

27 May 2024



Erik Smithson Architecture  
14 Moona Avenue  
MATRAVILLE NSW 2036

Dear Sir/Madam

**Application Number:** DA2024/0113  
**Address:** Lot 25 DP 13457 , 106 Prince Alfred Parade, NEWPORT NSW 2106  
**Proposed Development:** Demolition works and construction of an inclinotor

Please find attached the Notice of Determination for the above mentioned Application.

You should thoroughly read the Notice of Determination and be aware of any conditions imposed that affect the development and guide the next steps in the process before you can commence works and/or the use.

A copy of the Assessment Report associated with this application is available to view in the Planning and Development > Application Search section of Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

If you have any questions regarding the decision or the conditions, please contact Council to speak to the assessment officer or the undersigned on 1300 434 434 or via email quoting the Application number, property address and the description of works to [council@northernbeaches.nsw.gov.au](mailto:council@northernbeaches.nsw.gov.au)

Regards,



Peter Robinson  
**Executive Manager Development Assessment**

## NOTICE OF DETERMINATION

|                     |                         |
|---------------------|-------------------------|
| Application Number: | DA2024/0113             |
| Determination Type: | Development Application |

### APPLICATION DETAILS

|                                 |                                                             |
|---------------------------------|-------------------------------------------------------------|
| Applicant:                      | Erik Smithson Architecture                                  |
| Land to be developed (Address): | Lot 25 DP 13457 , 106 Prince Alfred Parade NEWPORT NSW 2106 |
| Proposed Development:           | Demolition works and construction of an inclinator          |

### DETERMINATION - REFUSED

|                |            |
|----------------|------------|
| Made on (Date) | 23/05/2024 |
|----------------|------------|

### Reasons for Refusal:

- Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.6 Exceptions to Development Standards of the Pittwater Local Environmental Plan 2014**

#### Particulars:

The environmental planning grounds advanced by the applicant within the written Clause 4.6 variation request, including in relation to the factual circumstances of the proposal's acceptable impacts and benefits of the proposal, are not deemed sufficient to justify the variation. It has not been demonstrated that the inclinator will facilitate the orderly and economic use of the land, as it is not necessary to maintain the use of the land as a whole, or provide access to the lower parts of the lot (a set of stairs exists). The proposed inclinator is not fundamental to the residential occupation of the land, which has occurred for an extended period without an inclinator located within, and accessing, the foreshore area. The environmental planning grounds advanced by the applicant promote the benefits of the development rather than demonstrating that departure from the development standard has a better environmental impact than a compliant development.

As such, it is considered that the development cannot be found to have sufficient environmental planning grounds to justify contravening the development standard. It is considered that compliance with the development standard is reasonable and necessary in the circumstances.

- Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 7.8**

## **Limited Development on Foreshore Area of the Pittwater Local Environmental Plan 2014**

### Particulars:

Inclinators are not permitted development within the foreshore area, pursuant to Clause 7.8 (2) (b). Further the development is inconsistent with the objective (1) (a) in Clause 7.8 (1) (a) Limited Development on Foreshore Area of the Pittwater Local Environmental Plan 2014, namely, to ensure that development in the foreshore area will not affect the significance and amenity of the area.

## Request a review of the determination

If you are dissatisfied with this determination, you may request a review of the determination:

- You do not have the right to request a review of the determination under section 8.3 of the EP&A Act if you are excluded from those developments listed under Section 8.2(2) of the EP&A Act.
- You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 months from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

## Rights to appeal

You have a right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

## Objector's right of appeal against the determination

An objector who is dissatisfied with the consent authority's determination to grant consent, in relation to Designated Development only has the right to appeal to the Court against the determination under section 8.8 of the EP&A Act within 28 days after the date that the objector was notified of the determination appealed against.

## Dictionary

The Dictionary at the end of this consent defines words and expressions for the purposes of this determination.

### Signed

On behalf of the Consent Authority



Name

Peter Robinson, Executive Manager Development Assessment

Date

23/05/2024