

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/0518
----------------------------	-------------

Responsible Officer:	Kent Bull
Land to be developed (Address):	Lot 5 DP 816673, 67 Florence Terrace SCOTLAND ISLAND NSW 2105
Proposed Development:	Construction of an incline passenger lift
Zoning:	E3 Environmental Management
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	David John Suttie Jennifer Joy Suttie
Applicant:	David John Suttie

Application lodged:	04/04/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	26/07/2018 to 13/08/2018
Advertised:	Not Advertised
Submissions Received:	0
Recommendation:	Approval

Estimated Cost of Works:	\$ 90,400.00
---------------------------------	--------------

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 - A5.1 Exhibition, Advertisement and Notification of Applications

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

Pittwater 21 Development Control Plan - D8.6 Side and rear building line

SITE DESCRIPTION

Property Description:	Lot 5 DP 816673 , 67 Florence Terrace SCOTLAND ISLAND NSW 2105
Detailed Site Description:	The site is known as 67 Florence Terrace, Scotland Island and legally referred to as Lot 5 DP 816673. The site is regular in shape with a total area of 589.4m ² . Water access is gained via the 13.61m wide frontage to the Pittwater Waterway and pedestrian access can also gained via the 10m (approximately) wide frontage from Florence Terrace. The site contains a two storey timber and fibro dwelling that is located centrally as well as a metal shed within the front yard and a boat ramp located within the rear yard. A jetty and pontoon, located below the mean high water mark, are also associated with the site and covered by an existing Licence agreement. The slope of the site is 29.6% and falls from the road frontage towards the foreshore. Adjoining the site are low density residential dwellings.

Map:



SITE HISTORY

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

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

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for a inclinor (incline passenger lift), ramp and deck.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

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)(iiiia) – 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)	<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

Section 4.15 Matters for Consideration'	Comments
	addressed via a condition of consent. <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. <u>Clauses 54 and 109</u> of the EP&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. <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. <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. <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 clause is not relevant to this application. <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. <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.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.

Section 4.15 Matters for Consideration'	Comments
	(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (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.

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	
Environmental Health (unsewered lands)	Was sufficient documentation provided appropriate for referral?	YES
	Are the reports undertaken by a suitably qualified consultant?	N/A
	Is there a proposed on site sewage management system or an impact to existing onsite sewage management system?	N/A
	For residential applications have you considered AS1547 and Environmental Health & Protection Guidelines?	N/A
	For commercial applications have you considered Guidelines for Management Private Recycled Water Schemes and applied the residential guidelines where applicable?	N/A

Internal Referral Body	Comments	
	Are separate land application areas provided for pool water, waste water from the premises and storm water?	N/A
	Is approval to install and approval to operate applicable? - if so, recommend the DAO refer commercial waste water systems to Department of Energy & Water.	N/A
	General Comments This site has an existing waste water system, the installation of an incline lift will not affect the ongoing use of the waste water system. The noise generated from the operation of the incline lift system may cause an offensive to neighboring properties. Environmental Health recommends that practical measure are put in place to ensure that noise generated from the operation of the incline lift does not create offensive noise to neighboring properties	
	Recommendation	APPROVAL - subject to conditions
	Comments completed by: Mary Shimon Date: 17 April 2018	
NECC (Bushland and Biodiversity)	Biodiversity Comment - 8 July 2018 This updated assessment is based upon the following submitted information: - Arborist's Statement (Syncarpia Vegetation, August 2018) - Revised Site Plan - DA01A (Steven Crosby and Associates, July 2018) - Revised Section - DA02A (Steven Crosby and Associates, July 2018) The proposed inclinor has been relocated to align with the southern boundary of the subject site. This will bring the inclinor closer to Tree 3, a significant and mature Spotted Gum (<i>Corymbia maculata</i>). Targeted tree protection measures have been recommended by the project arborist to safely retain Tree 3. These measures are to be implemented. If pruning >10% of the canopy or removal of any trees not approved for removal is proposed in future, an additional application for consent will be required. Biodiversity Comment - 4 June 2018 The site is subject to DCP Clauses B4.7 (Pittwater Spotted Gum Forest - Endangered Ecological Community) and B4.15 (Saltmarsh	

Internal Referral Body	Comments
	Endangered Ecological Community). The proposed development will not involve significant excavation or building works and as such is unlikely to impact upon any areas of saltmarsh EEC or other aquatic habitat. The inclinator and deck are proposed to be located within 5m of existing Spotted Gum (<i>Corymbia maculata</i>) trees; accordingly, an arborist report (Syncarpia Vegetation Management, March 2018) has been submitted. The report provides satisfactory general and specific tree protection measures to safely retain existing trees. These recommendations are to be implemented. It is considered that, subject to recommended conditions of consent, the proposal is not inconsistent with DCP Natural Environment Clauses B4.7, B4.15, B4. 16, B4.19 and B4.20.
NECC (Coast and Catchments)	Estuarine Hazards The property at 67 Florence Terrace, Scotland Island 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. Based upon the survey lodged with the DA the foreshore edge treatment type for the subject site appears to be a vertical seawall with a variable crest height up to about RL 1.91m AHD. As such, in accordance with the Pittwater Estuary Mapping of Sea Level Rise Impacts Study (2015), an estuarine planning level (EPL) of RL 2.74m AHD has been adopted by Council for the site. The development proposal is able to satisfy the relevant requirements of the Estuarine Risk Management Policy and associated B3.7 Estuarine Hazard controls subject to conditions. State Environmental Planning Policy (Coastal Management) 2018 The site is mapped as both a Coastal Environment Area and Coastal Use Area under SEPP Coastal Management. In this regard all relevant matters for the consent authority's consideration in Part 2, Division 3, Clause 13 and Part 2, Division 4, Clause 14 should be addressed by the applicant in the Statement of Environmental Effects and lodged in support of the DA.
NECC (Development Engineering)	No Development Engineering objection is raised to the proposed new Lift and associated works subject to conditions.
NECC (Riparian Lands and Creeks)	This application is approved, as there is no expected impact to water quality or riparian areas.

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.

External Referral Body	Comments
Aboriginal Heritage Office	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. An inspection made by the Aboriginal Heritage Office and Council (20/8/18) did not identify any sites or potential areas. Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.

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 (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out 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.*

Comment:

The proposed development is not likely to cause adverse impacts to the matters identified in this clause. The inclinator and access ramp are proposed landward from where existing public access is provided. Public access will be maintained along the foreshore and above the mean high water mark.

- (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:

To avoid adverse impacts, the proposed development has been designed and positioned to satisfy the relevant matters identified in this clause.

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:

It has been considered that the proposed development has been designed to avoid the likelihood of adverse impacts as identified in this clause. The inclinator and access ramp does not interfere the existing public access to the foreshore and is found to satisfy the relevant objectives of the Pittwater LEP 2014 and P21DCP.

As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

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	6.2m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.6 Exceptions to development standards	Yes
5.7 Development below mean high water mark	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.8 Limited development on foreshore area	Yes
7.10 Essential services	Yes

Detailed Assessment

7.8 Limited development on foreshore area

The foreshore building line dissects the site at a distance of approximately 15.1m from MHWM on the northern side boundary and 15.5m from MHWM on the southern side boundary, as shown on the Foreshore Building Line Map of PLEP 2014.

The application seeks consent for and access ramp seaward of the foreshore building line (within the foreshore area). These works are consistent with the permissible purposes identified by Part 2(b) of this clause, being waterway access stairs, walking trails and works associated with and ancillary to such purposes.

The application also proposes an inclinor that extends through the foreshore area and up to the dwelling. 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. As an alternative option to the waterway access stairs, inclinors can be reasonably described as being ancillary to the waterfront facilities. This is due to the inclinor providing a more direct and accessible connection from the primary access point up to the dwelling, which is located at a level approximately 18m higher (uphill).

The proposed works within the foreshore area has been assessed against the following in Part 3 of this clause:

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

(a) The development will contribute to achieving the objectives for the zone in which the land is located.

Comment: The development is consistent with the Zone E3 Environmental Management objectives. This is realised through the retention of ecologically significant species as well as being designed to scale that is integrated with the landform of the site.

(b) The appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area.

Comment: The proposed inclinor and access ramp is designed to be erected as near as possible to the existing ground level of the site. This reduces the overall height of the piers as viewed from the waterfront and results in a design that is consistent with other inclinors in the surrounding area.

(c) The development will not cause environmental harm.

Comment: The development is wholly maintained on private property and is able to satisfy the relevant clauses of the SEPP (Coastal Management) 2018, requirements of the Estuarine Risk Management Policy and relevant Natural Environment Clauses within the Pittwater 21 DCP.

(d) The development will not cause congestion or generate conflict between people using open space areas or the waterway.

Comment: The proposed inclinor and access ramp will not cause congestion or generate conflict between people using open space areas and does not propose works in the waterway.

(e) Opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised.

Comment: The development has been designed to maintain the provision for uninterrupted public access along the foreshore and above the mean high water mark.

(f) 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

Comment: The development is able to maintain any relevant historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land. Furthermore, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.

(g) 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.

Comment: The development does not propose the alteration or rebuilding of an existing building wholly or partly in the foreshore area.

(h) Sea level rise, coastal erosion and recession, or change of flooding patterns as a result of climate change have been considered.

Comment: The development proposal is able to satisfy the relevant requirements of the Estuarine Risk

Management Policy and associated B3.7 Estuarine Hazard controls subject to conditions.

The proposed works within the foreshore area has also been assessed against the following in Part 4 of this clause:

(4) 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:

- (a) continuous public access to and along the foreshore through or adjacent to the proposed development,*
- (b) public access to link with existing or proposed open space,*
- (c) public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,*
- (d) public access to be located above mean high water mark,*
- (e) the reinforcing of the foreshore character and respect for existing environmental conditions.*

Comment: Part 4 of this clause requires consideration of matters specially in relation to public access along the foreshore area. Amongst other matters detailed above, the development has been designed and sited in order to maintain public access above the mean high water mark. The foreshore character and the existing environmental conditions have been assessed and is found to satisfy the relevant objectives of the Pittwater LEP 2014 and P21DCP.

Having regard to the above assessment, it is concluded that the proposed development within the foreshore area is consistent with the objectives and requirements of Clause 7.8 of the Pittwater LEP 2014. Accordingly, this assessment finds that the proposal 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	>6.5m	N/A	Yes
Rear building line	Foreshore Building Line	3.8m	74.7%	No
Side building line	2.5m	4.8m	N/A	Yes
	1m	0.8m	20%	No
Building envelope	3.5m	Within envelope	N/A	Yes
	3.5m	Within envelope	N/A	No
Landscaped area	68%	75%	N/A	Yes

***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

Clause	Compliance with Requirements	Consistency Aims/Objectives
A4.8 Lower Western Foreshores and Scotland Island 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
B3.2 Bushfire Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	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
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
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
C1.13 Pollution Control	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	No	Yes
D8.1 Character as viewed from a public place	Yes	Yes
D8.3 Building colours and materials	Yes	Yes
D8.5 Front building line	Yes	Yes
D8.6 Side and rear building line	No	Yes
D8.8 Building envelope	Yes	Yes
D8.9 Landscaped Area	Yes	Yes
D8.11 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D8.13 Stormwater overflow	Yes	Yes
D8.14 Parking management	Yes	Yes
D8.15 Site disturbance	Yes	Yes
D8.16 Scenic Protection Category One Areas	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D15.11 Waterfront lighting	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
D15.15 Waterfront development	Yes	Yes
D15.18 Seawalls	Yes	Yes
D15.19 Dredging	Yes	Yes

Detailed Assessment

A5.1 Exhibition, Advertisement and Notification of Applications

The Development Application was re-notified for a period of 14 days commencing from the 26 July 2018. No submissions were received during this period.

C1.19 Incline Passenger Lifts and Stairways

The revised plans for this application proposes the inclinator approximately 0.55m measured from the outer face of the carriage from the nearest point to the southern side boundary. While this is a technical non-compliance with the 2m setback requirement (v), the proposal location is considered acceptable in order to facilitate the inclinator being erected as near as possible to the existing ground level of the site and to reduce the overall height of the piers as viewed from the waterfront (ii). The Applicant has also provided evidence detailing why the inclinator is required to stop at the upper level, explaining that as the lower floor is not connected via an internal stair to the main living area above and that it would be necessary in order to make the home more accessible for the owners to continue residing at the property. The proposed inclinator does not involve excessive excavation or tree removal (i). The Statement of Environmental Effects indicates that the steel track and car will be painted dark green and that the access decks will be stained natural timber to blend in with surrounding vegetation (iv). The proposed inclinator pathway and landing areas are wholly maintained on private property and is not in the direct view within 4.5m to a window of a habitable room from the neighbouring property at 69 Florence Terrace (vi and vii). A condition has been placed with regards to the number of movements in order to minimise the effects of noise from the inclinator (iii).

In order to provide an accessible connection from the primary access point and waterfront facilities up to the dwelling, an assessment based on its merits considers the proposal to meet the objectives of this clause.

D8.6 Side and rear building line

The proposed inclinator is located within the southern side building setback, being 0.55m measured from the outer face of the carriage from the nearest point to the southern side boundary. The side building line setback control refers to one side to be 2.5m with the other being 1m. The side setback of 1m results in a 45% variation to the control. While this is a technical non-compliance with the setback requirement, the proposal location is considered acceptable in order to facilitate the inclinator being erected as near as possible to the existing ground level of the site and to reduce the overall height of the piers. The location of the inclinator is also positioned so that at its closest point to the jetty it is 1m from the southern side boundary. The proposal also maintains a reasonable level of privacy, amenity and

solar access as well as not being in the direct view from a neighbouring property. The proposal is therefore considered to meet the objectives of this clause.

A Foreshore Building Line applies for the rear setback of this proposal. Please refer to Clause 7.8 Limited development on foreshore area for further discussions.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

Refer to Assessment by Council's Natural Environment Unit elsewhere within this report.

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 DA2018/0518 for Construction of an incline passenger lift on land at Lot 5 DP 816673, 67 Florence Terrace, SCOTLAND ISLAND, 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
2347 - DA 01 A	July, 2018	Stephen Crosby & Assoc. Pty. Ltd.
2347 - DA 02 A	July, 2018	Stephen Crosby & Assoc. Pty. Ltd.

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Bushfire Risk Assessment Report No. 1222	3 February, 2018	Planning for Bushfire Protection
Geotechnical Report No. MT 31407	20 February, 2018	Jack Hodgson Consultants Pty Limited
Arborist Report	12 March, 2018	Syncarpia Vegetation Management
Geotechnical Report No. MT 31407A	24 July, 2018	Jack Hodgson Consultants Pty Limited
Arborist Statement	6 August, 2018	Syncarpia Vegetation Management

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. (DACPLB01)

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 (DACPLB09)

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. (DACPLB10)

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).

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 correctly incorporated into designs and structural plans

The recommendation of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by Jack Hodgson Consultants Pty Ltd (referred to within Condition 1 of this consent) are to be incorporated into the construction plans.

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

Reason: To ensure geotechnical risk is managed appropriately.

6. 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; they will not affect public access to or the amenity of public foreshore open space.

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

7. Estuarine Planning Level Requirements

An Estuarine Planning Level (EPL) of 2.74m AHD has been adopted by Council for the subject site and shall be incorporated in construction plans for and applied to all development proposed below this level as follows:

- All structural elements below 2.74m 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 2.74m 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 2.74m AHD.
- All exterior power supplies (including electrical fittings, power outlets and switches) must be located at or above 2.74m AHD.

Reason: To ensure aspects of the development are built at the appropriate level

8. 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. (DACPLC02)

9. Sewer / Water Quickcheck

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website www.sydneywater.com.au for:

- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLC12)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

10. Arborist Recommendations to be Implemented

All recommendations specified in relevant sections of the submitted arborist's report (Syncarpia Vegetation Management, March 2018) and arborist's statement (Syncarpia Vegetation Management, August 2018) are to be fully implemented at the appropriate stage of construction.

Any changes or alterations made to the tree management recommendations as outlined by the arborist report due to the discovery of new structural roots or underground services during development works must be reported to the Principal Certifying Authority prior to works recommencing.

Reason: To achieve compliance with relevant Natural Environment DCP controls.

11. 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. (DACAHE01)

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

OCCUPATION CERTIFICATE

12. **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.

13. **Tree Protection to be Certified by Arborist**

Prior to the commencement of construction works, all tree protection recommendations in particular the establishment of tree protection zone fencing as specified in the approved arborist report (Syncarpia Vegetation Management, March 2018) and arborist statement (Syncarpia Vegetation Management, August 2018) are to be certified by the consulting arborist as being adequate and in accordance with the specifications of AS 4970 ~ 2009 Protection of Trees on Construction Sites. Certification is to be provided to the certifying body prior to the issue of the Occupation Certificate. Documented evidence of a qualified arborist having supervised the works in proximity to trees being retained and ensuring that all tree protection measures are adopted as specified in the approved arborist report is required. This documentation is to be provided prior to the issue of the Occupation Certificate.

Reason: To achieve compliance with relevant Natural Environment controls.

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

14. **Noise Impact on Surrounding Areas**

The operation of the incline lift shall not adversely affect the amenity of the neighborhood or interfere unreasonably with the comfort or repose of a person who is outside the premises and shall not create *offensive noise* as defined under the Protection of the Environment Operations Act 1997.

Reason: To ensure the surrounding area and people within the neighborhood are not affected adversely and to ensure compliance with the Protection of the Environment Operations Act 1997. (DACHPGOG3)

15. **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.

16. **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.

17. **Inclinators movements**

Use of the inclinator being restricted to 24 movements per day during 7am and 10pm time period and two movements between 10pm and 7am (except in emergencies). The maximum noise level associated with the inclined passenger lift is not to exceed 60dB(A), when measured

one metre from any adjoining premises.

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

Signed



Kent Bull, Planner

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



Matthew Edmonds, Manager Development Assessments

ATTACHMENT A

Notification Plan	Title	Date
 2018/225923	Plan - Notification	06/04/2018

ATTACHMENT B

No notification map.

ATTACHMENT C

Reference Number	Document	Date
 2018/225927	Plans - Survey	13/11/2017
 2018/225930	Report - Bushfire Certificate	03/02/2018
 2018/225932	Report - Bushfire	03/02/2018
 2018/225936	Report - Geotechnical	28/02/2018
 2018/225928	Report - Arborist	21/03/2018
 2018/225940	Report - Statement of Environmental Effects	03/04/2018
 2018/225935	Report - Cover Letter	03/04/2018
 DA2018/0518	67 Florence Terrace SCOTLAND ISLAND NSW 2105 - Development Application - Alterations and Additions	04/04/2018
 2018/215947	DA Acknowledgement Letter - David John Suttie	04/04/2018
 2018/225923	Plan - Notification	06/04/2018
 2018/225924	Plans - External	06/04/2018
 2018/225925	Plans - Master Set	06/04/2018
 2018/225920	Cost Summary Report	06/04/2018
 2018/225918	Applicant Details	10/04/2018
 2018/225922	Fee Form	10/04/2018
 2018/225921	Development Application Form	10/04/2018
 2018/230258	Environmental Health (unsewered lands) - Assessment Referral - DA2018/0518 - 67 Florence Terrace SCOTLAND ISLAND NSW 2105	10/04/2018
 2018/227178	DA Acknowledgement Letter (not integrated) - David John Suttie	10/04/2018
 2018/227219	Notification map for 67 Florence Terrace	10/04/2018
 2018/227215	Notification Letter - DA	10/04/2018
 2018/227556	Natural Environment Referral Response - Riparian - 67 Florence Terrace	10/04/2018
 2018/244546	Environmental Health Referral Response - unsewered land	18/04/2018
 2018/340307	Natural Environment Response - Biodiversity	04/06/2018
 2018/408810	67 FLORENCE TCE SCOTLAND ISLAND	04/07/2018
 2018/437587	Site photos - 67 Florence Terrace, Scotland Island DA2018.0518	09/07/2018
 2018/443143	Request for Withdrawal of Development Application - David John Suttie	11/07/2018
 2018/446820	2018 443143 Request for Withdrawal of Development Application - David John Suttie	12/07/2018
 2018/446822	RE: Development Application DA2018/0518 at 67 Florence Terrace, Scotland Island	12/07/2018

	2018/453311	Development Engineering Referral Response	17/07/2018
	2018/458183	Crosby - Response re Withdrawal of Development Application - DA2018/0518 - 67 Florence Terrace Scotland Island	18/07/2018
	2018/463626	Plan - Revised (Master Set)	23/07/2018
	2018/463627	Plan - Revised (External Set)	23/07/2018
	2018/470321	DA Acknowledgement Letter (not integrated) - David John Suttie	25/07/2018
	2018/470345	Re-Notification Letter - 6	25/07/2018
	2018/475602	Geotechnical Letter - 67 Florence Terrace, Scotland Island	27/07/2018
	2018/498961	Aborist Letter - 67 Florence Terrace, Scotland Island	07/08/2018
	2018/502168	Natural Environment Referral Response - Biodiversity	08/08/2018
	2018/517981	Invoice - Site Visit - Pink Water Taxis	14/08/2018
	2018/529005	Referral - Aboriginal Heritage Office - 67 Florence Terrace Scotland Island	20/08/2018
	2018/533220	Development Engineering Referral Response	22/08/2018
	2018/535880	Natural Environment Referral Response - Coastal	22/08/2018
	2018/536058	67 FLORENCE TCE SEPP COASTAL MAN 2018 - response from Steve Crosby	22/08/2018
	2018/542398	RE: RE: Dev Eng referral for revised plans DA2018/0518 - 67 Florence Terrace SCOTLAND ISLAND	24/08/2018