment:

Sediment and erosion control measures have been conditioned to alleviate siltation of the adjoining Pittwater waterway.

- *To preserve and enhance the rural and bushland character of the area.*

Comment:

Noting that inclinators are common features used ancillary to dwellings within the locality, the development will not be out of character with the established built environment.

- *Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.*

Comment:

The reduction in landscaping equates to approximately 1.18% (7.8sqm) of the site area. The reduction in landscaping is minor and will not significantly compromise water infiltration.

Concluding Remarks

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 in this particular circumstance, subject to conditions.

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 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$2,091 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$209,092.

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 DA2020/0776 for Construction of inclinator lifts on land at Lot 5 DP 17704, 16 Cabarita 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

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A2 2003 01 - Site Plan	19 March 2020	Peter Downes Designs
A2 2003 02 - Sections	19 March 2020	Peter Downes Designs

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Arboricultural Impact Assessment Ref. 2006	7 July 2020	Tree Consult Expert Solutions
Geotechnical Investigation Ref. J2631	15 June 2020	White Geotechnical Group

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

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) 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.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) 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.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) 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.

- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) 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.
- (k) 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.

- (l) 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.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) 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. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$2,090.92 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 2019. The monetary contribution is based on a development cost of \$209,092.00.

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

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

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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

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

5. 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 are required 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, and 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).

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

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

6. 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 prepared by White Geotechnical Group dated 15th June, 2020 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.

Reason: To ensure geotechnical risk is mitigated appropriately.

7. Certification of Structures Located Adjacent to Council Pipeline or Council Easement

All structures are to be located clear of any Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with Clause B5.12 Pittwater 21 Development Control Plan 2014. Structural details prepared by a suitably qualified Civil Engineer demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure

8. Amendments to the approved plans

The following amendments are to be made to the approved plans:

- A non-transparent screen at a height of 1.8 metres above the finished floor level is to be affixed to the entire north-western elevation of the lower inclinator carriage that adjoins the north-western elevation of the dwelling. The screen is to be a fixed panel or louver style construction with a maximum spacing of 20 millimetres.

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

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

9. Pre-Construction Stormwater Assets Dilapidation Report

The Applicant is to submit a pre-construction / demolition Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available at: <https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general->

information/engineering-specifications/2009084729guidelineforpreparingadilapidationsurveyofcouncilstormwaterassets2.1

The pre-construction / demolition dilapidation report must be submitted to Council for approval and the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

10. **Estuarine Hazard Design Requirements**

The following applies to all development:

All 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.

To ensure Council's recommended flood evacuation strategy of 'shelter-in-place', it will need to be demonstrated that there is safe pedestrian access to a 'safe haven' above the Estuarine Planning Level.

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

Reason: To minimise potential hazards associated with development in an estuarine habitat.

11. **Estuarine Planning Level Requirements**

An independently assessed Estuarine Planning Level (EPL) of 2.45m AHD has been adopted for the subject site and shall be applied to all development proposed below this level as follows:

- All structural elements below 2.45m AHD shall be of flood compatible materials;
- All electrical equipment, wiring, fuel lines or any other service pipes and connections must be located either above 2.45m 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 2.45m AHD.
- All interior power supplies (including electrical fittings, outlets and switches) must be located at or above 2.45m AHD. All exterior power supplies (including electrical fittings, outlets and switches) shall be located at or above 2.45m AHD to avoid the likelihood of contact with splashing waves and spray.

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

Reason: To ensure the development is built at the appropriate level.

12. **Structural Engineering for Estuarine Risk**

Structural engineering design for the development shall be prepared, with input as necessary from a chartered professional engineer with coastal engineering as a core competency, to ensure that for its design life, the development is able to withstand the wave impact forces and loadings identified in the approved Estuarine Risk Management Report prepared by Salients Pty. Ltd. dated 13 November 2018.

Note: The potential for component fatigue (wear and tear) should be recognised for the less severe, but more frequent, wave impact loadings.

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

Reason: To ensure structural engineering is prepared by an appropriately qualified professional.

13. 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.

14. Waste Management Plan

A detailed Waste Management Plan must be prepared for the development. The Plan is to be prepared in accordance with the Pittwater 21 Development Control Plan and Northern Beaches Council's Waste Management Guidelines.

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

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

15. Tree and vegetation protection

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

- b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with the Arboricultural Impact Assessment dated 7 July 2020 prepared by Tree Consult and Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v), vi) and vii) occur during site establishment and construction

works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,

- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees.
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

c) The Certifying Authority must ensure that :the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree(s) is prohibited. Any request to remove a tree approved for retention under the development application is subject to a Section 4.55 modification application, or an assessment by an Arborist with minimum AQF Level 5 in arboriculture that determines that the tree presents an imminent risk to life or property.

Reason: tree and vegetation protection.

16. **Installation and Maintenance of Sediment and Erosion Control**

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004).

Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

17. **Road Reserve**

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

Reason: Public safety.

18. **Interception with groundwater**

During the works if groundwater is to be encountered the applicant must cease work and the applicant must provide a dewatering management plan to Northern Beaches Council and WaterNSW.

Reason: Protection of the environment

19. **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 Environment and Climate Change (DECC).

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 DECC.

Reason: Aboriginal Heritage Protection.

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

20. **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 Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

21. **Post-Construction Dilapidation Survey**

A post-construction Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset in order to determine if the asset has been damaged by the works. Council's Guidelines are available at:

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/preparingdilapidationsurveyforcouncilstormwaterassets.pdf>

The post construction dilapidation report must be submitted to the Council for review and the Certifying Authority prior to the issue of the Occupation Certificate. Any damaged to Council's stormwater infrastructure is to be rectified in accordance with Council's technical specifications prior to the release of the security bond.

Reason: Protection of Council's Infrastructure

22. **Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Certifying Authority confirming that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

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

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

23. **Control of Weeds**

Prior to the completion of works, all priority weeds (as listed under the Biosecurity Act 2015) are to be removed/controlled within the subject site using an appropriately registered control method. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>). All environmental weeds are to be removed and controlled. Refer to Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds

Reason: Weed management.

24. **No Planting Environmental Weeds**

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

Reason: Weed management.

25. **Works to cease if item found**

If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.

Reason: To protect Aboriginal Heritage.

26. **Inclinor Movements**

The use of the inclinor is restricted to 24 movements per day during 7:00am and 10:00pm time period and 2 movements between 10:00pm and 7:00am (except in emergencies). The maximum noise level associated with the inclined passenger lift is not to exceed 60dB(A) when measured 1 meter from any adjoining premises.

Reason: To avoid any unreasonable noise impact on surrounding land.

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

Signed



Thomas Burns, Planner

The application is determined on 24/09/2020, under the delegated authority of:



Tony Collier, Acting Development Assessment Manager