

DA NO: DA-2021/307
ADDRESS: 1 DORSET ROAD, NORTHBRIDGE NSW 2063.
PROPOSAL: SUPPLEMENTARY REPORT - INSTALLATION OF INCLINATOR AND ASSOCIATED WORKS.
RECOMMENDATION: APPROVAL
ATTACHMENTS: 1. ASSESSMENT
2. SCHEDULE OF CONDITIONS
3. ORIGINAL NOTIFICATION MAP
RESPONSIBLE OFFICER: RITU SHANKAR - TEAM LEADER
AUTHOR: ANA VISSARION – SENIOR DEVELOPMENT ASSESSMENT OFFICER
REPORT DATE: 22 AUGUST 2022
REPORT FOR: 30 AUGUST 2022

1. PURPOSE OF REPORT

This is a supplementary report which seeks determination by Willoughby Local Planning Panel (WLPP) for Development Application DA-2021/307 for *Installation of inclinor and associated works* at 1 Dorset Road, NORTHBRIDGE, following the previous deferral of the application by the WLPP for providing additional information on various aspects of the proposal.

The application was originally referred to the WLPP on 28 June 2022 for determination because, following notification, it received over 10 submissions objecting to the application.

2. OFFICER'S RECOMMENDATION

THAT the Willoughby Local Planning Panel:

2.1 Approves Development Application DA-2021/307 for '*Installation of inclinor and associated works*' at 1 Dorset Road, NORTHBRIDGE NSW 2063., subject to the conditions contained in *Attachment 1*, for the following reasons:

- 2.1.1 The proposal meets the objectives of developing in the C4 Environmental Living Zone.**
- 2.1.2 The proposed inclinor is found to satisfactory meet the requirements of Clause 6.4(3) of WLEP 2012.**
- 2.1.3 The proposal is acceptable development when assessed against the controls for inclinators in *Part C.10 Foreshore Building Line* of the *Willoughby Development Control Plan (WDCP)* and against the controls for inclinators visible from foreshore/ waterways contained in *Part D.1.16 Environmental Living Zone* of the *WDCP*.**
- 2.1.4 The proposed inclinor will have acceptable amenity impacts on neighbouring properties, on the locality and on the waterway.**

3. BACKGROUND

The Development Application was originally considered at the Willoughby Local Planning Panel public meeting on 28 June 2022. The assessment officer's recommendation was for approval.

Determination of the application was deferred, and the applicant was requested to provide additional information as follows:

1. The provision of the plans and elevations showing the location of the inclinator and the adjoining residential development of 3A Dorset Road, Northbridge as approved and under construction. All plans are to be fully dimensioned showing the height of the inclinator rail above existing and proposed finished ground level of the subject property. The plans and elevation must show the accurate location and dimensions of windows and the rooms that these windows relate to at 3A Dorset Road, Northbridge where the windows adjoin the proposed inclinator.
2. The provision of an additional section elevation taken through the centre line of the inclinator rail showing the relationship of the structure to the existing ground level including all natural features such as rock outcrops, proposed excavation and retaining walls.
3. The provision of an amended landscaping plan to indicate the variations to the approved landscape plans for DA 2021/6 and to provide for satisfactory replacement planting to mitigate the impact of the inclinator and in compliance with the requirements for *NSW RFS Planning for Bushfire Protection*.

The deferral letter also noted that WLPP was not satisfied that appropriate notice of the Panel hearing was given to those members of the public that provided submissions, when the application was advertised. WLPP requested that, prior to the matter being heard by a Panel, the writers of each submission are to be advised individually of the time and date for the WLPP hearing and requested whether they wish to be heard.

This supplementary report provides an assessment of the latest amended proposed development. The final amended plans are considered acceptable and recommended for approval.

4. DISCUSSION

The purpose of the request was to provide sufficient details to enable an informed assessment and appropriate decision process.

While proposal remains unaltered compared to what was presented to WLPP on 28 June 2022, the applicant provided amended and additional plans, as stated in the written request.

The assessment in Council report dated 17 June 2022 and presented to WLPP on 28 June 2022 continues to apply. The current assessment report does not duplicate that assessment, but rather complete it, taking into account the additional information.

The **plans** used for this assessment can be found in a file named **WLPP Plans** under the DA tracking functionality for this application on Council's website:

<https://eplanning.willoughby.nsw.gov.au/pages/xc.track/SearchApplication.aspx?id=514124>

5. NOTIFICATION

The amended plans provide further information on the proposal, including detailed landscaping, and show with greater clarity the relationship between the proposed inclinator and the newly-approved, in construction, adjoining dwelling at 3A Dorset Road. The amended plans do not propose changes to the inclinator and, as such, the application is not required to be re-notified in accordance with Part D and E of *Willoughby Community Participation Plan (WCPP)*.

Notwithstanding this, the amended plans and documentation were published on the Council DA Tracker and the adjoining neighbour at 3A Dorset Road was verbally informed of the availability of the information. Following correspondence between Council and adjoining neighbour, recommended conditions of consent were revised to include a condition requiring that the eastern privacy screen forms permanent part of the inclinator cabin, for the life of development.

6. CONCLUSION

The Development Application DA-2018/366 has been assessed in accordance with Section 4.15 (79C) of the *Environmental Planning and Assessment Act 1979*, *WLEP 2012*, *WDCP* and other relevant codes and policies. An additional detailed assessment took place against the points of Clause 6.4 (3) of *WLEP 2012*, to ensure that the consent authority is satisfied that proposed inclinator is a lawful development forward to the Foreshore Building Line. Given the conclusions of the original assessment report and the conclusions of current assessment report, it is considered that the proposal is acceptable in the particular location, subject to the amended consent conditions included in **Attachment 2**.

ATTACHMENT 1: ASSESSMENT

On 28 June 2022, the Willoughby Local Planning Panel (WLPP) determined to defer the decision on the development application DA-2021/307 at 1 Dorset Road, Northbridge for *Installation of inclinator and associated works.*

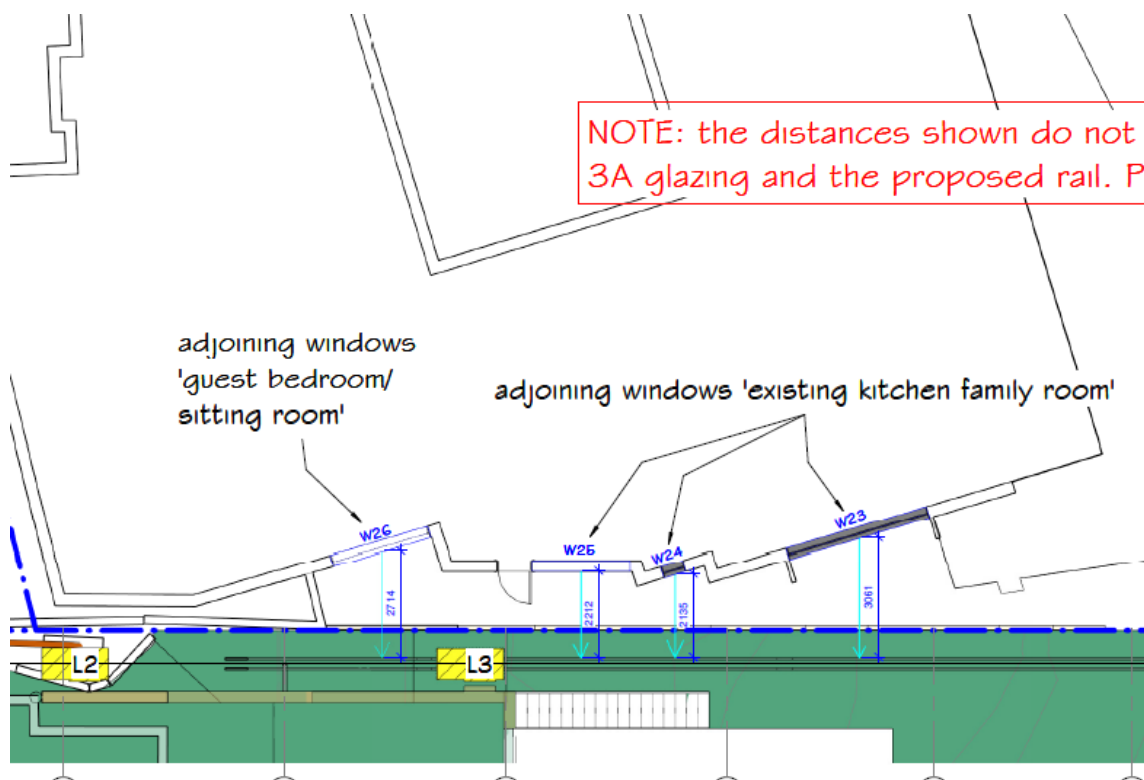
WLPP requested additional information to be submitted by the applicant. The request was addressed by the applicant in amended plans and additional information, as detailed below:

Request 1

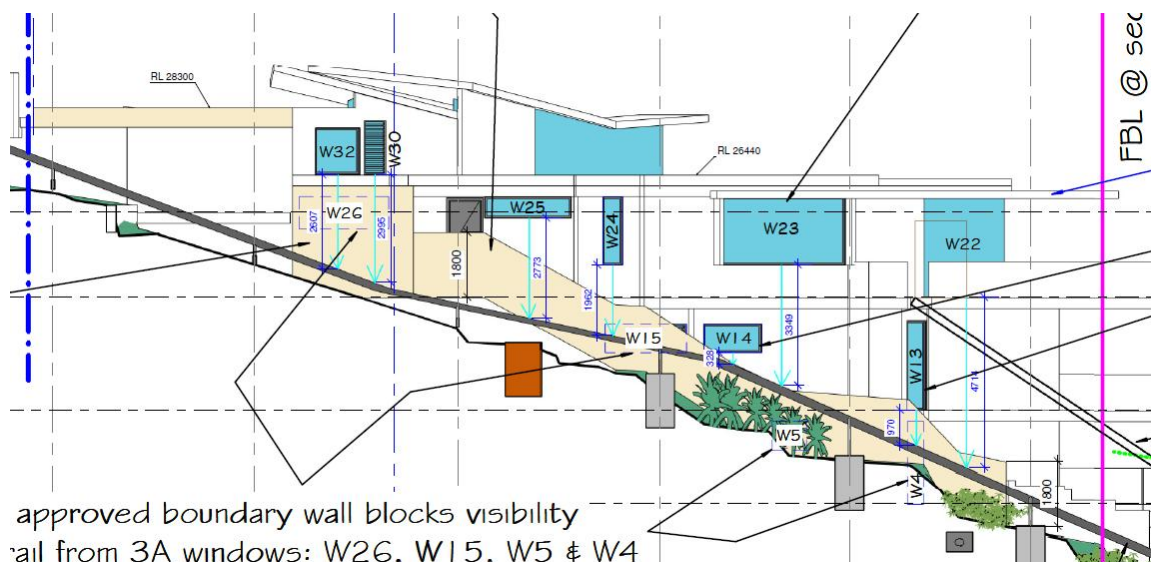
1. *The provision of the plans and elevations showing the location of the inclinator and the adjoining residential development of 3A Dorset Road, Northbridge as approved and under construction. All plans are to be fully dimensioned showing the height of the inclinator rail above existing and proposed finished ground level of the subject property. The plans and elevation must show the accurate location and dimensions of windows and the rooms that these windows relate to at 3A Dorset Road, Northbridge where the windows adjoin the proposed inclinator.*

The amended plans include now the dwelling approved and under construction by DA-2020/233/A at 3A Dorset Road, Northbridge.

Windows on western elevation at 3A Dorset Road are at most levels associated with spaces that do not require additional protection of privacy, except for windows at the Living Level.



Excerpt – proposed inclinator and adjoining 3A Dorset Road - Living Level - plan

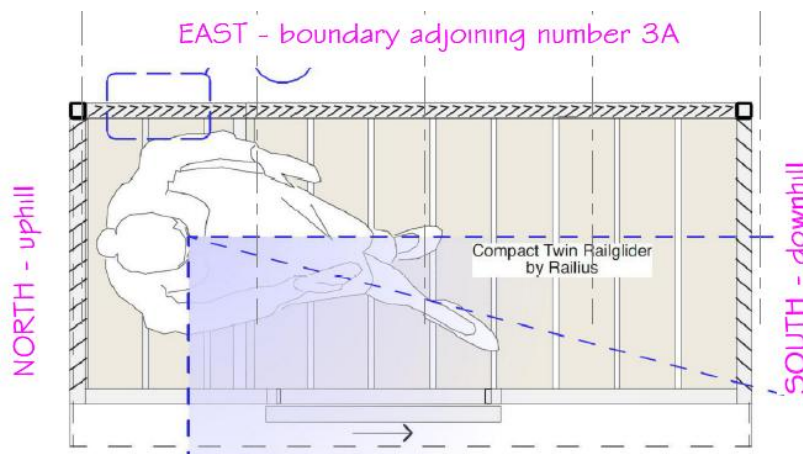


Excerpt - elevation of proposed inclinator and Western elevation of adjoining 3A Dorset Road

The Living Level (middle level on elevation) contains windows (guest bedroom, kitchen and family room). Privacy is ensured for most of these windows, due to boundary walls and locations/size of windows. One (1) window is of interest, marked on plans and elevations to be W23. This large window is oriented at an angle towards the common boundary and overlooks the rear yard of the subject property. Notwithstanding that, W23 is approx. 3m away from the inclinator rails and approx. between 2.2m to 4m above the level of the inclinator rails.

Taking into account the height of the inclinator cabin, there will be no overlooking possible or privacy issues generated by the cabin passing by, even if the cabin will be open, with no privacy walls.

Notwithstanding this, the inclinator cabin is designed with privacy screens on three (3) sides. The Northern and Southern walls of the cabin have privacy screen blades that direct the views away from neighbours, while the Eastern wall has dense blades that do not allow for any views towards adjoining eastern neighbours.



proposed railcar detail by DKC RAILCAR DETAIL (not to scale) Design of proposed cabin

While properties at this location sit on steep foreshore sites where a degree of overlooking is expected and acceptable, the design of the inclinator cabin and the location of the rails in

relation to windows/openings of 3A Dorset Road should be sufficient to maintain the visual amenity of 3A Dorset Road.

Request 2

2. *The provision of an additional section elevation taken through the centre line of the inclinator rail showing the relationship of the structure to the existing ground level including all natural features such as rock outcrops, proposed excavation and retaining walls.*

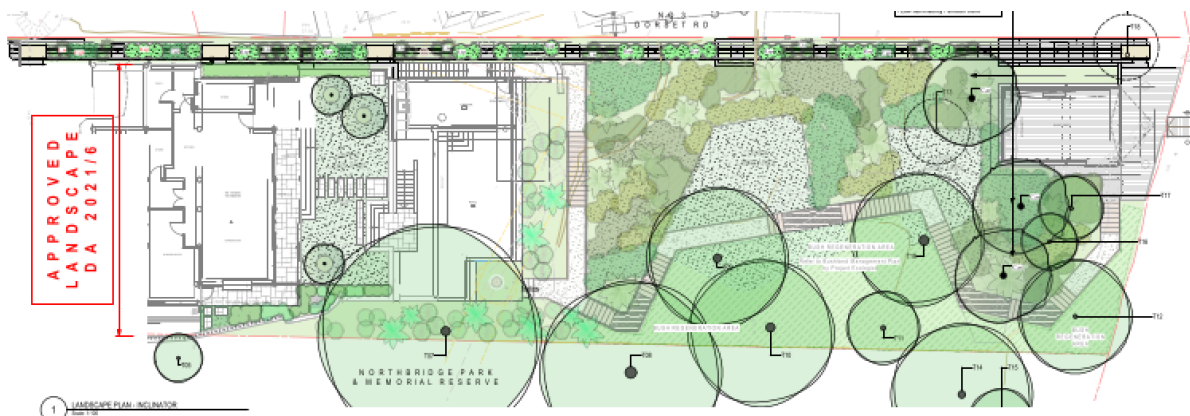
The applicant submitted an additional section elevation, taken through the centre line of the inclinator rail, showing the relationship of the inclinator rail to glazing at 3A Dorset Road and showing the relationship of the structure to the existing ground level and the location of the Foreshore Building Line (FBL). Forward to the FBL, the 3.5m maximum height above natural ground level is plotted. The proposed inclinator lines sit comfortably below this height, at any point.

Request 3

3. *The provision of an amended landscaping plan to indicate the variations to the approved landscape plans for DA 2021/6 and to provide for satisfactory replacement planting to mitigate the impact of the inclinator and in compliance with the requirements for NSW RFS Planning for Bushfire Protection.*

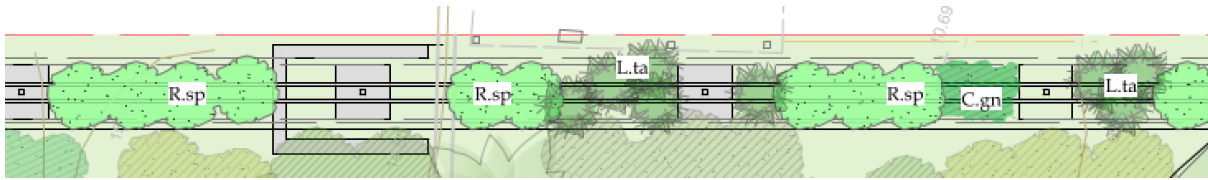
A landscaping plan has been submitted and indicates the variations to the approved landscape plans for DA 2021/6 and provide for screening of the inclinator.

1 x Melaleuca sp. tree is proposed to be removed, a semi mature tree, indicated by the Arborist's report to be in decline. The tree proposed for removal is proposed to be replaced at a rate of 3 to 1, in accordance with Part C9 of the *Willoughby Development Control Plan – Vegetation Management*. The location of the replacement trees is appropriately chosen to be away from main dwelling and on the western side of the property, where it will further screen the inclinator from views from the adjoining Local Heritage Item and will constitute a link between the subject property and the Reserve.



Landscape Plan submitted as an amendment of the plan accompanying previously approved DA 2021/6 on the subject site

Planting under the rails is proposed where feasible and chosen from non-invasive species. Chosen planting schedule took into account the particularity of the site and the proximity of the Northbridge Park and Memorial Reserve.



Excerpt from the proposed planting in the inclinator area – typical section

SHRUBS & ACCENT PLANTING					
R.sp	<i>Rhagodia spinescens</i>	Salt bush	200	1.5 - 2m	1.5 - 4m
GROUNDCOVERS & GRASSES					
L.ta	<i>Lomandra longifolia 'Tanika'</i>	Fine-Leafed Mat Rush	100mm	0.6 - 0.75m	0.6 - 0.9m
C.gn	<i>Casuarina glauca 'Cousin II'</i>	Groundcover Casuarina	140mm	0.3 - 0.45m	1.2 - 2.0m

Excerpt of the legend associated with the proposed planting in the inclinator area

Given the bushfire status of the property and subject to recommended conditions, the inclinator integrates in an acceptable way into the foreshore area and into the scenic landscape.

The plan is generally in compliance with the requirements for NSW RFS Planning for Bushfire Protection, however, conditions of consent continue to be recommended.

Conclusion

The submitted amended and additional plans satisfactory address matters raised by the Panel.

The proposal is assessed:

- To be located on the eastern side of the subject property, screened from the adjoining Local Heritage Item (I180 Northbridge Park & Memorial Reserve including Northbridge Golf Club) by landform, vegetation and previously approved structures on site, and so, will not be readily visible from the item.
- To be located on the eastern side of the subject property where tree removal is minimised (one (1) tree only to be impacted by the works) and to propose additional under rail planting to reduce the visual impact of the rail alignment where feasible,
- To not increase the bush fire hazard potential of the subject site,
- To follow the topography of the site, to avoid cut through major rock outcrops and to minimise excavation,
- To have colours and finishes that blend with the natural environment,
- To have rails that sit below the maximum height permissible forward to the FBL,
- To have a well-screened full-sized cabin, designed to maintain privacy for adjoining eastern neighbours, and
- To be supported by the adjoining neighbour at 3 Dorset Road.

The latest amended plans provide sufficient information for assessment and, subject to conditions, meet WLEP 2012 and WDCP controls in an acceptable way.

The proposal to build an inclinor on site is permitted development with consent according to Clause 6.4 (2) (b) of WLEP 2012. Specifically, Clause 6.4 reads:

6.4 Limited development on foreshore area

(1) *The objective of this clause is to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area.*

(2) *Development consent must not be granted for development on land in the foreshore area except for the following—*

(a) single storey structures such as boat sheds, slipways and jetties that have a direct functional relationship with the waterway,

(b) inclinators, stairs and other structures designed to provide pedestrian access to the waterway,

(c) development for the purposes of barbecues, cycleways, fences, garden sheds, pergolas, picnic facilities, public amenities, retaining walls, swimming pools or walking trails.

(3) *Development consent must not be granted under subclause (2) 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, and

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

(c) the development will not cause environmental harm such as—

(i) pollution or siltation of the waterway, or

(ii) an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or

(iii) an adverse effect on drainage patterns, and

(d) the development will not cause congestion of, or generate conflicts between, people using open space areas or the waterway, and

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

(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, and

(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, and

(h) sea level rise or change of flooding patterns as a result of climate change have been considered.

Assessment of the latest documentation for construction of an inclinator **against the points of Clause 6.4 (3)** of WLEP 2012 above conclude that the proposal:

- (a) Will achieve the objectives of the zone C4 – Environmental Living, without having adverse effects on special ecological, scientific or aesthetics values. Council's Landscape Architect raise no objection to the removal of the one tree indicated to be in decline. A condition of consent requires the tree to be replaced at a rate of 3 to 1 in accordance with Part C9 of the *Willoughby Development Control Plan – Vegetation Management*.
All other trees are proposed to be retained and protected. In this regard, a Landscape plan has now been submitted. The site does not contain special ecological, scientific or aesthetics values other than the expected ones in a foreshore Environmental Living zoning.
- (b) The inclinator is similar to other inclinators in the area and less prominent than the existing inclinator on adjoining 3A Dorset Road. Conditions of consent require that external finishes of the inclinator (including rails, railcar and landings) blend with the immediate natural environment and minimise the effects of glare (*Condition 5*). Screening of the rails with native vegetation will take place where possible (e.g. on sections closer to the Bay). To this effect, a detailed landscape plan has now been submitted.
- (c) The inclinator in operation is expected to function as any other inclinator on the foreshore and not cause environmental harm such as—
 - (i) pollution or siltation of the waterway, or
 - (ii) an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or
 - (iii) an adverse effect on drainage patterns.
- (d) The inclinator will not cause congestion of, or generate conflicts between, people using open space areas or the waterway.
- (e) Existing opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised due to the development.
- (f) The subject site is not of historic, scientific, cultural, social, archaeological, or architectural significance. However, it does have natural and aesthetic significance specific for foreshore land in an Environmental Living zone. These values are preserved due to the chosen location for the inclinator, on the eastern side, where land is already cleared from vegetation as part of DA 2021/6. The cluster of trees that are located on the western side is preserved. These trees screen the dwelling house and ancillaries from Long Bay and provide continuity to the Northbridge Park and Memorial Reserve to the west. All works take place within subject property and do not affect adjoining lands. Natural or aesthetic significance of the subject land and of surrounding land will be maintained.
- (g) No alteration or rebuilding of an existing building, wholly or partly, is proposed in the foreshore area with current application.
- (h) Potential sea level rise as a result of climate change has been taken into consideration. Landing 4 of the inclinator is appropriately located at approx. 2m above water level, similar to the deck of the boatshed approved by DA 2021/6.

The proposed inclinator is found to meet the requirements of Clause 6.4(3) of WLEP 2012.

Taking into account the above, development consent can be granted for the proposed inclinator located on land in the foreshore area.



View of adjoining 3A Dorset Road from subject property – photo taken prior to demolition and approval of DA 2020/233; with DA 2022/105, currently under assessment, existing inclinator is proposed to be re-instated and re-furbished

ATTACHMENT 2: SCHEDULE OF CONDITIONS

SCHEDULE

Conditions of Consent: (Including reasons for such conditions)

CONSENT IDENTIFICATION

The following condition provides information on what forms part of the Consent.

1. Approved Plan/Details

The development must be in accordance with the following consent plans electronically stamped by Council:

Type	Plan No.	Revision/ Issue No	Plan Date (as Amended)	Prepared by
Architecture	Cover Sheet A1-00D, Site Plan & Sections A1-01D, Section1 A1-02D, 3A Floor Levels A1-04D, Section2 West – 3A Glazing A1-05D, Section 2 West A1-06D All Project 2152	D	30.07.2022	Peter Downes Design
Landscape	L103B Project 1632	B	22.07.2022	Spirit Level Designs Pty Ltd

the application form and any other supporting documentation submitted as part of the application, except for:

- (a) any modifications which are “Exempt Development” as defined under S.4.1(1) of the *Environmental Planning and Assessment Act 1979*;
- (b) otherwise provided by the conditions of this consent.
(Reason: Information and ensure compliance)

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

The following conditions of consent must be complied with prior to the issue of a construction certificate.

2. Amendments

Prior to the issue of the Construction Certificate, the proposal is to be amended to locate the motor and winch of the inclinor system at a minimum 3 metres from the adjoining eastern boundary (with 3 Dorset Road and 3A Dorset Road). The motor and winch shall be fitted inside an acoustic enclosure.

Details of these amendments are required to be shown on the Construction Certificate plans.
(Reason: Amenity)

3. S7.12 Contribution

Prior to the issue of the Construction Certificate, a monetary contribution is to be paid in accordance with section 7.12 of *Environmental Planning and Assessment Act, 1979* in the amount of **\$ 4,336.55** for the purposes of the Local Infrastructure identified in the *Willoughby Local Infrastructure Contributions Plan*.

This contribution is based on 1% of the estimated cost of development, being \$433,655.79 at 24.09.2021 and the adopted *Willoughby Local Infrastructure Contributions Plan*.

Indexation

To calculate the monetary contribution that is payable, the proposed cost of development is to be indexed to reflect quantity variations in the Consumer Price Index, All Groups, Sydney, as published by the Australian Bureau of Statistics (ABS) between the date the proposed cost of development was agreed by the Council and the date the levy is to be paid as required by this Plan.

To calculate the indexed levy, the formula used to determine the monetary contribution is set out below:

$$\frac{\$C_o \times \text{Current CPI}}{\text{Base CPI}}$$

Where:

$\$C_o$ = the original development contribution determined by the Council based on a percentage of the cost of development as set out in the Contributions Plan

Current CPI = the Consumer Price Index (All Groups Index), Sydney, as published by the ABS at the quarter immediately prior to the date of payment

Base CPI = the Consumer Price Index (All Groups Index), Sydney, as published by the ABS at the quarter ending immediately prior to the date of imposition of the condition requiring payment of a contribution

Deferred payments of contributions will not be accepted.

Prior to payment Council can provide the value of the indexed levy.

Copies of the *Willoughby Local Infrastructure Contributions Plan* are available for inspection online at www.willoughby.nsw.gov.au

(Reason: Statutory requirement)

4. Local Infrastructure Contributions

For development that involves subdivision and/or building work, any contribution required under Council's Local Infrastructure Plan must be paid to Council prior to the issue of the subdivision certificate or first construction certificate, whichever occurs first.

(Reason: Statutory requirement)

5. Glare

The external finish of the inclinator (including rails, railcar and landings) shall be of minimal reflectance (maximum of 20%) so as to avoid nuisance to the nearby neighbours and/or foreshore areas, blend in colours with the immediate natural environment and shall minimise the effects of glare.

Details demonstrating compliance must be submitted with the construction certificate application for approval.

(Reason: Amenity)

6. Sydney Water 'Tap In'

Prior to the issue of the Construction Certificate, the approved plans must be submitted online to "Sydney Water Tap In" to determine whether the development will affect Sydney Water's sewer and water mains and to see if further requirements need to be met.

An approval receipt will need to be obtained prior to release of the Construction Certificate.

(Reason: Ensure compliance)

7. Construction Standards – NSW RFS

Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities. To achieve this, the following conditions shall apply:

New construction must comply with Section 3 (excluding section 3.5) and Section 9 (BAL FZ) of Australian Standard AS3959-2018 *Construction of buildings in bushfire-prone areas* or the relevant BAL-FZ requirements of the NASH Standard - *Steel Framed Construction in Bushfire Areas* (incorporating amendment A - 2015).

New construction must also comply with the construction requirements in Section 7.5 of Planning for *Bush Fire Protection 2019*.

(Reason: NSW Rural Fire Service Requirement)

PRIOR TO COMMENCEMENT

The following conditions of consent have been imposed to ensure that the administration and amenities relating to the proposed development comply with all relevant requirements. All of these conditions are to be complied with prior to the commencement of any works on site, including demolition.

8. Report Existing Damages on Council's Property

Prior to commencement of any works on site, submit to Council and the Principal Certifier a report with digital photographs of any existing damages to Council's assets fronting the property and the immediate adjoining properties. Failure to do so will result in the applicant being liable for any construction related damages to these assets. In this respect, the damage deposit lodged by the applicant may be used by Council to repair such damages.

(Reasons: Protection of Council's Infrastructure)

9. Permits and Approvals Required

Application is to be made to Council's Infrastructure Services Division for the following approvals and permits as appropriate: -

- (a) Permit to erect Builder's hoarding where buildings are to be erected or demolished within 3.50m of the street alignment. Applications are to include current fees and are to be received at least 21 days before commencement of the construction.
- (b) Permit to stand mobile cranes and/or other major plant on public roads. Applications are to include current fees and security deposits and are to be received at least seven days before the proposed use. It should be noted that the issue of such permits may also involve approval from the NSW Police Force and TfNSW (RMS). A separate written application to work outside normal hours must be submitted for approval.
It should also be noted that, in some cases, the above Permits may be refused and temporary road closures required instead which may lead to longer delays due to statutory advertisement requirements.
- (c) Permit to open public roads, including footpaths, nature strip, vehicular crossing or for any purpose whatsoever. All applications are to include current fees.
- (d) Permit to place skip/waste bin on footpath and/or nature strip. (Maximum three (3) days).
- (e) Permit to work and/or place building materials on footpath and/or nature strip. (Maximum two (2) weeks).
- (f) Permit to establish Works Zone on Public Roads adjacent to the Development including use of footpath area. Applications must be received by Council at least twenty-one days prior to the zone being required. The application will then be referred to the Council's Local Traffic Committee for approval, which may include special conditions.
- (g) Permit to construct vehicular crossings over Council's footpath, road or nature strip.

The public footway must not be obstructed at any time unless written approval has been granted by Council. Council's footpath and footway shall be maintained in a safe condition for pedestrians and the general public at all times.

(Reason: Legal requirements)

10. Underground Utility Services

Where excavation is proposed, locate and establish the size and levels of all utility services in the footpath and road reserve. Contact "Dial Before You Dig" Service" prior to commencement of any works.

All adjustments to public utilities' mains and services as a consequence of the development and associated construction works shall be at the full cost to the applicant.

(Reason: Protection of utilities)

11. Asset Protection Zones – NSW RFS

Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities. To achieve this, the following conditions shall apply:

- A. From the start of building works, and in perpetuity to ensure ongoing protection from the impact of bush fires, the entire property must be managed as an inner protection area (IPA) in accordance with the requirements of *Appendix 4 of Planning for Bush Fire Protection 2019*. When establishing and maintaining an IPA the following requirements apply:
- i. tree canopy cover should be less than 15% at maturity;
 - ii. trees at maturity should not touch or overhang the building;
 - iii. lower limbs should be removed up to a height of 2m above the ground; tree canopies should be separated by 2 to 5m;
 - iv. preference should be given to smooth barked and evergreen trees;
 - v. large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
 - vi. shrubs should not be located under trees;
 - vii. shrubs should not form more than 10% ground cover;
 - viii. clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
 - ix. grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
 - x. leaves and vegetation debris should be removed.
- B. Landscaping within the required asset protection zone must comply with *Appendix 4 of Planning for Bush Fire Protection 2019*. In this regard, the following principles are to be incorporated:
- i. A minimum 1-metre-wide area (or to the property boundary where the setbacks are less than 1 metre), suitable for pedestrian traffic, must be provided around the immediate curtilage of the building;
 - ii. Planting is limited in the immediate vicinity of the building;
 - iii. Planting does not provide a continuous canopy to the building (i.e. trees or shrubs are isolated or located in small clusters);
 - iv. Landscape species are chosen to ensure tree canopy cover is less than 15% (IPA), and less than 30% (OPA) at maturity and trees do not touch or overhang buildings;
 - v. Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies;
 - vi. Use smooth bark species of trees species which generally do not carry a fire up the bark into the crown;
 - vii. Avoid planting of deciduous species that may increase fuel at surface/ground level (i.e. leaf litter);
 - viii. Avoid climbing species to walls and pergolas;
 - ix. Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building;
 - x. Locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and
 - xi. Low flammability vegetation species are used.
- (Reason: NSW Rural Fire Service Requirement)

DURING DEMOLITION, EXCAVATION AND CONSTRUCTION

The following conditions are to be complied with throughout the course of site works including demolition, excavation and construction.

12. Hours of Work

All construction/demolition work relating to this Development Consent within the City, unless varied by an Out of Hours Work Permit, must be carried out only between the hours of 7 am to 5 pm Mondays to Fridays and 7 am to 12 noon on Saturdays. No work is permitted on Sundays or Public Holidays.

An application for an Out of Hours Work Permit to allow variation to these approved hours must be lodged with Council at least 48 hours prior to the proposed commencement of the work. The application must include a statement regarding the reasons for the variation sought, the type of work/s to be carried out, the additional time required, the anticipated impact upon the local amenity and how this will be minimized, and must be accompanied by the required fee. One (1) permit is required for each variation to the approved working hours within any 24-hour period.

If a variation to these approved hours for multiple or extended periods is sought, an application under Section 4.55 of the *Environmental Planning and Assessment Act 1979* must be lodged with Council at least twenty-one (21) days in advance of the proposed changes to the hours of work. The application must include a statement regarding the reasons for the variation sought, the type of work/s to be carried out, the additional time required, the anticipated impact upon the local amenity and how this will be minimized, and be accompanied by the required fee. Note: This Section 4.55 application may require re-notification in some circumstances.
(Reason: Ensure compliance and amenity)

13. Provide Erosion and Sediment Control

Where work involves excavation or stockpiling of raw or loose materials, erosion and sediment control devices shall be provided wholly within the site whilst work is being carried out in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into Council's stormwater system natural watercourses, bushland and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the requirements of the *Protection of Environment Operations Act 1997* and the Department of Environment, Climate Change and Water guidelines. The control devices are to be maintained in a serviceable condition AT ALL TIMES.
(Reason: Environmental protection)

14. Sweep & Clean Pavement

Sweep and clean pavement surface adjacent to the ingress and egress points of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council.
(Reason: Legal requirement)

15. Street Signs

The applicant is responsible for the protection of all regulatory / parking / street signs fronting the property. Any damaged or missing street signs as a consequence of the

development and associated construction works are to be replaced at full cost to the applicant.

(Reason: Protection of public assets)

16. Maintenance of Nature Strip

Where a nature strip and/or footpath is located directly adjacent to the property, the nature strip must be maintained during the construction period to ensure the turf/vegetation is no higher than 75mm in height and the public footpath is kept free of all rubbish, weeds and debris to ensure safe public access.

(Reason: Public amenity and safety)

17. Tree Protection

(a) Retain and protect the following trees and vegetation throughout the demolition and construction period: All trees not indicated for removal in the Arboricultural Impact Assessment dated August 2021 prepared by Botanics Tree Wise People.

(b) Protected trees must be clearly marked and protection devices in place to prevent soil compaction and machinery damage.

(c) Tree roots greater than 25mm diameter are not to be removed unless approved by a qualified Arborist on site.

(d) All structures are to bridge roots unless directed by a qualified Arborist on site.

(e) Tree protection measures must comply with the Arboricultural Impact Assessment dated August 2021 prepared by Botanics Tree Wise People and AS 4970-2009 Protection of trees on development sites with particular reference to Section 4 Tree Protection Measures

(Reason: Tree management)

18. No Access through Public Open Space

Site access is not approved for construction of the development, through adjacent public land.

(Reason: Safety, landscape amenity, tree protection)

19. Storage of Materials on Council Land Prohibited

The dumping or storage of building materials, spoil, vegetation, green waste, or any other material in the Council reserve is prohibited.

(Reason: Safety, environmental protection)

20. Protection of Rock and Sites of Significance

(a) All existing rock outcrops outside and below the approved construction footprint are to be maintained and preserved during the works;

(b) Should any Aboriginal sites be uncovered during works, works are to cease and the Council, the NSW Office of Environment and Heritage and the Metropolitan Local Aboriginal Land Council are to be contacted.

(Reason: Protection of significant environmental features)

21. Waste Classification – Excavation Materials

All materials excavated and removed from the site (fill or natural) shall be classified in accordance with the *Environment Protection Authority (EPA) Waste Classification Guidelines* prior to being disposed of to a NSW approved landfill or to a recipient site. (Reason: Environment and health protection)

22. Unexpected Finds Protocol

An unexpected finds contingency plan should be incorporated into site redevelopment works. In the event that previously unidentified contaminated soils or materials are identified during site redevelopment, works should cease in the immediate vicinity and the affected area isolated to minimise disturbance. A suitably qualified contaminated site consultant should be engaged to assess the degree, type and extent of contamination and establish a suitable remediation plan. The Site Manager/landowner shall notify Council in writing when they become aware of any contamination.

(Reason: Environment & Health Protection)

23. Noise Monitoring Plan

Construction noise shall be controlled to comply with the requirements as set out in the EPA Interim Construction Noise Guideline. Noise levels shall not exceed the rated background level by more than 10dB(A) at the most sensitive receiver during the standard construction hours. A noise monitoring plan shall be implemented during construction. Where noise levels may be exceeded appropriate measures to control excessive noise shall be implemented immediately.

(Reason: Amenity)

24. Geotechnical Report

Implement the recommendations of the Geotechnical Assessment prepared by JKGeotechnics, ref 33250PH2rpt, dated 16th September 2021.

(Reason: Amenity, environmental compliance and health)

25. Acoustic Report

Implement the recommendations of the Acoustic Report prepared by Peter Downes Design, Report No. nss23614 – final, dated March 2022.

(Reason: Amenity, environmental compliance and health)

PRIOR TO OCCUPATION OF THE DEVELOPMENT

The following conditions of consent must be complied with prior to the issue of an occupation certificate.

26. External Finishes – Minimal Reflectivity

Prior to the issue of a Final Occupation Certificate and in perpetuity, all parts of the inclinator shall be of colour that blends within the immediately surrounding natural environment (medium or dark range) and of finishes that ensure minimal reflectivity so as to avoid nuisance in the form of glare or reflections to the occupants of nearby buildings and to the Harbour.

(Reason: Visual amenity)

27. Public Infrastructure Restoration

Prior to the release of the Damage Deposit, any damaged public infrastructure caused as a result of the construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) must be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.

(Reason: Protection of public assets)

28. Tree Planting

Prior to the issue of a Whole Occupation Certificate, any tree greater than 4 metres in height that has been approved for removal shall be replaced at a rate of 3 to 1 in accordance with Part C9 of the *Willoughby Development Control Plan – Vegetation Management*.

The trees shall:

- (a) Have a minimum container size of 25 litres and grown to NATSPEC 2 Guide Specifying Trees (2003);
- (b) Be locally occurring native species;
- (c) Palms, conifers, fastigiata and columnar trees are not acceptable for the purposes of complying with this condition;
- (d) Have the potential to attain a minimum height of 4 metres at maturity;
- (e) Be planted in an appropriate location to allow root growth and compliance with bushfire requirements;
- (f) Be planted, mulched, watered and maintained according to industry best practice.

(Reason: Landscape amenity)

ONGOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

The following conditions have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the planning instrument affecting the land, and relevant legislation.

29. Conditions for the Life of the Development

a) Privacy Screens

The cabin operating on the inclinator shall have permanent, non-removable privacy walls, including the eastern privacy wall. At no time shall the cabin operate if not constructed in accordance with the approved drawings.

b) Cameras and Recording

In order to preserve the amenity of adjoining neighbours, fixed cameras shall not be installed on the inclinator hardware, or on the rail/ car carriage of the inclinator.

(Reason: Amenity)

30. Trees on Adjoining Properties

No approval is given for the removal or pruning of trees on the nature strip, adjoining reserves, or neighbouring private land.

(Reason: Environmental protection)

31. Noise Control – Offensive Noise and Vibration

To minimise the noise and vibration impact on the surrounding environment, the use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to an “offensive noise” as defined under the provisions of the *Protection of the Environment Operations Act 1997*.

(Reason: Amenity)

32. Noise Control

The operation of the incline passenger lift shall be conducted so as to avoid unreasonable noise or vibration, and cause no interference to adjoining or nearby residents. In the event of a noise or vibration problem arising at the time, the owner of the premises shall, when instructed by Council, cause to be carried out, a review of the Acoustic Report by an appropriate acoustic consultant, and submit the results to Council.

If required by Council, the owner of the premises shall implement any or all of the recommendations of the consultant, and any additional requirements of Council, to Council’s satisfaction.

(Reason: Amenity, environmental compliance and health)

PRESCRIBED CONDITIONS

The following conditions are prescribed by Section 4.17 of the Environmental Planning & Assessment Act for developments involving building work.

33. Compliance with National Construction Code

All building works must be carried out in accordance with the performance requirements of the National Construction Code.

(Reason: Compliance)

STATUTORY REQUIREMENTS

The following advisory notes are statutory requirements of the Environmental Planning & Assessment Act and the Environmental Planning & Assessment Regulations and are provided to assist applicants

34. Notify Council of Intention to Commence Works

In accordance with the provisions of Section 6.6 of the *Environmental Planning and Assessment Act 1979* the person having the benefit of the development consent shall appoint a Certifier and give at least 2 days’ notice to Council, in writing, of the person’s intention to commence the erection of the building.

(Reason: Information and ensure compliance)

35. Occupation Certificate

The building/structure or part thereof shall not be occupied or used until an occupation certificate has been issued in respect of the building or part.

(Reason: Safety)

ATTACHMENT 3: ORIGINAL NOTIFICATION MAP



Record of Neighbour Notifications sent relating to:

DA: 2021/307

At: 1 Dorset Road NORTHBRIDGE NSW 2063

