

DA NO:	DA-2021/307
ADDRESS:	1 DORSET ROAD, NORTHBRIDGE NSW 2063.
PROPOSAL:	INSTALLATION OF INCLINATOR AND ASSOCIATED WORKS.
RECOMMENDATION:	APPROVAL
ATTACHMENTS:	<ol style="list-style-type: none"><li>1. SITE DESCRIPTION AND AERIAL PHOTO</li><li>2. DEVELOPMENT CONTROLS, DEVELOPER CONTRIBUTION &amp; REFERRALS</li><li>3. SUBMISSIONS TABLE</li><li>4. SECTION 4.15 (79C) ASSESSMENT</li><li>5. SCHEDULE OF CONDITIONS</li><li>6. NOTIFICATION MAP</li></ol>
RESPONSIBLE OFFICER:	RITU SHANKAR - TEAM LEADER
AUTHOR:	ANA VISSARION – SENIOR DEVELOPMENT ASSESSMENT
REPORT DATE:	21 JUNE 2022
MEETING DATE FOR PUBLIC MEETING	28 JUNE 2022

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## 1. PURPOSE OF REPORT

The purpose of this report is to seek determination by *Willoughby Local Planning Panel (WLPP)* of Development Application DA-2021/307 for 'Installation of inclinator and associated works' at 1 Dorset Road, Northbridge.

The application is required to be referred to the *WLPP* 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 Approve Development Application DA-2021/307 for 'Installation of inclinator and associated works' at 1 Dorset Road, Northbridge NSW 2063., subject to conditions contained in Attachment 5, for the following reasons:**

- 2.1.1 The proposal meets the objectives of developing in the C4 Environmental Living Zone.**
- 2.1.2 The proposal is acceptable development when assessed against the controls for inclinators in Part C.10 Foreshore Building Line and against the controls for inclinators visible from foreshore/ waterways contained in Part D.1.16 Environmental Living Zone of the *Willoughby DCP*.**
- 2.1.3 The proposed inclinator will have acceptable amenity impacts on neighbouring properties, on the locality and on the waterway.**

### **3. BACKGROUND**

The subject site is occupied by a 3-storey dwelling house with a double garage, a tennis court, a swimming pool and, towards rear, a newly approved cabana and a boatshed with kayak storage, adjoining an existing jetty on Long Bay.

The subject site falls steeply from Dorset Road to Long Bay.

The site adjoins Northbridge Park and Memorial Reserve to the west and two (2) properties to the east - 3 Dorset Road (located close to Dorset Road) and 3A Dorset Road (a battle-axe allotment with access to Long Bay).

A description of the site and surrounding area, including an aerial photograph is contained in **Attachment 1**.

The application for the installation of the inclinor and associated works was notified between 3 and 17 November 2021.

Following notification, fourteen (14) submissions were received from, or on behalf of, the adjoining eastern neighbour at 3A Dorset Road, and a letter of support from 3 Dorset Road.

A table of the issues raised in the submissions objecting to the proposal and the assessing officer's response is contained in **Attachment 3**.

### **4. DISCUSSION**

Following the lodgement of the application, the proposal to install an inclinor on site was amended several times by the applicant. This report is assessing the latest set of plans dated 30 May 2022 and associated documentation.

The applicant lowered the rails as close to the natural ground as possible, while meeting the *WDCP* controls that require not cutting through rock shelves or outcrops.

The location on the eastern side (as opposed to locating the inclinor on the western side) was argued by the applicant as providing the most benefit in terms of accessibility on site and having the least impact on trees.

Taking into account the steep site, the latest amendments that lowered the rails without increasing excavation, the screens that are now incorporated into the design of the cabin and the minimal impact on large trees on site, the proposal subject to conditions is considered to be in an acceptable form to be recommended for approval. A detailed assessment of the proposal for approval is provided in **Attachment 4**.

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. CONCLUSION**

The Development Application DA-2021/307 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. It is considered that the proposal is acceptable in the particular location, subject to the consent conditions included in **Attachment 5**.

## ATTACHMENT 1: SITE DESCRIPTION AND AERIAL PHOTO

The subject site is located at the end of the cul-de-sac on the southern side of Dorset Road. It adjoins other residential dwellings to the east, the Northbridge Park and Memorial Reserve to the west, and Long Bay to the south (rear).



**Aerial view of the subject site**

The site is occupied by a 3-storey dwelling house with a double garage facing Dorset Road, a tennis court, a swimming pool and, towards rear, a newly approved cabana and a boatshed with kayak storage, adjoining an existing jetty on Long Bay.

The subject site falls steeply from Dorset Road (front) to Long Bay (rear). The Geotechnical Assessment Report by JK Geotechnics, dated 16 September 2021 and submitted with the application, describes the site as 'a steeply sloping south-west facing hillside, which grades at an average of about 30° to 35°. Dorset Road bounds the site to the north and is located near the crest of the hill. There was an elevation relief of about 32m between the upper (northern) and lower (southern) ends of the site. Long Bay is located along the toe of the site.' 'The southern (rear) yard of the site was mostly undeveloped with scattered large trees and shrubs, and some low height sandstone block retaining walls. The ground surface was mostly covered by leaf litter.'

The subject site is located on the Bushfire Map.

Development in the surrounding locality comprises a mix of part 2-storey and part 3-storey dwelling houses. Northbridge Park and Memorial Reserve is adjacent to the west. Northbridge Golf Club is accessible via a track located to the north-western of the cul-de-sac. Properties adjoining to the east have their boatshed and jetty accessed to Long Bay.

Development application DA-2021/6 at 1 Dorset Road, Northbridge NSW 2063 for 'Alterations and additions to existing dwelling including new carport, swimming pool, cabana, boatshed, landscaping and associated works' was approved by WLPP on 27 July 2021.

**ATTACHMENT 2: DEVELOPMENT CONTROLS, DEVELOPER CONTRIBUTION & REFERRALS**

<b>Willoughby Local Environmental Plan 2012 Zoning:</b>	C4 – Environmental Living
Conservation area	No
Heritage Item	No
Vicinity of Heritage Item	Yes, Local Heritage Item I180 Northbridge Park & Memorial Reserve including Northbridge Golf Club adjacent to the west and north.
Bushfire Prone Area	Yes
Foreshore Protection Area	Yes – permitted works forward to FBL
Flood related planning control	No
Road/lane widening	No
BASIX SEPP	Yes
Coastal Management SEPP	Yes
Contaminated Land	No
Other relevant SEPPS	SEPP 19 Bushland in Urban Areas
Other relevant REPS	State Environmental Planning Policy (Biodiversity and Conservation) 2021 – which incorporates the former <i>SREP (Sydney Harbour Catchment) 2005</i>
Relevant policies and resolutions	<i>WDGP</i>

<b>S7.11/7.12 Section 94A contribution:</b>	Yes
a. Applicable rate (%):	1%
b. The cost of development (Part A CI 25J) (\$)	\$433,655.79
c. Date of accepted cost of development:	24.09.2021
d. The total contribution payable (\$)	\$4,336.55

<b>External Referrals</b>	
RFS	Standard conditions were recommended.
<b>Internal Referrals</b>	
Building services	No objection subject to consent conditions.
Engineering	Standard conditions apply.
Environmental Health	Initially requested a detailed, comprehensive acoustic report.  Following submission of the acoustic report, no further objections were raised, subject to conditions.
Landscape	Following submission of the amended plans, conditions were recommended and following comment were made:


	<p><i>'The Arborist's report prepared by Botanics Tree Wise people is noted. The report indicates that 1 x Melaleuca sp. is to be removed. The tree is indicated to be in decline and a semi mature planted tree.</i></p> <p><i>All other trees are to be retained.</i></p> <p><i>In consideration of the above, no objections are raised to removal subject to conditions, including replacement planting in accordance with WDCP C.9 Vegetation Management.'</i></p>
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### ATTACHMENT 3: SUBMISSIONS TABLE

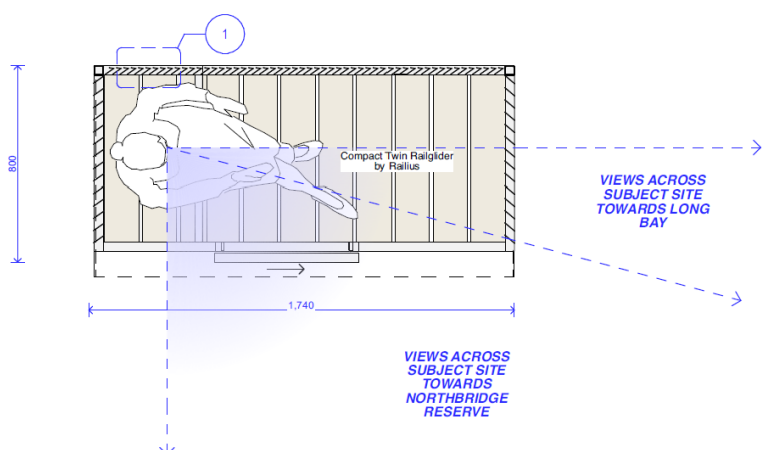
The application for the installation of the inclinator and associated works was notified between 3 and 17 November 2021.

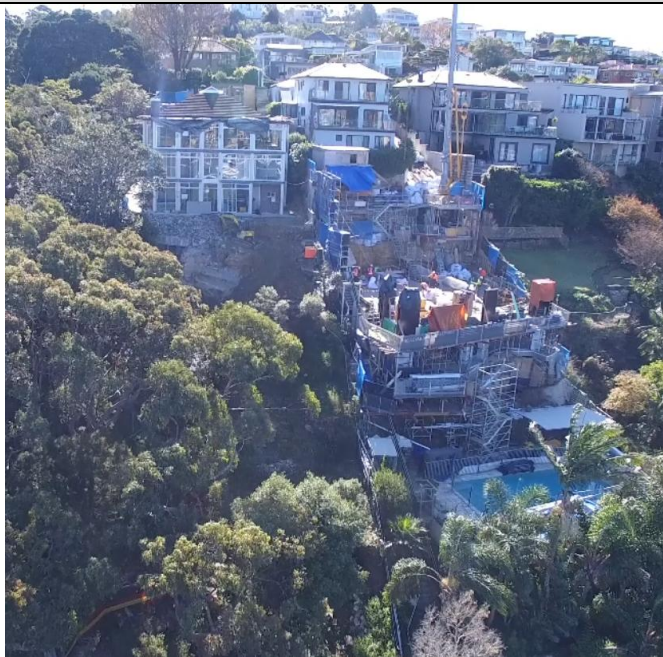
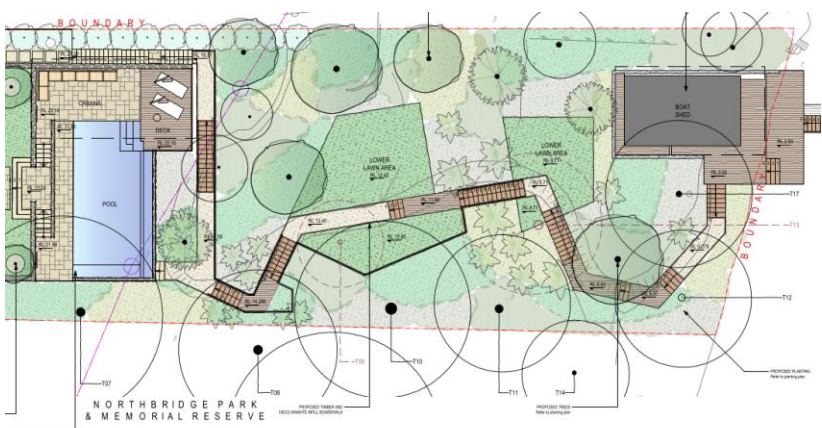
Following notification, fourteen (14) individual submissions were received from or on behalf of the adjoining eastern neighbour at 3A Dorset Road.

Additionally, a letter of support for the proposed works has been received from 3 Dorset Road.

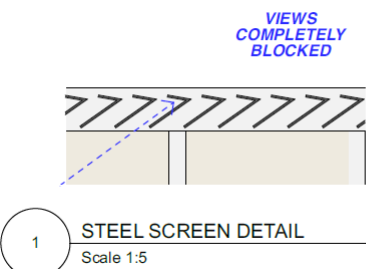
Main planning issues raised by/ on behalf of 3A Dorset Road	Response
<p>Uncomfortable with the inclinator due to direct overlooking over the 3A Dorset Road property, especially when with young grandchildren and other family members.</p>	<p>The properties are in such way located on the foreshore that a degree of overlooking is expected and acceptable.</p>  <p>Relationship between subject property to the left and 3A Dorset Road on the right</p> <p>Notwithstanding this, 3A Dorset Road is located at a much higher level than the subject property and future ancillaries located towards the bay, like the swimming pool surrounds, will overlook the rear yard of the subject property.</p> <p>Notwithstanding this, the inclinator cabin is designed in such a way to prevent views towards adjoining western properties. This design should be sufficient to prevent overlooking.</p>



Main planning issues raised by/ on behalf of 3A Dorset Road	Response
	<p style="text-align: center;">VIEWS BLOCKED</p>  <p style="text-align: center;">Proposed cabin design</p>
<p>There are so many cameras already positioned towards 3A Dorset Road property monitoring 24h a day. The inclinator is another opportunity to install more camera towards 3A Dorset Road property – which will affect safety and privacy.</p>	<p>In this regard, a condition of consent was imposed. The condition refers to fixed cameras/ recorders, not to the mobile ones – which fall outside the scope of this application.</p>
<p>The inclinator should be located on the other site of the subject property, on the western boundary, closer to the Reserve.</p>	<p>The location of the inclinator is determined by the location of structures approved on the subject site.</p> <p>Location on the eastern side of the site is also regarded as preferable from the landscaping and from heritage view point.</p>

Main planning issues raised by/ on behalf of 3A Dorset Road	Response
	 <p><i>Aerial view from Long Bay towards subject property and eastern neighbours</i></p>  <p><i>Except from the landscape plan approved with DA-2021/6</i></p> <p>Locating the inclinator on the western side of the site would unacceptably impact large trees and vegetation on site – currently screening the site when seen from the water. It would also abruptly stop the significant vegetation link from the Northbridge Park and Memorial Reserve.</p> <p>The proposed location is regarded as preferable when compared with the alternative.</p>
The inclinator should be located further away	The setback of the inclinator rails is determined by the availability of the space on the eastern side of the site. While an



Main planning issues raised by/ on behalf of 3A Dorset Road	Response
from the eastern boundary, not only 0.455m.	increased setback would potentially be more comfortable, due to the design of the cabin and conditions of consent (e.g. acoustics), the impact on amenity on the eastern neighbours is regarded as acceptable.
The inclinator should only go from the lowest level of the house to the boat shed.	The proposal is to facilitate access to various structures on site. The upper part of the inclinator is endorsed by a letter of support from 3 Dorset Road, which will be the most affected neighbours.
Screen planting should be located between the rails and the boundary.	Planting under the rails is proposed where possible. Screen planting between the rails and the boundary is not feasible due to the rock outcrops and width of the setback proposed. Notwithstanding this, sufficient measures are engaged in order to ensure an acceptable level of privacy for adjoining neighbours.
The inclinator should be located at ground level, not elevated.	The design was amended twice and sections of the rails were lowered 400mm. Further lowering would require unacceptable cut through the natural rock crops and retaining walls.
The carriage should have 1.8m privacy screens on 3 sides (east, south and north).	<p>The carriage is designed with privacy screen on the eastern side. This will ensure a level of privacy for eastern neighbours that is assessed as acceptable.</p> 
The inclinator does not meet <i>WDCP</i> controls	The amended plans and documentation are assessed as meeting the <i>WDCP</i> controls in an acceptable way.
Documentation contains errors and is incomplete and inadequate. For example, survey is 18 months old, with no reference to approved DA 2021/6.	<p>While multiple applications were approved on site and on the neighbours' sites in the last 18 months, originally, the documentation provided did not sufficiently reflect these approvals. Additional documentation and photomontages were requested from the applicant.</p> <p>The survey is considered acceptable and useful for providing natural ground levels. The latest plans and documentation provide sufficient information for the inclinator to enable assessment.</p>

## ATTACHMENT 4 - SECTION 4.15 (79C) ASSESSMENT

The application has been assessed under the provisions of S.4.15 (79C) of the *Environmental Planning and Assessment Act*.

The most relevant matters for consideration are assessed under the following headings:

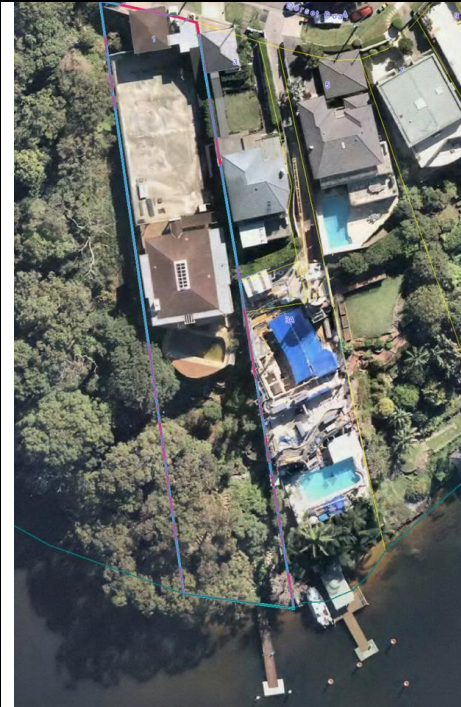

### Matters for Consideration Under S.4.15 (79C) EP&A Act

Considered and Satisfactory ✓ Unsatisfactory ✗ Not Relevant N/A

(a)(i)	The provisions of any environmental planning instrument (EPI)	
	<ul style="list-style-type: none"> <li>• <i>State Environmental Planning Policies (SEPP)</i></li> </ul>	✓
	<ul style="list-style-type: none"> <li>• <i>Regional Environmental Plans (REP)</i></li> </ul>	N/A
	<ul style="list-style-type: none"> <li>• <i>Local Environmental Plans (LEP)</i></li> </ul>	✓
	<p><b>Comment:</b></p> <p>The subject site is a foreshore property, located within the Foreshores and Waterways Area as identified in the <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> – which incorporates the former <i>SREP (Sydney Harbour Catchment) 2005</i>.</p> <p>The inclinator rail design has considered the unique setting and qualities of the foreshore and the bushland environment adjacent to the foreshore. Subject to conditions in regard to colours and finishes, the proposal is considered to satisfy the provisions of the <i>SEPP</i>.</p> <p>1 x <i>Melaleuca</i> sp. tree is proposed to be removed. The tree is indicated by the Arborist's report prepared by Botanics Tree Wise people to be in decline and a semi mature planted tree.</p> <p>The inclinator, in the amended form and subject to conditions, integrates in an acceptable way into foreshore area and into the scenic landscape. It minimises excavation and tree removal, while minimising potential adverse impacts on adjoining eastern residential properties.</p> <p>The proposal is assessed to meet Clause 1.2 Aims of Plan of <i>WLEP 2012</i>.</p>	
	<p>The subject site is zoned C4 Environmental Living.</p> <p>The inclinator proposed minimises excavation and so, it 'preserves the natural features and bushland within the immediate locality (including natural vegetation, geological features, drainage patterns, the water table and the relationship of development to the natural topography) and does not increase bush fire hazard potential'.</p> <p>The inclinator proposed, due to its private use and design with condensed angle blades that prevent views towards eastern neighbours, 'retains residential amenity, including views, solar access, aural and visual privacy, foreshore setting, and landscape quality and heritage value'.</p> <p>The proposal is assessed to meet the objectives of the C4 Environmental Living zone, as stated in the Land Use Table of the <i>WLEP 2012</i>.</p>	

Matters for Consideration Under S.4.15 (79C) *EP&A Act*

Considered and Satisfactory ✓ Unsatisfactory ✗ Not Relevant N/A

	Local Heritage Item I180 Northbridge Park & Memorial Reserve including Northbridge Golf Club are adjacent to the west and north of the subject property. The proposal for the addition of the inclinator is on the eastern side of the property, screened from the Local Heritage Item by landform, vegetation and previously approved structures, and so, is unlikely to be readily visible from the reserve. The proposed location ensures that there will be virtually no impact on the item.	
(a)(ii)	The provision of any draft environmental planning instrument (EPI)	
	<ul style="list-style-type: none"> <li>• <i>Draft State Environmental Planning Policies (SEPP)</i></li> </ul>	N/A
	<ul style="list-style-type: none"> <li>• <i>Draft Regional Environmental Plans (REP)</i></li> </ul>	N/A
	<ul style="list-style-type: none"> <li>• <i>Draft Local Environmental Plans (LEP)</i></li> </ul>	✓
	<b>Comment:</b> There are no draft <i>SEPPs</i> that apply to the subject land.	
(a)(iii)	Any development control plans	
	<ul style="list-style-type: none"> <li>• <i>Development control plans (DCPs)</i></li> </ul>	✓
	<b>Comment:</b> Part C.10 of <i>WDCP</i> states that: Inclinator designed to provide pedestrian access to the waterway are structures permitted to be erected in land between the foreshore area and the water.	
		
	Subject site and eastern neighbours	Foreshore building line on the sites

Matters for Consideration Under S.4.15 (79C) EP&A Act

Considered and Satisfactory ✓ Unsatisfactory ✗ Not Relevant N/A

	<p>Currently, there is lift access from street level to the tennis court level. The inclinator works are ancillary to the existing dwelling and are proposed to connect the tennis court level through to the boatshed approved by DA 2021/6. This will enable accessibility on a very steep site. Four (4) landings are proposed, to provide easy access to various locations on the subject site.</p> <p>To follow the drop in the land without significant excavation, the inclinator has five (5) changes in angle of inclination.</p> <p>The proposal is assessed as meeting the controls in Part C.10 of <i>WDCP</i>.</p> <p>As amended and subject to conditions, the proposal will</p> <ul style="list-style-type: none"> <li>• minimise excavation,</li> <li>• remove one (1) tree and propose additional under rail planting to reduce the visual impact of the rail alignment where feasible,</li> <li>• have colours and finishes that blend with the natural environment,</li> <li>• has a screened cabin designed to maintain privacy for adjoining eastern neighbours.</li> </ul> <p>Inclinator rails are proposed to follow the topography of the site, to avoid cut through major rock outcrops. Council landscape architect recommended conditions to ensure the 1 x <i>Melaleuca</i> sp. Tree proposed to be removed is replaced at a rate of 3 to 1, in accordance with Part C9 of the <i>Willoughby Development Control Plan – Vegetation Management</i>, and remainder of trees are protected.</p> <p>The proposal is assessed as meeting the controls in Part D.1.16 of <i>WDCP</i>.</p> <p>The proposed inclinator is assessed to meet the specific <i>WDCP</i> controls that apply to the development.</p>	
(a)(iv)	Any matters prescribed by the regulations	
	<ul style="list-style-type: none"> <li>• Clause 92 EP&amp;A Regulation-Demolition</li> </ul>	N/A
	<ul style="list-style-type: none"> <li>• Clause 93 EP&amp;A Regulation-Fire Safety Considerations</li> </ul>	N/A
	<ul style="list-style-type: none"> <li>• Clause 94 EP&amp;A Regulation-Fire Upgrade of Existing Buildings</li> </ul>	N/A
	<b>Comment:</b> nil	
(b)	The likely impacts of the development	
	<ul style="list-style-type: none"> <li>• Context &amp; setting</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Access, transport &amp; traffic, parking</li> </ul>	N/A
	<ul style="list-style-type: none"> <li>• Servicing, loading/unloading</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Public domain</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Utilities</li> </ul>	N/A
	<ul style="list-style-type: none"> <li>• Heritage</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Privacy</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Views</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Solar Access</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Water and draining</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Soils</li> </ul>	✓

Matters for Consideration Under S.4.15 (79C) EP&A Act

Considered and Satisfactory ✓ Unsatisfactory ✗ Not Relevant N/A

	<ul style="list-style-type: none"> <li>• Air &amp; microclimate</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Flora &amp; fauna</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Waste</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Energy</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Noise &amp; vibration</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Natural hazards: Overland flowpath</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Safety, security crime prevention</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Social impact in the locality</li> </ul>	N/A
	<ul style="list-style-type: none"> <li>• Economic impact in the locality</li> </ul>	N/A
	<ul style="list-style-type: none"> <li>• Site design and internal design</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Construction</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Cumulative impacts</li> </ul>	✓
	<p><b>Comment:</b> For the inclinator, the following additional reports have been submitted:</p> <p style="padding-left: 40px;">A Geotechnical Report. An Arborist Report. An Acoustic Report.</p> <p>The findings of those reports were reviewed by different specialists from Council, and conditions recommended accordingly.</p> <p>Inclinor rails change the angle 5 times and were lowered on different occasions, to follow the topography of the site as close as possible without cutting through rock outcrops. One (1) tree is proposed to be removed.</p> <p>The proposal in the latest form, subject to conditions is considered to be acceptable.</p>	
(c)	The suitability of the site for the development	
	<ul style="list-style-type: none"> <li>• Does the proposal fit in the locality?</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Are the site attributes conducive to this development?</li> </ul>	✓
	<p><b>Comment:</b> The proposal does not alter the character of the locality, or impact on the streetscape. The inclinor was designed to maintain natural features, the character of adjoining reserve and have minimal impact on adjoining residential amenity.</p>	
(d)	Any submissions made in accordance with this Act or the regulations	
	<ul style="list-style-type: none"> <li>• Public submissions</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Submissions from public authorities</li> </ul>	✓
	<p><b>Comment:</b> Submissions received from the public are addressed in <b>Attachment 3</b>.</p> <p>NSW Rural Fire Service raised no objection subject to recommended conditions.</p>	
(e)	The public interest	
	<ul style="list-style-type: none"> <li>• Federal, State and Local Government interests and Community interests</li> </ul>	✓



**Matters for Consideration Under S.4.15 (79C) *EP&A Act***

**Considered and Satisfactory ✓ Unsatisfactory ✖ Not Relevant N/A**

	<p><b>Comment:</b></p> <p>The proposal is consistent with the relevant objectives of the C4 zone and in keeping with the character of the locality.</p> <p>The proposal will have no detrimental effect on the public interest pursuant to Section 79C(1)(e) of the <i>Environmental Planning and Assessment Act 1979</i>, subject to appropriate conditions being amended.</p>	
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## ATTACHMENT 5: 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 A1-00B, Site Plan & Sections A1-01B, Sections A1-02B,  All Project 2152	B	30.05.2022	Peter Downes Design
	Details Inclinator Cabin REF-01	A	02.12.2021	DKC – Design King Company

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 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.

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](http://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:
- tree canopy cover should be less than 15% at maturity;
  - trees at maturity should not touch or overhang the building;
  - lower limbs should be removed up to a height of 2m above the ground; tree canopies should be separated by 2 to 5m;
  - preference should be given to smooth barked and evergreen trees;
  - large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
  - shrubs should not be located under trees;
  - shrubs should not form more than 10% ground cover;
  - clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
  - grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
  - 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:
- 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;
  - Planting is limited in the immediate vicinity of the building;
  - Planting does not provide a continuous canopy to the building (i.e. trees or shrubs are isolated or located in small clusters);
  - 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;
  - Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies;
  - Use smooth bark species of trees species which generally do not carry a fire up the bark into the crown;
  - Avoid planting of deciduous species that may increase fuel at surface/ground level (i.e. leaf litter);
  - Avoid climbing species to walls and pergolas;
  - Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building;
  - Locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and
  - 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 J KGeotechnics, ref 33250PH2rpt, dated 16<sup>th</sup> 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. 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 6: NOTIFICATION MAP



Record of Neighbour Notifications sent relating to:

DA: 2021/307

At: 1 Dorset Road NORTHBRIDGE NSW 2063

