

DETERMINATION AND STATEMENT OF REASONS

WILLOUGHBY LOCAL PLANNING PANEL

DATE OF DETERMINATION	30 August 2022
PANEL MEMBERS	Abigail Goldberg (Chair), James Harrison, Gary Shiels and Robert Freestone
DECLARATIONS OF INTEREST	Gary Shiels noted that GSA Planning had prepared the Statement of Environmental Effects. However Gary was not involved in the project and no longer has any connection with GSA Planning.

Public meeting held at Willoughby City Council on 30 August 2022 by teleconference. The meeting opened at 2.00pm.

This item was heard between 2.37pm and 2.55pm.

Public meeting was held on 28 June 2022 and the decision was deferred for the following reasons:

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 Supplementary report dated 22 August was sent to the Panel electronically on 24 August 2022. Electronic and hard copy letters of notification were sent on or about 16 August 2022.

The requested plans were received on 5 August 2022 incorporating revised designs and addressed the matters raised by the Panel on 28 June 2022

MATTER DETERMINED

DA-2021/307 at 1 Dorset Road, Northbridge NSW 2063. Installation of inclinator and associated works.

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7, the material presented at the meeting and briefings and the matters observed at site inspections listed at item 8 in Schedule 1 of this Determination and Statement of Reasons.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

Development application

The Panel determined to **approve** the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The reasons outlined in the Council assessment and supplementary reports and:

1. **The proposal meets the objectives of developing in the C4 Environmental Living Zone.**
2. **The proposal is acceptable development when assessed against the controls for inclinator in *Part C.10 Foreshore Building Line* of the *Willoughby Development Control Plan (WDCP)* and against the controls for inclinator visible from foreshore/ waterways contained in *Part D.1.16 Environmental Living Zone* of the *WDCP*.**

CONDITIONS

The development application was approved subject to the conditions in the Council assessment report with the following amendment.

The Panel noted the concerns of the neighbours and agreed to the amendment of condition 2 as follows:

Condition 2 to be amended to read as follows:

2. Amendments

Prior to the issue of the Construction Certificate, the proposal is to be amended to

- a) **Locate the motor and winch of the inclinator system 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.**
- b) **Include a plan showing the location, finished RLs to AHD of the inclinator piles and track to the written satisfaction of Council. The inclinator is to be as close to finished ground level as possible.**





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

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during the public exhibition and heard from all those wishing to address the Panel. The Panel noted that key issues of concern included:

- Privacy and overlooking
- Noise and vibration
- Lack of appropriate details in the plans
- Surveillance
- Screen planting
- Length of the inclinator

The Panel considered that concerns raised by the community have been adequately addressed in the assessment and supplementary reports and that no new issues requiring assessment were raised during the public meeting.

PANEL MEMBERS	
 ABIGAIL GOLDBERG (CHAIR)	 JAMES HARRISON
 GARY SHIELS	 ROBERT FREESTONE

SCHEDULE 1		
1)	DA NO.	DA-2021/307
2)	PROPOSED DEVELOPMENT	Installation of inclinator and associated works.
3)	STREET ADDRESS	1 Dorset Road, Northbridge NSW 2063.
4)	APPLICANT/OWNER	S Downes / F M Mallyon.
5)	REASON FOR REFERRAL	Contentious Development – more than 10 submissions.
6)	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021.</i> ○ <i>Willoughby Local Environmental Plan 2012.</i> • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ <i>Willoughby Development Control Plan</i> ○ <i>Section 7.12 (S94A) Plan</i> ○ <i>Willoughby Local Infrastructure Contributions Plan.</i> • Provisions of the <i>Environmental Planning and Assessment Regulation 2000.</i> • Provisions of the <i>Environmental Planning and Assessment Act 1979.</i> • Planning agreements: Nil • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality. • The suitability of the site for the development. • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations. • The public interest, including the principles of ecologically sustainable development.
7)	MATERIAL CONSIDERED BY THE PANEL	<ol style="list-style-type: none"> 1) Council's assessment and Supplementary report: 17 June and 22 August 2022. 2) Clause 4.6 variation requests: Nil 3) Written submissions during public exhibition: 14 4) Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ In Objection: <ul style="list-style-type: none"> ○ John Bradley of John Bradley Architect ○ Norbert Wyzenbeek of 3A Dorset Road Northbridge ○ On behalf of the applicant: <ul style="list-style-type: none"> ○ Stephen Mallyon (Owner) ○ Simon Downes (Applicant) ○ Jon King of Design King (Architect) ○ Council staff: Ritu Shankar and Mitchell Noble
8)	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL/PAPERS CIRCULATED ELECTRONICALLY	<ul style="list-style-type: none"> • Site inspections were undertaken individually by Panellists at their discretion due to COVID-19 precautions. • Papers circulated electronically 24 August 2022. • Final briefing to discuss Council's recommendation, 30 August 2022 at 3.38pm-4.00pm • Attendees: <ul style="list-style-type: none"> ○ Abigail Goldberg (Chair), James Harrison, Gary Shiels and Robert Freestone. ○ Council staff: Ritu Shankar and Mitchell Noble
9)	COUNCIL RECOMMENDATION	Approval
10)	DRAFT CONDITIONS	Attached to the Council Supplementary assessment report