

**STATEMENT OF
ENVIRONMENTAL EFFECTS**
FOR
DEMOLITION AND REBUILDING OF THE
BOATHOUSE CAFE PALM BEACH-
1191-1193 BARRENJOEY
ROAD, PALM BEACH



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THE BOATHOUSE CAFE

1.1 INTRODUCTION AND BACKGROUND

This Statement of Environmental Effects has been prepared in support of a Development Application for proposed demolition and reconstruction of an existing premises known as The Boathouse Palm Beach, 1191-1193 Barrenjoey Road, Palm Beach.

The subject proposal for the demolition and reconstruction of the existing building and associated structures has been prepared and submitted in response to the refusal of an earlier Development Application (302/2017) for the following reasons –

1. The proposal is not in the public's interest, as it is inconsistent with the adopted Plan of Management for Governor Phillip Park, the Draft Conservation Management Plan for Governor Phillip Park, and Crown Lands 'Food and Beverage Outlets on Crown Reserves – Policy Position'.

2. The proposal facilitates an increase in the GFA and capacity of the café, attributing to a significant intensification on the demand for parking that has not been adequately considered and is not satisfied by the proposed development. The proposal is non-compliant with the numerical requirements and outcomes of clause B6.3 (Off-street Parking Facilities) of P21 DCP and places an unreasonable level of reliance upon parking within the adjacent public reserve.

3. The proposal is supported by conflicting and insufficient information, particularly with respect to:

- a. All necessary works within the Licenced Area and the potential impacts upon the significant Norfolk Island Pines to the east of the Boathouse building,*
- b. The existing capacity of the building, in consideration of the provision of on-site amenities,*
- c. The capacity of the proposal in consideration of wastewater management,*
- d. The design and management of the facility with respect to the estuarine hazard,*
- e. The design of car parking within the Licenced Area and compliance with AS2890.1 and AS2890.6,*
- f. Acoustic impacts associated with an intensified capacity, extended trading hours and the use of the site for functions and events, and*
- g. The design of the front Licenced Area and the adopted Landscape Plan, referenced in the Licence and the adopted Plan of Management for Governor Phillip Park.*

Since the refusal of the earlier development application, engineering advice on the existing building on the subject site has shown it to be in a state that requires a substantial amount of reconstruction. The identification of this necessity to reconstruct major components, coupled with the necessity for the subject structure to be at a level and of a construction quality that will allow the subject structure to counteract elements of rising sea levels and addressing storm events, the submitted Development Application is for the demolition and reconstruction of the existing structure and outbuildings on the subject site.

The subject proposal responds to the reasons for refusal in a manner that will ensure that the proposal does not result in any material adverse impacts on the locality and will endorse the public interest by the rebuilding of the subject building within an endemic landscaped setting that addresses the coastal location and the importance of Governor Phillip Park to not only residents of Palm Beach but also to the wider community.

In the preparation of this Statement of Environmental Effects, consideration has been given to the following documents:

- *Pittwater Local Environmental Plan 2014*
- *Development Application (302/2017) assessment documentation including Report to Northern Beaches Local Planning Panel*
- *Pittwater 21 Development Control Plan*
- *Crown Lands Act 1989*
- *Water Management Act 2000*
- *Fisheries Management Act 1994*
- *Crown Lands 'Food and Beverage Outlets on Crown Reserves – Policy Position'*
- *State Environmental Planning Policy – Coastal Management 2018*
- *Planning Principles of the NSW Land and Environment Court.*
- *Aquatic/Ecology report by Cardno 2/03/2020 Rev 2*
- *Arborist report from Urban Forestry 27/03/2020 Catriona McKenzie*
- *Ecology and Landscape Report from Ecological Consultants Australia P/L 18/03/2020 (Kingfisher Urban Ecology and Wetlands)*
- *Heritage Impact Statement by City Planning 19/03/2020*

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- *Coastal Engineering and Risk Assessment Report by Cardno*
- *Governor Phillip Park Plan of Management*
- *Geotechnical Engineers report by Croziers*
- *Structural Engineers Drawings by Geoff McKee*
- *Hydraulic and Stormwater report from ADCAR REV B*
- *Access Review and Performance Based Solutions, reports, by Morris Goding Access Consulting*
- *Traffic and Parking Report by GTK Traffic*
- *Bush Fire Report by “first field Environment”*
- *Architectural Plans and Elevations by Canvas Architects*
- *Survey by CMS Surveyors*
- *BCA report by Graham Scheffers*

During the preparation of this Statement of Environmental Effects, I have met with senior Council officers and attended the subject site and the surrounding locality to gain an understanding of the proposal and its future relationship with the public open space, namely the adjacent Governor Phillip Park, its beaches and associated recreation areas and bushland.

The proposal is endorsed by reports from a significant number of qualified and (importantly) locally experienced professionals. These reports include advices from coastal engineers, arborists, ecologists, heritage advisers, disabled access consultants, surveyors, BCA advisers and traffic consultants.

I have examined a number of iterations of the proposal to ensure that the proposed works will, when completed, make a positive contribution to the locality and address the constraints of the subject site and surrounds.

I am satisfied that the proposal as submitted will provide a food and beverage outlet for users of Governor Phillip Park which includes residents, visitors and tourists who visit the park to enjoy its wide range of recreational activities and will do so in a manner that respects its juxtaposition with the adjacent parkland, the Pittwater and

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nearby land uses and will provide a high standard of sustainability and landscaping when completed whilst also addressing the site constraints.

The proposal also includes a draft Voluntary Planning Agreement for the construction of 10 carparking spaces adjacent to the Governor Phillip Park roadway to provide additional carparking, including parking for the disabled in close proximity to the Boathouse to supplement on site carparking and provide additional public carparking space.



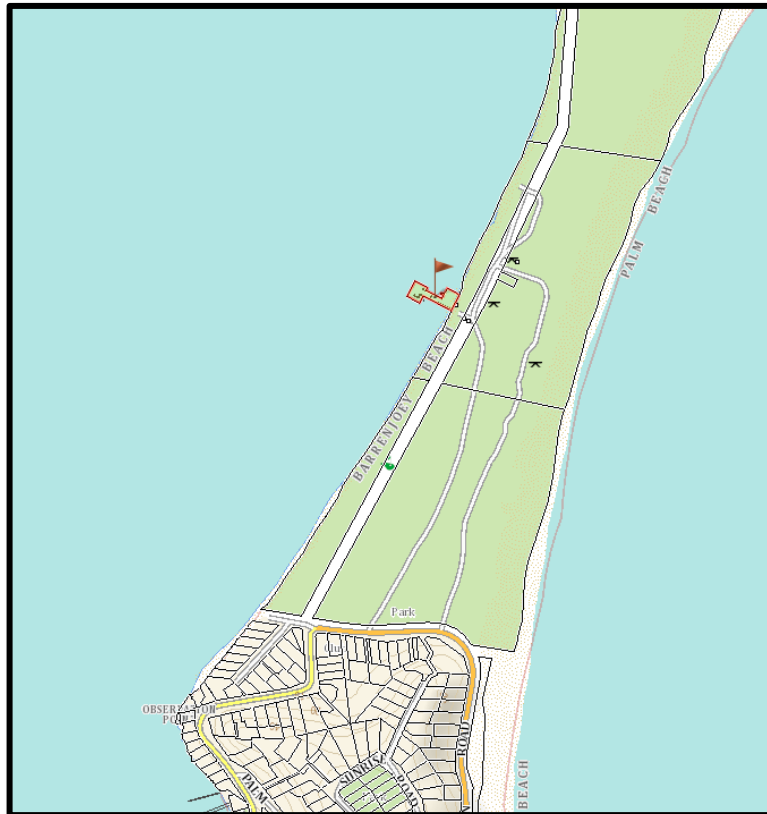
Existing Boathouse structure

2.0

SITE AND LOCALITY

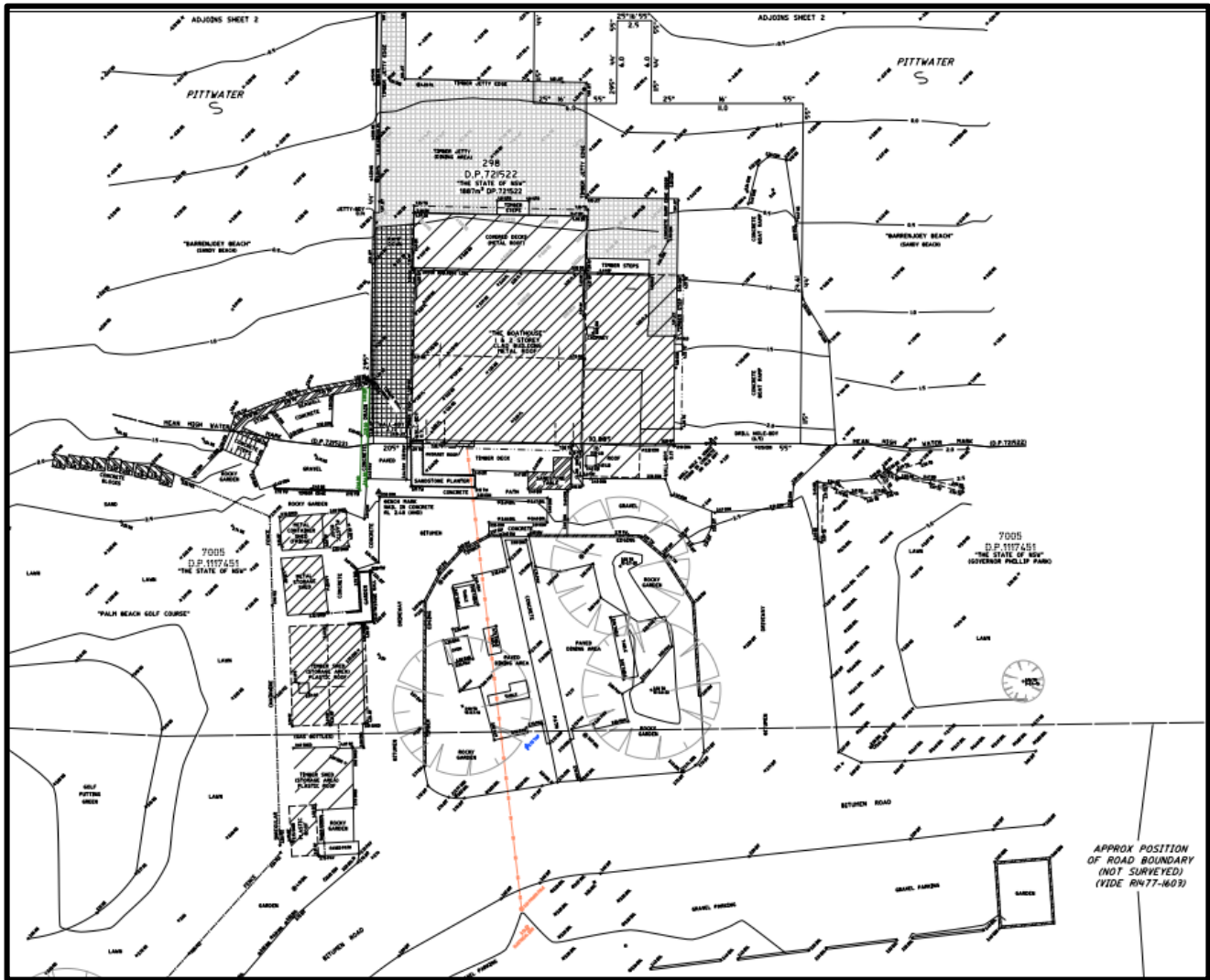


Aerial Photograph of Subject Site (Nearmap)



Subject Site flagged (SIX Maps)

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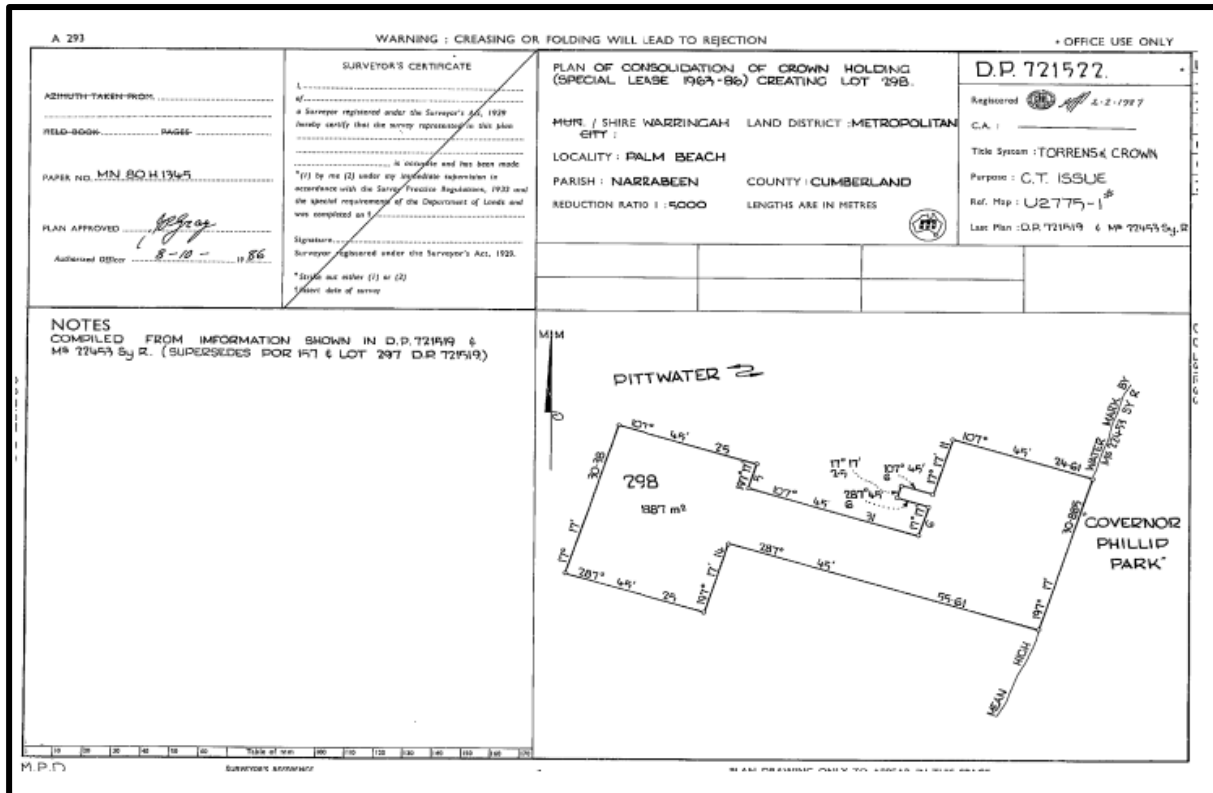
Extract from latest survey showing location of existing buildings, trees, ancillary structures and their juxtaposition to Mean High Water Mark

The subject site containing the existing Boathouse Café structure is located adjacent to Governor Phillip Park, at 1191-1193 Barrenjoey Road, Palm Beach on Station Beach and fronts Pittwater on the isthmus that links the Barrenjoey Headland and Palm Beach.

The earlier Development Application determined by Council relied upon inaccurate “mapping” of the subject buildings and particularly the location of the Mean High Water Mark (MHW). As can be readily ascertained from the above survey, DP 721522, Councils licence over the open space on the eastern boundary of the subject site and maps attached to the Pittwater Local Environmental Plan 2014, the existing Boathouse Café building is not dissected by the Mean High Water Mark and abuts the boundary of Governor Phillip Park.

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The subject site of the Boathouse structure is located entirely to the seaward side of the MHWM.



Lot 298 DP 721522, Leasehold Land Containing Existing Boathouse Structure

From: Peter Richmond <peter.richmond@crowland.nsw.gov.au>
 Sent: Thursday, 28 November 2019 12:02 PM
 To: Stuart McEvoy <SMcEvoy@cmssurveyors.com.au>
 Subject: RE: HPE CM: FW: Palm Beach MHWM - Boat House Restaurant

Hi Stuart,

Thank you for your email.

The boundaries as shown on registered plan DP721522 can be considered to be the current boundary locations considering DP721522 is the current title diagram.

Regards,

Peter Richmond | Senior Registered Surveyor Sydney
 Crown Lands | Department of Planning, Industry and Environment
 T: 02 9842 8341 | M: 0437 366 810 | E: peter.richmond@crowland.nsw.gov.au
 Level 11 | 10 Valentine Avenue | Parramatta | NSW 2150
 PO Box 2215 | Dangar NSW 2309
 W: www.dpie.nsw.gov.au

Correspondence from Crown Lands Confirming MHWM Boundary Between Lot 298 and Governor Phillip Park



Existing Boathouse structure viewed from Station Beach



Wharf extending into Pittwater

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To the north is a grassed strip of public reserve while adjoining the site immediately to the south is the golf course of the Palm Beach Golf Club.



View north from subject site noting coastal erosion



Station Beach looking south from Boathouse



Parking spaces within Licensed Area of Governor Phillip Park

To the east of the subject site is Governor Phillip Park containing a licensed area directly adjacent to the subject café building containing an ancillary structure for the subject café, carparking spaces, landscaping and three mature species of Norfolk Pines, the adjacent public recreation area of the Park contains public toilets, carparking, picnic facilities, North Palm Beach Surf Club, Dunes Restaurant and directional signage.



Aerial photograph of subject site and adjacent Governor Phillip Park dated 25 Jan 2021 (Nearmap)

The subject site(s) are owned by The State of NSW and legally described as follows;

- Lot 298 DP721522 containing the existing Boathouse Café structure is bound by the Mean High Water Mark along the eastern face of the existing structure and extends into Pittwater. Lot 298 is zoned E2 Environmental Conservation.
- Lot 7005 DP1117451 comprising the licensed area extends from the Mean High Water Mark easterly for approximately 25 metres, generally in line with Barrenjoey Beach and the foreshore. Lot 7005 is zoned RE1 Public Recreation.

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- Lot 7002 DP1117592 is the most eastern portion of the site and generally covers street frontage of the site, the street and the adjacent access road car park. Lot 7002 is zoned RE1 Public Recreation.

The current use operates The Boathouse Café premises under a lease agreement with Crown Lands whilst the adjacent carpark, landscape area and amenities area currently operate under a license agreement with Northern Beaches Council as Manager of Governor Phillip Park on behalf of the Crown.

The site (Lot 298) currently accommodates a two storey building and deck structure on the site, known as 'the Boathouse'. The lengthy wharf extends into Pittwater and is publicly accessible from Governor Phillip Park and extends along the southern portion of the site into Pittwater with mooring facilities for multiple boats and sea planes. Between the building and the park are ancillary structures, car parking and a landscaped area.

The building houses several businesses including the predominant use on site, being 'The Boathouse' café as well as a boat hire business and offices of a seaplane charter operator, Sydney by Seaplane.

The café has a proposed capacity of 152 patrons with seating inside and outdoor seating on a rear deck. The landscaped area to the east of the subject site is, and will remain, for public use.



Site entry noting Public Access Signage

Within the south-east corner of the site are a number of ancillary structures that have operated on site long term. The structures provide ancillary facilities and storage for cafe and ancillary on-site uses including cool room storage, gas bottle storage and associated uses.



Ancillary Structures on Licensed Area within Gov Phillip Park

The 'Sydney by Seaplane' office is located on the ground floor at the south east corner of the main building. The seaplane office has an individual entry point and is accessed from the deck at the south-east of building.



Southern Elevation showing Seaplane Office

A boat hire outlet operates from an office within the single storey extension of the main building. Adjacent to the boat hire office is a boat ramp to the beach where vessels launch into and are retrieved from Pittwater.



Northern elevation of subject building showing boat hire and launching ramp

The first floor of the main building was formerly occupied by a three-bedroom caretaker's accommodation but is currently vacant.



Licensed area showing mature Norfolk Pine specimens

3.0 THE PROPOSAL

The proposal seeks consent for the following-

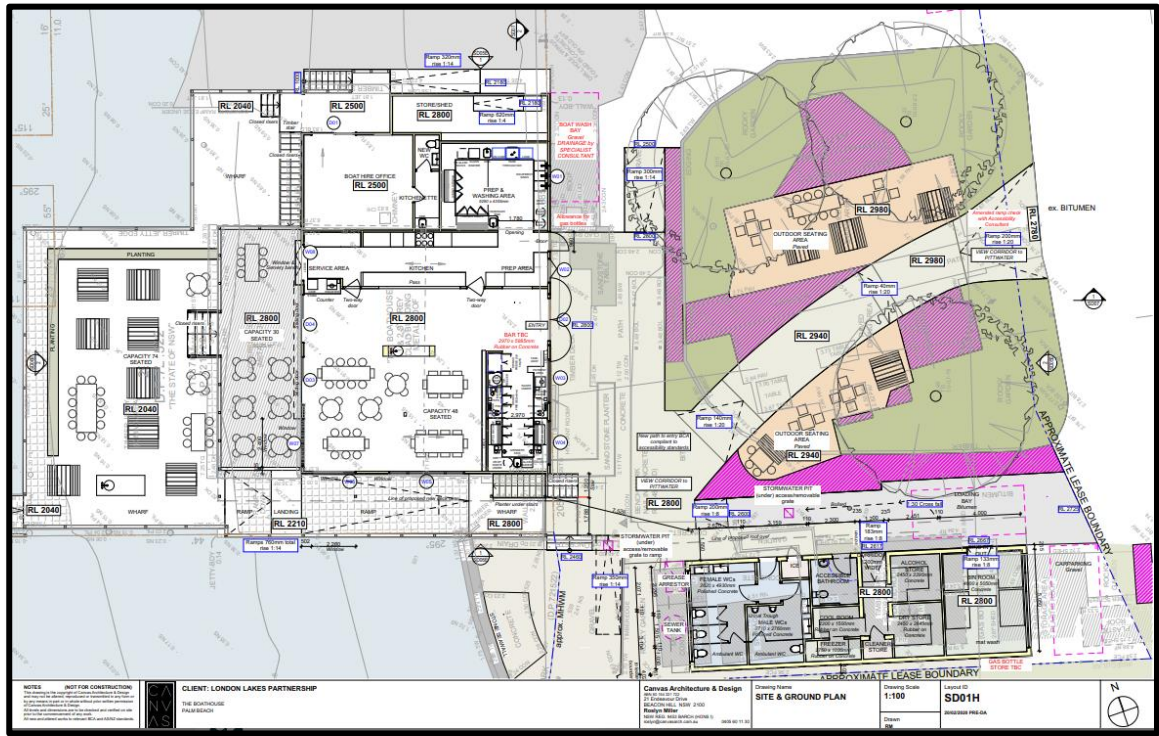
- Demolition of existing structures on the subject site (Lot 298), excluding the existing wharf.
- Replacement of existing piles and replacement with taller supporting piles in accordance with the accompanying Coastal Engineers report
- Demolition of existing structures on the adjacent licensed land
- Construction of replacement two storey structure with café, boat hire and seaplane booking office on ground floor, office and staff facilities on first floor.
- Construction of ancillary structure on licensed land
- Provision of disabled access to new structure
- Landscaping of the adjacent licensed land within Governor Phillip Park and with some additional landscaping to rehabilitate the eroded area to the north of the site with appropriate endemic species whilst retaining Norfolk Island Pines on the adjacent licensed land.
- Construction of 10 carparking spaces within the grounds of Governor Phillip Park.

The documentation includes a Demolition and Construction Management Plan prepared by the Licensed Builder engaged for the project.

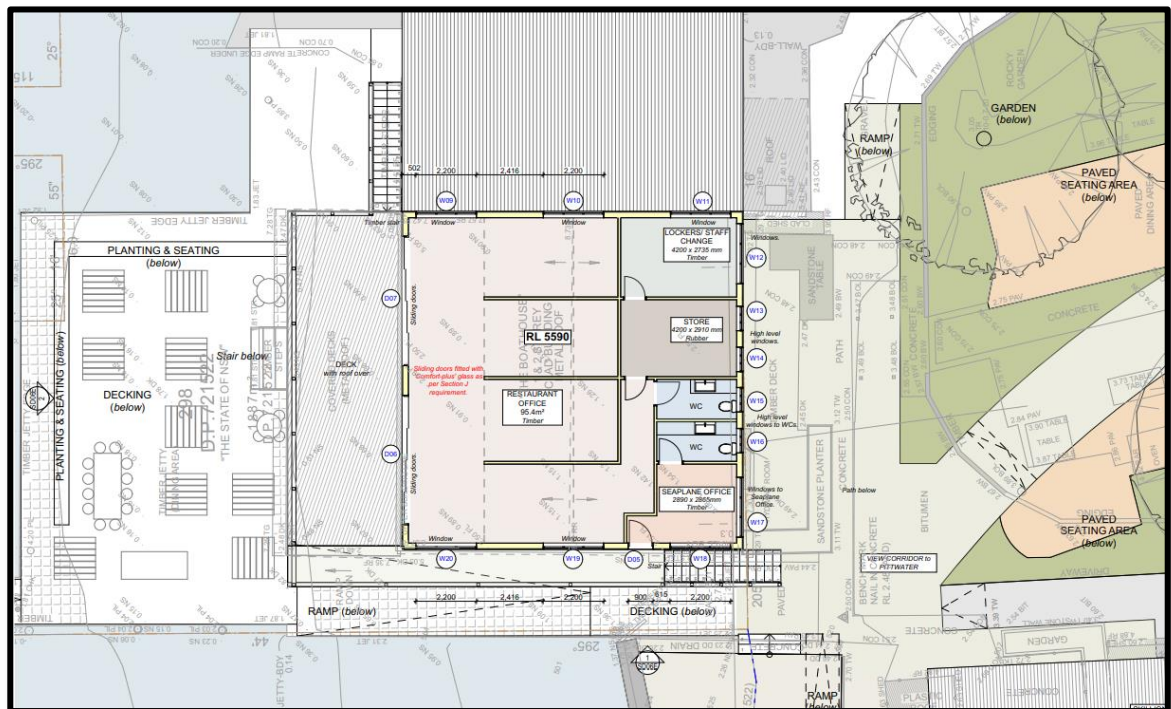
Hours of operation for in-house and takeaway meals and refreshments 7 AM to 4 PM, 7 days a week

Hours of operation of proposed functions will be outside the above opening hours and will be from 4 PM to 10 PM on Fridays and Saturdays during summer periods, consistent with other facilities in the locality namely Dunes Restaurant within Governor Phillip Park and to a lesser extent of approved hours, Palm Beach Golf Club at 2 Beach Road.

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Site and Ground Floor Plan of Proposal



First Floor Plan

4.0 PLANNING ASSESSMENT

4.1 State Legislation

4.1.1 Water Management Act 2000 No 92

3 Objects

The objects of this Act are to provide for the sustainable and integrated management of the water sources of the State for the benefit of both present and future generations and, in particular—

- (a) to apply the principles of ecologically sustainable development, and*
- (b) to protect, enhance and restore water sources, their associated ecosystems, ecological processes and biological diversity and their water quality, and*
- (c) to recognise and foster the significant social and economic benefits to the State that result from the sustainable and efficient use of water, including—*
 - (i) benefits to the environment, and*
 - (ii) benefits to urban communities, agriculture, fisheries, industry and recreation, and*
 - (iii) benefits to culture and heritage, and*
 - (iv) benefits to the Aboriginal people in relation to their spiritual, social, customary and economic use of land and water,*
- (d) to recognise the role of the community, as a partner with government, in resolving issues relating to the management of water sources,*
- (e) to provide for the orderly, efficient and equitable sharing of water from water sources,*
- (f) to integrate the management of water sources with the management of other aspects of the environment, including the land, its soil, its native vegetation and its native fauna,*
- (g) to encourage the sharing of responsibility for the sustainable and efficient use of water between the Government and water users,*
- (h) to encourage best practice in the management and use of water.*

Response

The subject proposal, being the entire demolition of the existing structures is an opportunity to provide a facility that is more sustainable in terms of its use of water resources and in this respect, the fit out will incorporate energy efficient devices

where appropriate whilst the applicant is giving consideration to a greywater reuse system to be installed at the time of reconstruction.

In terms of management of the water sources for external use, the significant change to the landscaping regime which incorporates primarily endemic species for planting throughout the landscaped area on and in close proximity to the subject site will result in a low water use, sustainable landscape regime to endorse the above objectives.

4.1.2 Fisheries Management Act 1994 No 38

3 Objects of Act

- (1) *The objects of this Act are to conserve, develop and share the fishery resources of the State for the benefit of present and future generations.*
- (2) *In particular, the objects of this Act include—*
- (a) to conserve fish stocks and key fish habitats, and*
 - (b) to conserve threatened species, populations and ecological communities of fish and marine vegetation, and*
 - (c) to promote ecologically sustainable development, including the conservation of biological diversity,*
and, consistently with those objects—
 - (d) to promote viable commercial fishing and aquaculture industries, and*
 - (e) to promote quality recreational fishing opportunities, and*
 - (f) to appropriately share fisheries resources between the users of those resources, and*
 - (g) to provide social and economic benefits for the wider community of New South Wales, and*
 - (h) to recognise the spiritual, social and customary significance to Aboriginal persons of fisheries resources and to protect, and promote the continuation of, Aboriginal cultural fishing.*

Response

The proposal has been examined by Cardno Environmental, a multidisciplinary firm of coastal and environmental

consultants who have carried out a survey of the aquatic environment surrounding the subject building and the attached wharf.

The accompanying Aquatic Ecology Report by Cardno, dated 2nd March 2020 incorporates an evaluation of the proposal and its likely impacts upon the aquatic ecosystem in the proximity of the existing structures and concludes the following –

Potential impacts of the proposed works on aquatic ecology and the proposed recommendations to avoid, minimise and mitigate project impacts would likely include:

The direct loss of a small amount of soft sediment, bare sand habitat in the footprint of the additional decking piles. The impact from the loss of a small area of bare sand is considered to be very minor as there is a considerable amount of equivalent habitat in the surrounding area.

Land based piling via truck mounted probe must be completed on the lowest possible tide (i.e. piling areas not inundated) and under appropriate meteorological conditions to avoid potential run-off of excavated material.

Piling via barge is only to be completed on high tide and must demobilise on the falling tide. A minimum of 0.5 m above the seabed is required as a precaution to avoid damage to the seabed or any marine flora or fauna occurring at the time of construction and during demobilisation to a more suitable anchorage away from seagrass (i.e. bare sand). A pre-clearance survey of the barge works area should be undertaken immediately before the commencement of any water-based activities to determine any seasonal changes to the extent of seagrass. Additional avoidance and precautionary measures (if required) should be considered

following the pre-clearance survey.

An increase in the surface area of artificial intertidal habitats (e.g. piles). The installation of these proposed structures would provide new intertidal habitats that would likely be colonised by fauna and flora similar to that observed within the Study Area.

*A short-term increase in turbidity during the installation of the decking piles. Any harm to marine life is predicted to be minimal and temporary, especially if care is taken to ensure that effects are localised during construction. Given that seagrass (*Zostera* and *Halophila*) are present within approximately 15 m from the nearest proposed pile location, the use of silt curtains here to minimise the potential effects of turbidity is recommended. During the installation of the piles by barge, continuous visual monitoring of turbidity should be conducted and piling activities adjusted accordingly (e.g. temporary cessation) if water with elevated turbidity reaches seagrass patches.*

*The new pile arrangement is unlikely to affect long-shore drift of sediment (Cardno, 2020) and as such it is very unlikely that it could cause a build-up of sediment around the piles that could encroach upon the nearest seagrass beds. Although the objective of pile installation is to reduce the energy and height of waves below the decking and boathouse, there would be little change to wave height and energy seaward of the piles from backscatter (Cardno, 2020). Thus, potential impacts of the new piling arrangement (particularly during large storms) to seagrasses closest to the proposed new piles from scouring from waves dynamics would be unlikely. Importantly, the nearest of the threatened *Posidonia australis* meadows are further than 35 m away from the area of proposed pile*

placement. In summary, the direct footprints of new piles on bare sand is considered to be very minor as there is a considerable amount of equivalent habitat in the surrounding area. Piling via barge is to be only completed on high tide, with a minimum buffer of 0.5 m above the seabed to avoid damage to the seabed or any marine flora or fauna potentially occurring at the time of construction and during demobilisation to a more suitable anchorage away from seagrass (i.e. bare sand). A pre-clearance survey of the barge works area should be undertaken immediately before the commencement of any water-based activities to determine any seasonal changes to the extent of seagrass.

Additional avoidance and precautionary measures (if required) should be considered following the pre-clearance survey.

Other potential indirect impacts to aquatic ecology, particularly nearby seagrass, from the proposed works are considered unlikely. Pittwater Local Environmental Plan 2014 Control B4.16 for Seagrass Conservation stipulates that Development shall not be permitted within a 50 m buffer area of seagrass unless it can be demonstrated that the outcomes of this control can be met, which are 'The conservation of seagrass beds in Pittwater' and 'The replacement of lost/damaged seagrass beds'.

Given potential for impacts to seagrass from the works are not expected and elevated turbidity and any smothering during to installation of the additional decking piles and any block seawall is able to be managed through the sediments controls described above, the outcomes of Control B4.16 should be met.

The subject proposal, being integrated development, will be referred to Department of Primary Industries – Fisheries for its consideration and any conditions of consent recommended by Fisheries will be incorporated within the recommended conditions of consent for the proposal.

The proposal has already been examined by DPI Fisheries who have raised no objections to the proposal, subject to conditions.

4.2 State Planning Instruments

4.2.1 State Environmental Planning Policy No 33—Hazardous and Offensive Development

2 Aims, objectives etc

This Policy aims—

- (a) to amend the definitions of hazardous and offensive industries where used in environmental planning instruments, and*
- (b) to render ineffective a provision of any environmental planning instrument that prohibits development for the purpose of a storage facility on the ground that the facility is hazardous or offensive if it is not a hazardous or offensive storage establishment as defined in this Policy, and*
- (c) to require development consent for hazardous or offensive development proposed to be carried out in the Western Division, and*
- (d) to ensure that in determining whether a development is a hazardous or offensive industry, any measures proposed to be employed to reduce the impact of the development are taken into account, and*
- (e) to ensure that in considering any application to carry out potentially hazardous or offensive development, the consent authority has sufficient information to assess whether the development is hazardous or offensive and to impose conditions to reduce or minimise any adverse impact, and*
- (f) to require the advertising of applications to carry out any such development.*

Any development not specified in item 2 or 3

Response

The subject proposal does not incorporate any activities or

operations that are likely to be deemed hazardous or offensive.

The only component of the operation incorporating potentially hazardous materials is the necessity for storage of fuel for the boat hire operation as refuelling of the seaplane operation will take place at the operators base in Rose Bay.

No permanent fuel storage facilities are proposed on site with all fuel storage facilities being of a portable nature with all equipment certified by the relevant authorities as being suitable for the storage of fuel.

The existing fuel storage facility within the ancillary storage building on the licensed area has been decommissioned and will be demolished as part of this proposal.

This existing fuel storage area incorporates no belowground storage facilities and is primarily a bunded above ground area with a roof over for the storage of fuel storage drums.

4.2.2 State Environmental Planning Policy (Coastal Management) 2018

3 Aim of Policy

The aim of this Policy is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area, by—

- (a) managing development in the coastal zone and protecting the environmental assets of the coast, and*
- (b) establishing a framework for land use planning to guide decision-making in the coastal zone, and*
- (c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.*

Response

The Coastal Management Act has been a significant driver of

the current proposal as is evidenced by the submitted documentation which confirms that there is no increase in the footprint of the café building.

The attached report by Cardno has investigated the potential impacts of rising sea levels and associated storm events and provides a comprehensive report describing the necessary engineering facets that need to be incorporated in the proposal to ensure the structure when completed, will be able to satisfactorily withstand future impacts from storm events and rising sea levels.

The report by Cardno has adopted the EPL (Estuary Planning Level) for re-design and re-construction of superstructure at the Boat House Wharf, including projected sea level rise be based on the year 2070.

This planning period is based on the likely design life of some of the proposed marine works. Design principals have been based on AS 4997-2005 for Design of Maritime Structures because the superstructure is seaward of the gazetted MHWM and is classified as a normal commercial wharf structure. The design criterion of 50 years operational life has been adopted to limit access issues to the building and any effects on three significant Norfolk Island pines; noting that by 2100 a 100-years ARI storm would inundate the access roadway. As per AS4997 Section 3.1.

The following photograph of the existing supporting piles, both concrete and timber provide clear evidence of the necessity to remove these components and replace these with structurally sound pilin to allow a raised floor height above the Estuary Planning Level to maintain the long-term stability of the subject building.



Existing Supporting Piles for Upper Level Deck (Cardno Report)

Coupled with this engineering response to the Coastal Management Act, the applicant has engaged the services of locally experienced ecological consultants, Kingfisher Urban Ecology and Wetlands.

The accompanying report by Kingfisher titled Palm Beach Boat House – Landscape, Ecology and Integration with Public Space incorporates a substantial landscaping regime for the subject proposal as well as a critique of management regime of the foreshore area and provides a commentary on the proposed works within the marine environment, summarised as follows –

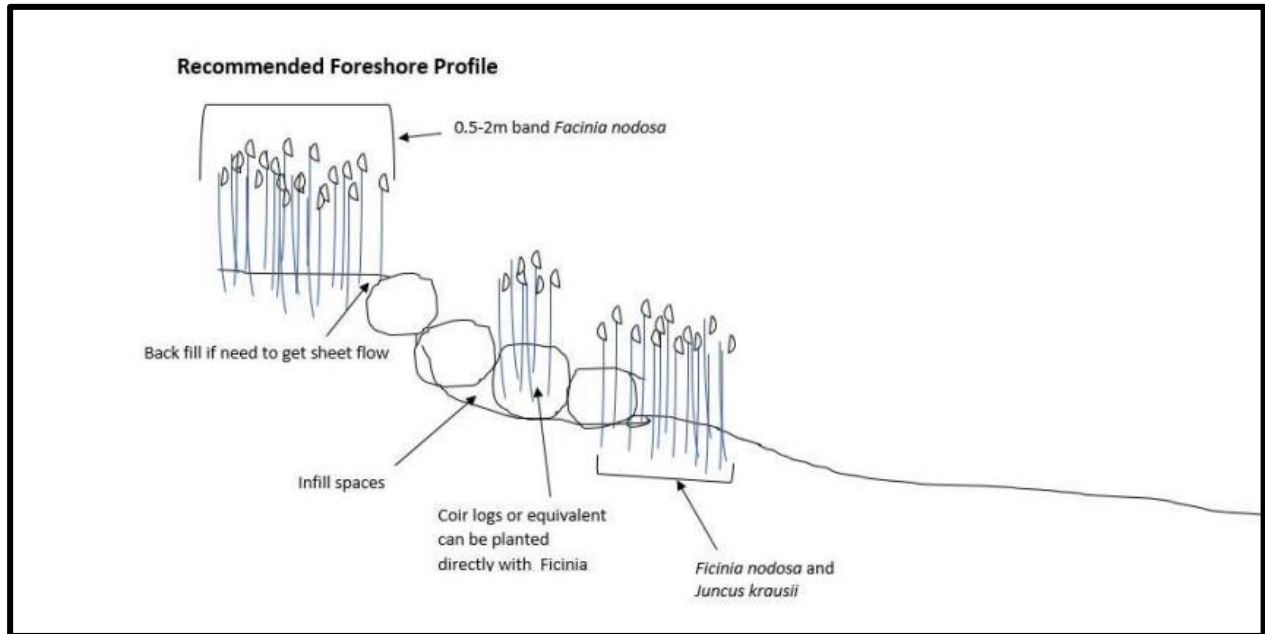
Works proposed for the Boat House have minimal direct impacts on ecology. Only positive impacts are expected in the terrestrial area, planting with native species and increased integration with surrounding native plant areas and into the dunes. In the aquatic zone there will be temporary disturbance in the shallow marine zone but not in areas of current seagrass. Seagrass mapping by Cardno has been reviewed and is accurate as of February 2020. Longerterm the stability of structures around The Boat House is expected to enable some accretion of sand which would provide additional seagrass habitat. The proposed retaining wall will be almost wholly under the existing (proposed to be replaced) structure and would key into soft engineering (planting and coir if Council chooses to do this in the estuary foreshore erosion areas).

*While marine works are in seagrass habitat they can be conducted without harming existing seagrasses (see details in Marine Engineering report Cardno Feb 2010). *Zostera spp.* is the common seagrass closest to the proposed works and it will colonise new areas stabilised post engineering works required under the structure. Landscaping will have positive ecological outcomes with increased native plant species and increased porous surfaces and natural water flow.*

Benefits from managing foreshore access and fore dune stabilisation are not addressed as they are out of the scope of work however the foreshore works will be ecologically beneficial and are highly recommended.

Foreshore planting and soft engineering is outside the direct scope of this plan however it has been provided as a concept and is highly recommended and would have both an ecological and social benefit, as well as providing for better

management of the foreshore asset.



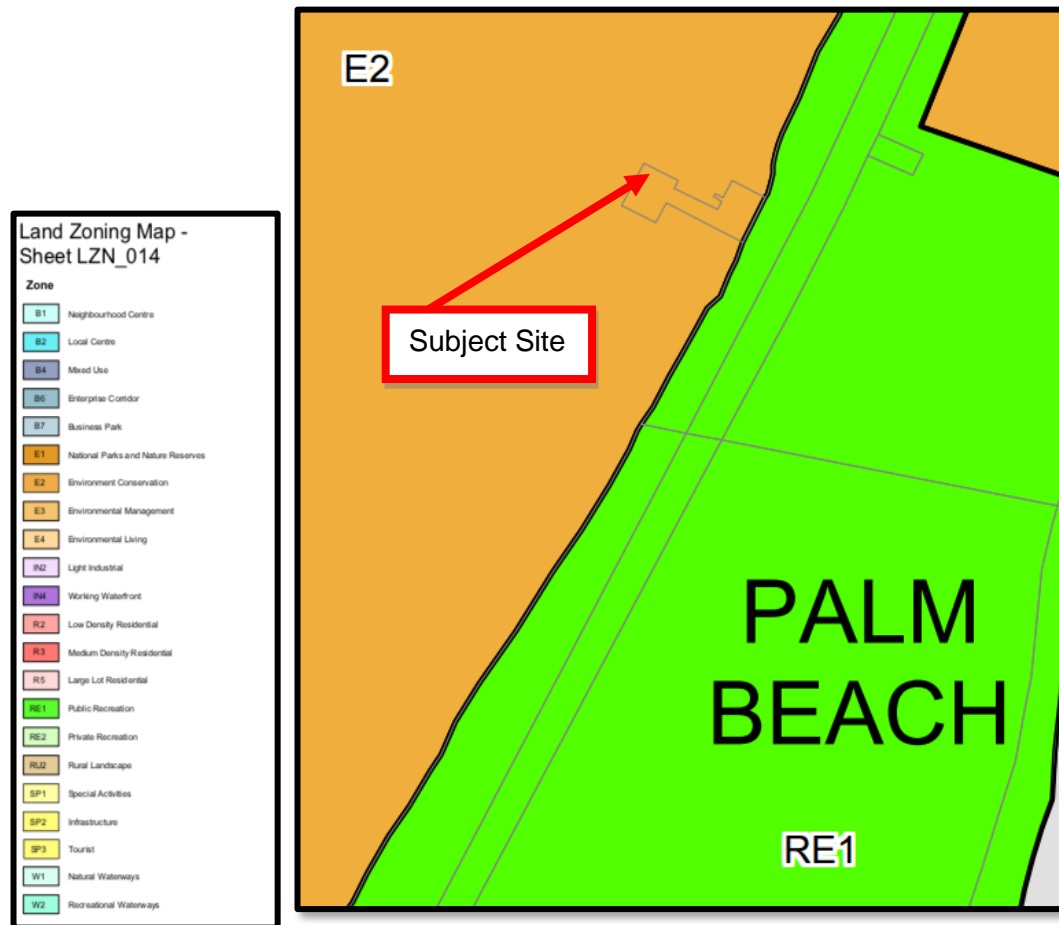
Extract from Kingfisher Report Showing Recommended Foreshore Profile to remedy the deteriorated dune area north of the subject site.



Dunes to the north of the subject site, note deterioration

4.3 Pittwater Local Environmental Plan 2014

Zoning



Zone E2 Environmental Conservation

1 Objectives of zone

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.
- To ensure the continued viability of ecological communities and threatened species.
- To protect, manage, restore and enhance the ecology, hydrology and scenic values of riparian corridors and waterways, groundwater resources, biodiversity corridors, areas of remnant native vegetation and dependent ecosystems.

2 Permitted without consent

Environmental protection works

3 Permitted with consent

Environmental facilities; Oyster aquaculture Recreation areas; Roads

4 Prohibited

Business premises; Hotel or motel accommodation; Industries; Multi dwelling housing; Pond-based aquaculture; Recreation facilities (major); Residential flat buildings; Restricted premises; Retail premises; Seniors housing; Service stations; Tank-based aquaculture; Warehouse or distribution centres; Any other development not specified in item 2 or 3

Response

The subject site containing the existing Boathouse Café building is located on the waterside of the Mean High Water Mark and as such is zoned E2 Environmental Conservation.

The subject proposal is not a permissible use under the E2 Environmental Conservation Zone however Schedule 1 of the PLEP 2014 contains a schedule of additional permitted uses and the sites to which the additional permitted uses apply.

The following extract from Schedule 1 of the PLEP 2014 shows a listing (No.19) which identifies the subject site and allows development for the purpose of business premises (but only those associated with use of the waterway), charter and tourism boating facilities, kiosks or restaurants or café's.

The proposal, incorporating café and business premises associated with the use of the waterway namely boat hire and seaplane hire/charter are permissible.

The objectives of the E2 zone are relevant to the assessment of the proposal and in this respect, the proposal has been crafted to support these objectives by protecting, managing and restoring areas around the subject site containing high ecological, scientific and cultural values and does not incorporate any works that could destroy, damage or otherwise have an adverse effect on those values.

The accompanying reports by Cardno and Kingfisher Environmental incorporate a range of initiatives which will ensure that during the

demolition and construction process the ecological values of the locality are safeguarded whilst also ensuring that following the construction process being completed, the area will be rehabilitated to a much higher standard of endemic landscaping which will facilitate the protection of the area against adverse impacts from insensitive activities and storm events.

Schedule 1 Additional permitted uses

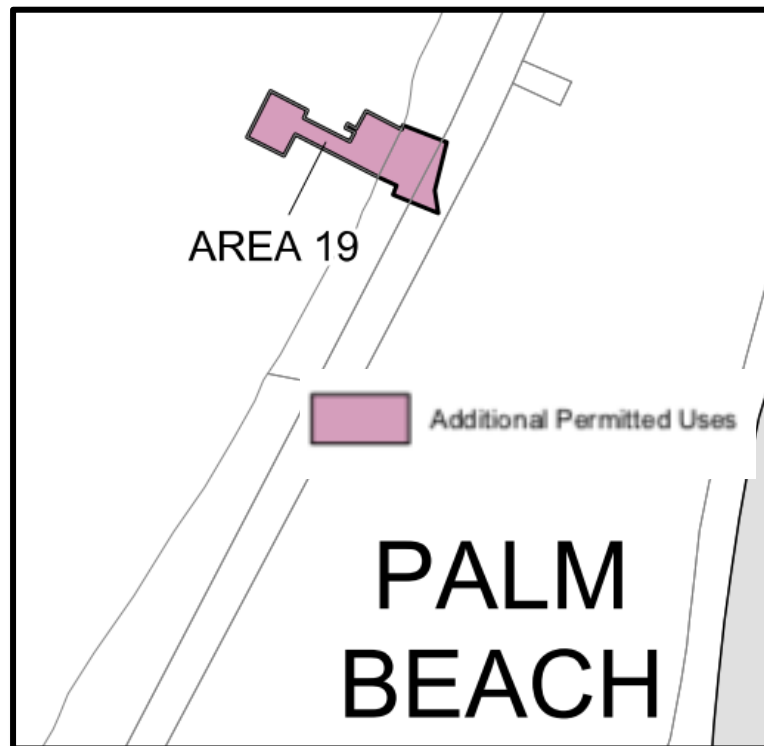
19 Use of certain land at 1191 Barrenjoey Road, Palm Beach

(1) This clause applies to 1191 and 1193 Barrenjoey Road, Palm Beach, being Lot 298, DP 721572 and Lot 7005, DP 1117451 and identified as “Area 19” on the Additional Permitted Uses Map.

(2) Development for the purposes of business premises (but only those associated with use of the waterway), charter and tourism boating facilities, kiosks or restaurants or cafes is permitted with development consent.

Response

The previous response to the objectives of the Environmental Conservation Zone addresses this item.



Extract from PLEP 2014 maps showing area 19, the subject site

Zone RE1 Public Recreation

1 Objectives of zone

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*
- *To allow development that does not substantially diminish public use of, or access to, public open space resources.*
- *To provide passive and active public open space resources, and ancillary development, to meet the needs of the community.*

2 Permitted without consent

Building identification signs; Environmental protection works; Horticulture; Markets; Roads

3 Permitted with consent

Aquaculture; Centre-based child care facilities; Community facilities; Environmental facilities; Information and education facilities; Kiosks; Public administration buildings; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Respite day care centres; Restaurants or cafes; Signage; Take away food and drink premises; Water recreation structures

4 Prohibited

Any development not specified in item 2 or 3

Response

The provisions of Schedule 1 of the PLEP 2014 render the proposal permissible in the RE1 Public Recreation Zone whilst the objectives of the zone are endorsed in the proposal by enhancing the licensed area for increased permeability by the public with a landscaped regime that comprises locally endemic species and protects the three specimens of Norfolk Island Pine within the licensed area.

4.3 Height of Buildings



4.3 Height of buildings

(1) The objectives of this clause are as follows—

(a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,

- (b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*
- (c) to minimise any overshadowing of neighbouring properties,*
- (d) to allow for the reasonable sharing of views,*
- (e) to encourage buildings that are designed to respond sensitively to the natural topography,*
- (f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.*

Response

The subject proposal with a proposed ridge height of RL10.43M AHD exceeds the maximum building height control of 4 m as the relevant standard is applicable to development below MHWL limited to 4m above Highest Astronomical Tide (HAT) (1.17m AHD), a resultant maximum building height of 5.17M. The existing building on the subject site is currently in breach of this development standard with a ridge height of RL 8.73M AHD whilst the reconstructed building, given that it is necessary to raise the lowest floor level to respond to anticipated raised sea levels, the new structure will be further in breach of the control. As the maximum building height prescribed by clause 4.3 of PLEP 2014 is a development standard as defined by the Act and may be varied under the provisions of clause 4.6 of PLEP 2014, a submission made pursuant to Clause 4.6 of PLEP 2014 accompanies this Statement of Environmental Effects.

It is relevant to note that the accompanying Heritage Impact assessment by City Plan endorses the proposal and advises that it is, despite this breach of the Height of Buildings development standard, consistent with the objectives of the Conservation Management Plan for Governor Phillip Park.

5.7 Development below mean high water mark

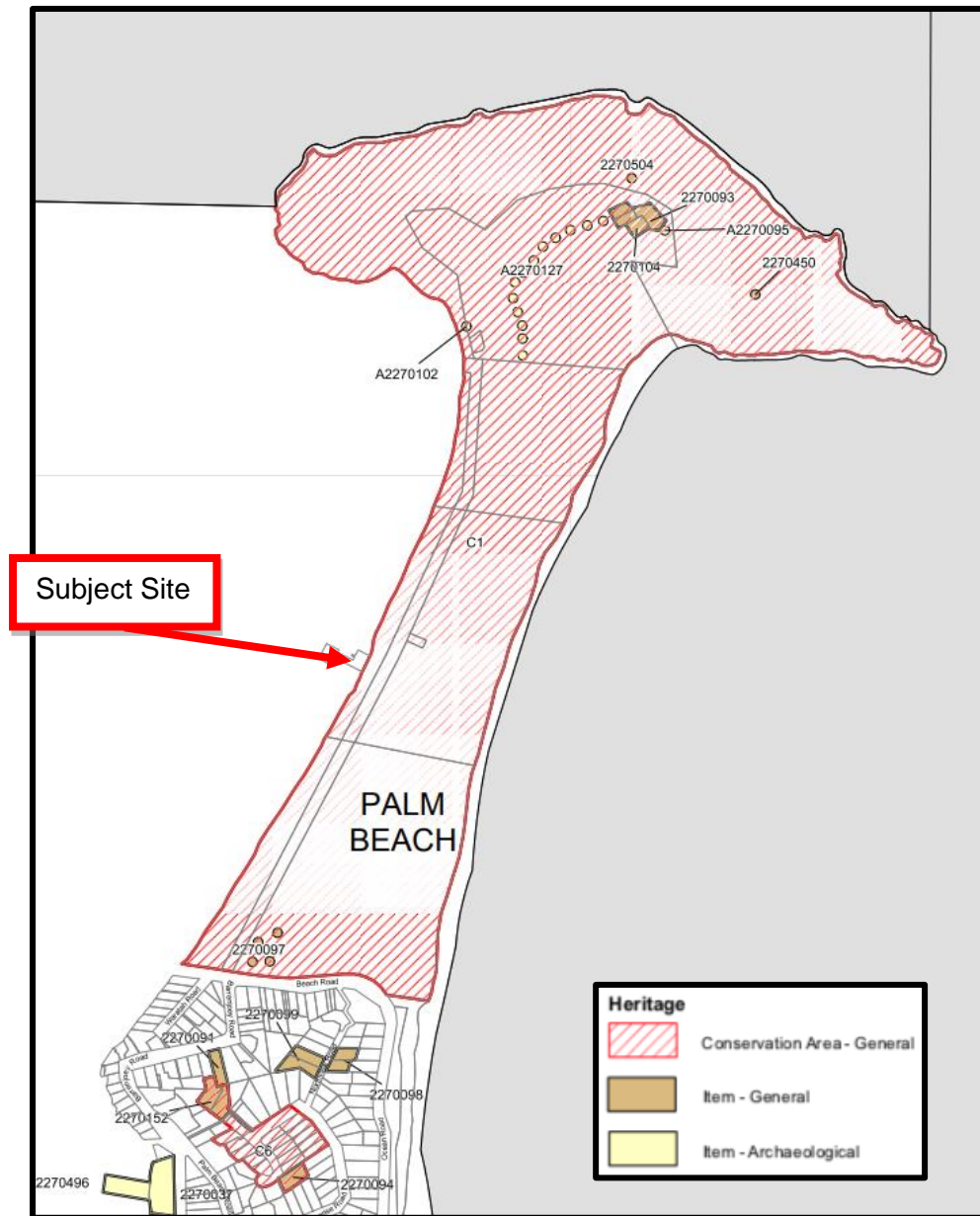
- (1) The objective of this clause is to ensure appropriate environmental assessment for development carried out on land covered by tidal waters.*
- (2) Development consent is required to carry out development on any land below the mean high water mark of any body of water subject to tidal influence*

(including the bed of any such water).

Response

The subject application incorporates Works below the Mean High Water Mark and as such requires the submission of a Development Application to the relevant consent authorities (Crown Lands and Northern Beaches Council) and concurrence authorities for their assessment.

5.10 Heritage conservation



Extract from PLEP 2014 Maps showing Heritage Conservation Area

(1) **Objectives** *The objectives of this clause are as follows—*

- (a) to conserve the environmental heritage of Pittwater,*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) to conserve archaeological sites,*
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.*

Response

The subject building, although not within the boundaries of the Conservation Area, has been assessed In the accompanying Heritage Impact Assessment as being within the Conservation Area in order to ensure that the proposed rebuilding of the structure and associated ancillary works and landscaping respects the heritage values of the Conservation Area.

The Heritage Impact Statement prepared by City Plan has examined the history of the subject locality and the role of the existing boathouse building in that history, the “fit” of the replacement structure and concludes the following –

In conclusion, it is considered by City Plan Heritage that the proposed works, including the demolition and reconstruction of the existing boathouse building with associated landscaping will result in little to no impact on the heritage significance of the Barrenjoey Heritage Conservation Area and the Governor Phillip Park.

The proposed new building replacing the existing boathouse has been designed to interpret and reflect the weatherboard design of the existing Boathouse structure, while ensuring that through contemporary materials and detailing, the work is easily identifiable as new and not a copy of the original. The configuration and fabric of the existing boathouse have been modified and replaced over time due to its beachside location and its operational requirements.

Therefore, its replacement with essentially a similar structure will not impact on its contributory values within the HCA. Additionally, the proposed landscape works to the site including change to the configuration of front of site landscaping, the addition of a seawall section, and proposed addition of new native vegetation will help to effectively integrate the site into the significant surrounding environment.

The proposed works provide a necessary upgrade to the Boathouse building which will assist in continuing the sustainable operation of the site in its current location for the future avoiding impact of raising sea and flood levels. The proposal demonstrates compliance with the existing controls regarding heritage conservation and is therefore recommended to Council for approval. With the following recommendations:

Photographic Archival Recording ▪ A built heritage specialist is to develop an archival record of areas implicated by the works prior to commencement of the works in accordance with the Heritage NSW, Department of Premier and Cabinet guidelines Photographic recording of Heritage Items Using Film or Digital Capture (2006).

It is therefore requested that the development consent incorporate the above recommended condition of consent to satisfy the provisions of the Heritage Impact Statement.

In addition to the accompanying Heritage Impact Assessment, a search of Lot 298/DP 721522 and a 50 m area around that site through the Office of the Environment and Heritage AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that no Aboriginal sites are recorded in or near the above location and no Aboriginal places have been declared in or near the above location.

The following search result from AHIMS confirms the subject site and the results of that search.



Office of
Environment
& Heritage

AHIMS Web Services (AWS) Search Result

Purchase Order/Reference : BOATHOUSE PALM BEACH

Client Service ID : 496447

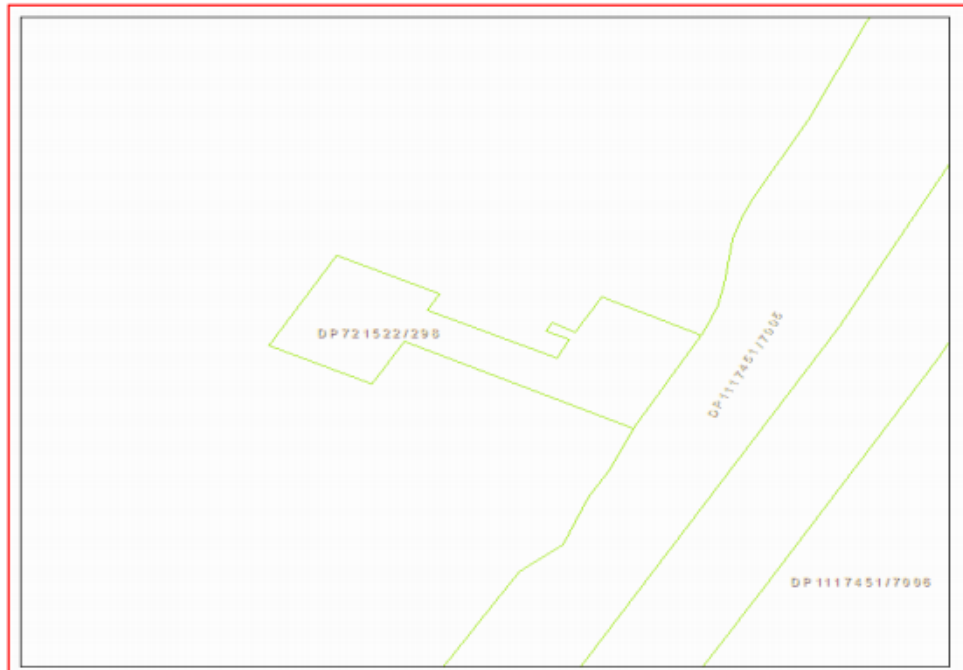
Lance Doyle
3A Kendall Road
Castle Cove New South Wales 2069
Attention: Lance Doyle
Email: lance@doyleconsulting.com.au

Date: 08 April 2020

Dear Sir or Madam:

AHIMS Web Service search for the following area at Lot : 298, DP:DP721522 with a Buffer of 50 meters, conducted by Lance Doyle on 08 April 2020.

The context area of your search is shown in the map below. Please note that the map does not accurately display the exact boundaries of the search as defined in the paragraph above. The map is to be used for general reference purposes only.

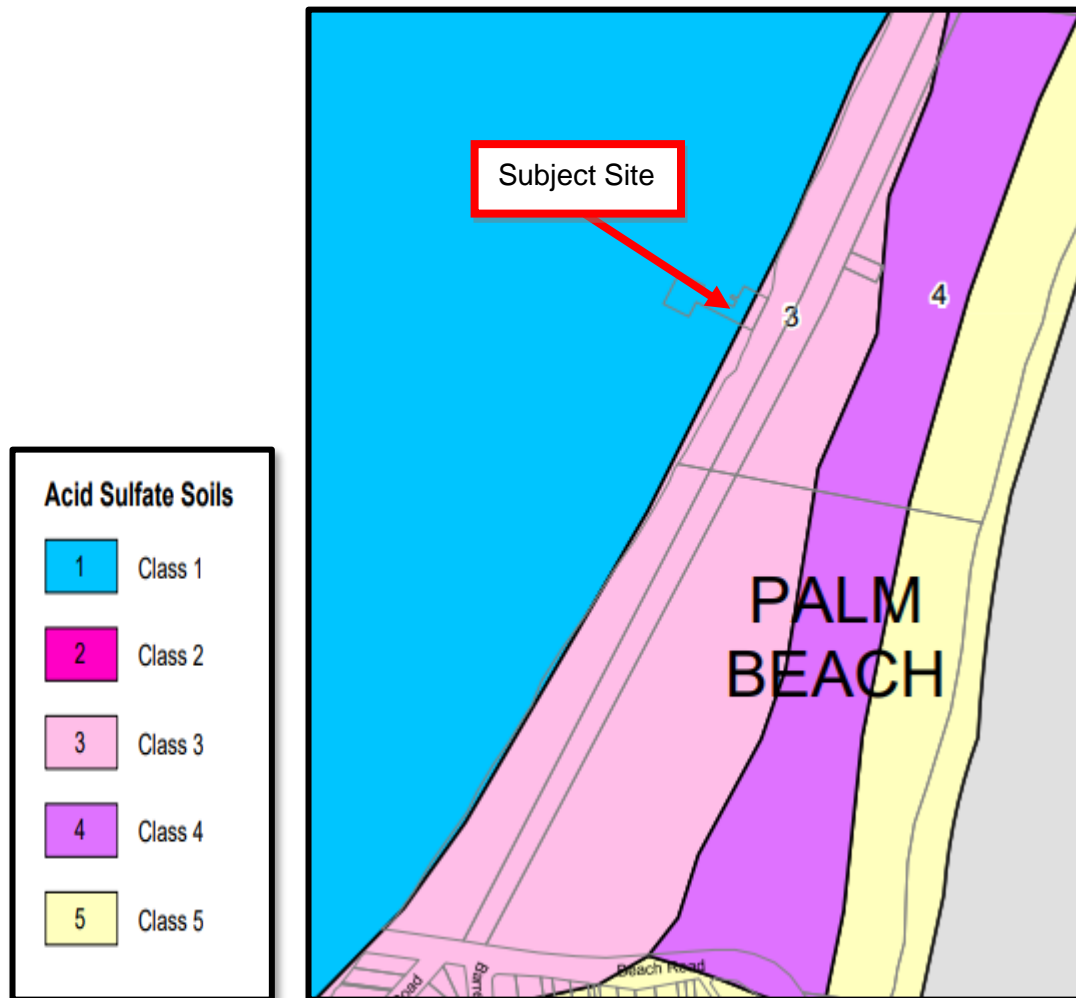


A search of the Office of the Environment and Heritage AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that:

0	Aboriginal sites are recorded in or near the above location.
0	Aboriginal places have been declared in or near the above location. *

Aboriginal Heritage Information Management System Search Result for Subject Site and 50m radius

7.1 Acid sulfate soils



(1) *The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.*

Response

The issue of potential acid sulphate soil disturbance has been investigated by the applicants geotechnical engineer who has advised that due to the fact that the subject site is located on what is in effect a beach, the issue of acid sulphate soils does not arise as the bearing material is not prone to the generation of acid sulphate as it comprises sand down to a depth significantly below the likely excavation depth

required for the proposed works.

7.2 Earthworks

(1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

Response

The carrying out of earthworks to accommodate the proposal on the subject site will be minimal as earthworks are primarily confined to the area to the west of the Mean High Water Mark. These works are confined to the replacement of piles and construction of a seawall. The works to provide the replacement piles comprise a technique known as driven piles which will result in minimal disturbance due to the nature of the proposed works not requiring the excavation of the stratum to achieve solid bearing below.

This aspect of the proposal has been thoroughly investigated by Cardno who advise that, subject to the appropriate conditions of consent recommended in their report and endorsed within the Construction Management Plan, impacts on the locality as a consequence of these works will be minimal.

Associated earthworks to the east of MHWL will be for the provision of landscaping, infrastructure and access paths. All works both above and below water level will be subject to the provision of siltation devices to ensure against the migration of silt and sediment off site.

7.3 Flood planning

(1) The objectives of this clause are as follows—

- (a) to minimise the flood risk to life and property associated with the use of land,*
- (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,*
- (c) to avoid significant adverse impacts on flood behaviour and the environment.*

Response

One of the prime reasons for the reconstruction of the existing structure on the subject site has been initially, due to the deterioration of supporting structures below the floor level of the existing building and subsequent to this investigation, recognition that the imposition of an EPL (Estuary Planning Level) requires that in order to address future sea level rises and to mitigate potential impacts of storm events, the structure needed to be raised.

Simply raising the structure above the Estuary Planning Level was not of itself sufficient as the method of construction requires that uplift from waves generated by storm events needed to be catered for through its design and height above likely water level increases in the future.

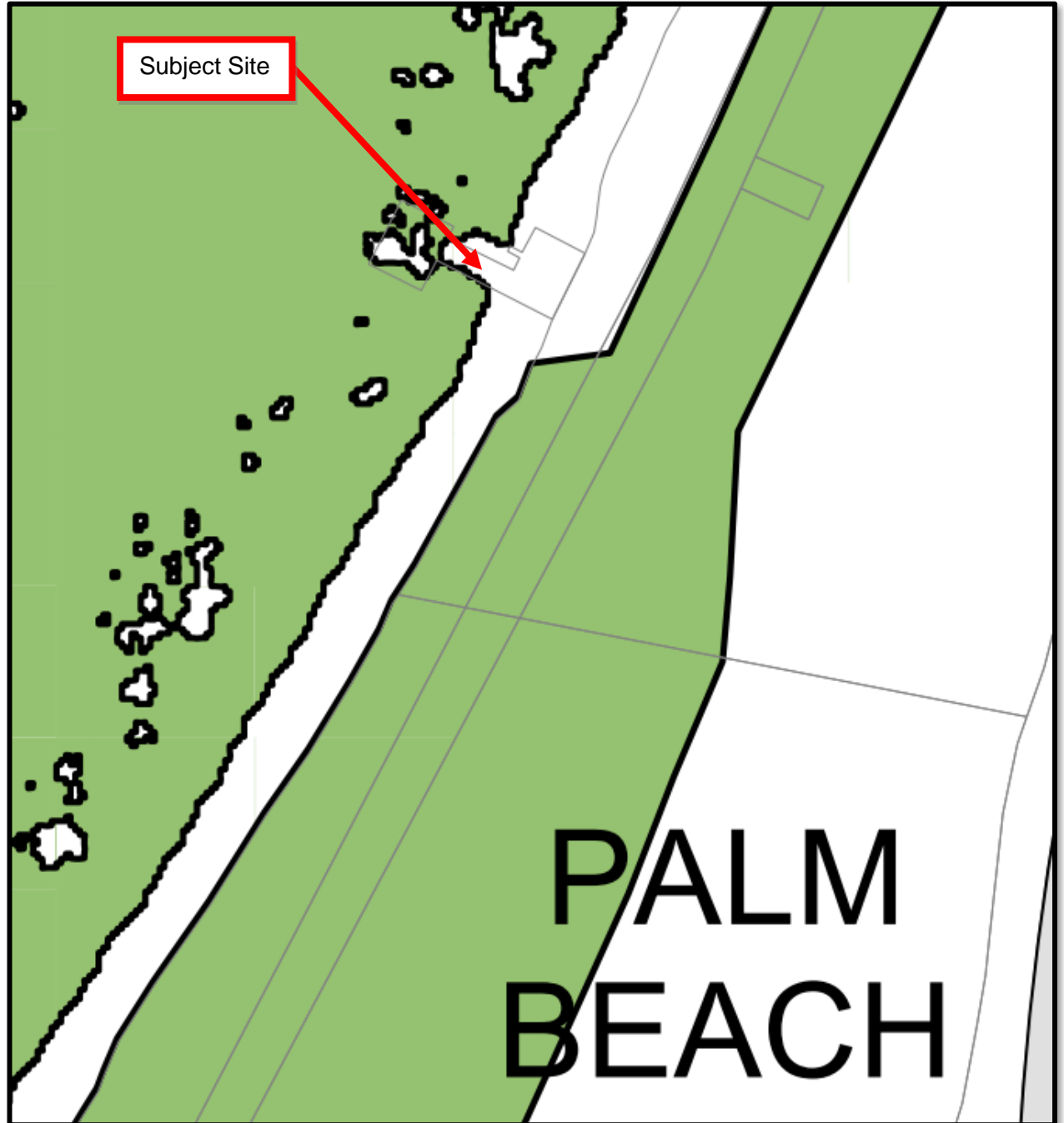
This matter has been extensively investigated by Cardno, coastal engineers who have provided a comprehensive report accompanying this Statement.



Load-bearing piles to be replaced by piles driven into sand to avoid

disturbance.

7.6 Biodiversity



(1) The objective of this clause is to maintain terrestrial, riparian and aquatic biodiversity by—

(a) protecting native fauna and flora, and

- (b) protecting the ecological processes necessary for their continued existence, and*
- (c) encouraging the conservation and recovery of native fauna and flora and their habitats.*

Response

It has been recognised by the Applicant and associated professionals that the environmental compatibility of the subject proposal could be substantially enhanced by the provision of locally endemic plant species which are at the present time, lacking and are required to be significantly augmented throughout the site and also to the periphery of the site to enhance the lack of biodiversity as illustrated in the PLEP biodiversity map preceding this response.

In order to carry out a suitable investigation into augmenting biodiversity on and around the subject site, the applicant engaged the services of Kingfisher Environmental, a firm of qualified and locally experienced ecological and environmental consultants who have investigated the paucity of satisfactory species on and around the subject site and have provided comprehensive recommendations in the accompanying report for species types to be used throughout the subject site.

The report by Kingfisher also highlights the degradation of the beach frontage northwards of the subject site due to inappropriate activities and inadequate management with the resultant degradation of the dune front as illustrated in the following photograph. This matter requires addressing in the near future to enhance the management regime of this area.



Beachfront Looking North From Subject Site Showing Degradation

PITTWATER LOCAL ENVIRONMENTAL PLAN 2014 COMPLIANCE TABLE

Control	Proposal	Compliance
Clause 4.3 Height of buildings		No, see accompanying Clause 4.6 Request
Clause 5.10 Heritage conservation		Yes
Clause 6.10 Earthworks		Yes
Clause 7.1 Acid sulfate soils		Yes
Clause 7.1 Earthworks		Yes
Clause 7.6 Biodiversity		Yes

4.4 Pittwater 21 Development Control Plan

The Pittwater 21 Development Control Plan (DCP) applies to all forms of development within the Palm Beach locality.

Section A Shaping Development in Pittwater

A4.12 Palm Beach Locality

The Palm Beach locality will remain primarily a low-density residential area with dwelling houses in maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape. Secondary dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations. Any dual occupancy dwellings will be located on the lowlands and lower slopes that have less tree canopy coverage, species and habitat diversity and fewer other constraints to development. Any medium density housing will be located within and around commercial centres, public transport and community facilities. Retail, community and recreational facilities will serve the community.

Future development will maintain a building height limit below the tree canopy and minimise bulk and scale whilst ensuring that future development respects the horizontal massing of the existing built form. Existing and new native vegetation, including canopy trees, will be integrated with the development. Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like. Building colours and materials will harmonise with the natural environment. Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance. Development will be designed to be safe from hazards.

A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land. As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment, to provide feed trees and undergrowth for koalas and other animals, and to enhance wildlife corridors.

Response

The proposal is consistent with the above Locality Statement as it will provide for a building that will be below the height of the tree canopy and with an accompanying landscaping regime that will surpass the current level of landscaping on and around the subject site.

The enhancement of the landscaping on and around the subject site has been recognised by the Applicant as a matter that requires attention both by the proponent and also by the managing agencies due to the degradation of the beach frontage.

Section B General Controls

B1.3 Heritage Conservation - General

Outcomes

Conservation of the environmental heritage across Pittwater LGA in accordance with the principles contained in the Burra Charter.

Enhancement of the existing heritage values and encouragement of contemporary design that responds appropriately to their context.

Development respectful of environmental heritage undertaken in a manner that is sympathetic to, and does not detract from, any heritage significance.

Response

The proposal is respectful of the heritage values of the locality, in particular the Heritage Conservation Area by ensuring that the proposal, although raised in height is of a similar architectural typology as the existing structure on the subject site.

A comprehensive Heritage Impact Statement by City Plan accompanies this statement. This Heritage Impact Statement provides a history of the subject site and locality and concludes that the proposal will make a positive contribution to the heritage values of this part of Palm Beach.

B3.6 Contaminated Land and Potentially Contaminated Land

Outcomes

Protection of public health.

Protection of the natural environment.

Successful remediation of contaminated land.

Response

There are no activities currently undertaken on the subject site likely to contribute to contamination of the locality nor are there any potentially hazardous activities proposed for the future operation of the café and associated works on the subject site.

The storage of fuel for the hire boat enterprise is addressed by the storage of fuel in a compliant portable container with no underground storage facilities proposed.

B4 Controls Relating to the Natural Environment

B4.11 Land Adjoining Bushland

Outcomes

To protect bushland from impacts associated with development on adjoining land.

Biodiversity, ecological processes and other bushland values are conserved.

Response

The proposed construction works are isolated to existing built upon areas. All construction works within the licensed area to the east of the subject site have been comprehensively examined by Urban Forestry, a qualified and locally experienced arboricultural consultancy who have provided in their accompanying report, a comprehensive set of criteria for any excavation or associated works such as service trenches and pathways in proximity to the significant Norfolk Pines located within the licensed area to enhance their ongoing Safe Useful Life Expectancy (SULE) following the conclusion of construction.

In addition to the protection of the tree species, the comprehensive environmental investigations carried out by Kingfisher Environmental provide a list of recommendations for species to be provided on and in conjunction with the subject site to enhance the natural environment surrounding the subject site.

B5 Water Management

B5.1 Water Management Plan

Outcomes

Effective management of all water and wastewater resources.

Protection of receiving environments downstream of all water management systems.

Response

The proposed water management regime will remain generally the same as the

current situation however will be augmented to repair and replaced as necessary.

B5.3 Greywater Reuse

Outcomes

Effective management of grey water treatment systems which maintain disposal to Sydney Water central reticulation system (for disposal in cases of emergency breakdown/malfunction).

Effective management of on-site sewage and effluent systems to ensure environmental and public health protection.

Water Conservation

Response

Greywater re-use will be incorporated where necessary.

B5.4 Stormwater Harvesting

Outcomes

Minimise quantity of stormwater runoff.

Minimise surcharge from the existing drainage systems.

Reduce water consumption and waste in new development.

Implement the principles of Water Sensitive Urban Design

Response

The existing stormwater system will be utilised with improvements being carried out as required. Please refer to the Stormwater Plan accompanying this application.

B5.11 Stormwater Discharge into Waterways and Coastal Areas

Outcomes

All new development to have no adverse environmental impact at the discharge location.

Response

The existing stormwater discharge will remain as is. The proposal does not see an increase in overall roof area or hard surfaces. Please refer to the Stormwater Plan accompanying this application.

B5.12 Stormwater Drainage Systems and Natural Watercourses

Outcomes

The integrity of stormwater drainage systems, easements and natural watercourses are maintained.

Stormwater flows including overland flow have continuity and are not impeded.

Response

The existing stormwater drainage system and upgraded as per the Stormwater Plan prepared by ADCAR.

B5.13 Development on Waterfront Land

Outcomes

Protection of waterways and improved riparian health

Stormwater and creek flows are safely managed.

Appropriate setback between waterways and development

Response

The proposed development is in keeping with the objectives of this clause in that existing waterways, riparian health and stormwater flow are not impacted.

B6 Access and Parking

B6.1 Access driveways and Works on the Public Road Reserve

Outcomes

Safe and convenient access.

Adverse visual impact of driveways is reduced.

Pedestrian safety.

An effective road drainage system.

Maximise the retention of trees and native vegetation in the road reserve.

Response

The existing access and parking is to be maintained and supplemented with a carspace for disabled parking on the eastern frontage of the subject licensed area. This space will be signposted accordingly for disabled users only.

B6.2 Internal Driveways

Outcomes

Safe and convenient access.

Reduce visual impact of driveways.

Pedestrian safety.

An effective road drainage system.

Maximise the retention of trees and native vegetation.

Reduce contaminate run-off from driveways.

Response

The internal driveways and car parking spaces have been assessed by the Applicants traffic consultant, GTK Consulting who advise that the proposal will provide for driveways and car parking spaces in accordance with the relevant Australian Standards.

B6.3 Off-Street Vehicle Parking Requirements

Outcomes

An adequate number of parking and service spaces that meets the demands generated by the development.

Functional parking that minimises rainwater runoff and adverse visual or environmental impacts while maximising pedestrian and vehicle safety.

Safe and convenient parking.

Controls

1 per 30m2 GLA

Parking spaces are to be accessible to the public.

Time of operation and availability of adjacent car parking facilities either within or adjacent to the Commercial Centres may to be taken into account.

Provision of accessible parking spaces for people with disabilities must be at the rate of 3% of the required car parking spaces or part thereof, or 1 space, whichever is greater.

Adequate space for delivery vehicles and garbage collection is to be provided.

Response

The assessment of likely impacts upon the availability of car parking in the locality needs to be tempered by the fact that the proposal is not in itself, a destination, but comprises a component of the enjoyment of the adjacent Governor Phillip Park, Barrenjoey Lighthouse, beaches to the Pittwater frontage and the ocean frontage and the recently declared dog exercise area on Station Beach to the south of the subject site. These facilities are enjoyed by tourists visitors and residents alike and the area is well served by public transport.

Councils assessment of the earlier development application for a similar proposal, albeit considerably larger, incorporating a seating capacity of between 200 to 300 persons on the subject site, resulted in the development application being refused for several reasons, amongst those being reason 2 as follows –

The proposal facilitates an increase in the GFA and capacity of the café, attributing to a significant intensification on the demand for parking that has not been adequately considered and is not satisfied by the proposed development. The proposal is non-compliant with the numerical requirements and outcomes of clause B6.3 (Off-street Parking Facilities) of P21 DCP and

places an unreasonable level of reliance upon parking within the adjacent public reserve.

This earlier assessment went on to assess the impacts of the existing proposal which Council estimates as having a seating capacity between 200 and 300 seats. The assessment of the earlier proposal recognised that the assessment was based on the above figures and stated the following –

However, it is appreciated that the redeveloped site is a popular destination for locals and tourists alike, and that it has been operating with a greater capacity over the past few years. With the exception of the summer peak, parking is generally readily available in the public carpark in close proximity to the site. Whilst reliance upon the public carpark is not encouraged by the POM or specifically authorised in any way, it must be acknowledged that the sites reliance upon the public carpark has been steadily increasing since 2009, and as such, the impact associated with the proposed development has somewhat already been realised on the site.

It is important to note that the subject proposal seeks consent for a maximum seating capacity of 152 persons which is at least 50 and (potentially) 150 persons below the sites seating numbers that the earlier DA assessment was based upon. The recognition in the previous assessment that “*with the exception of the summer peak, parking is generally readily available in the public car park in close proximity to the site*” is confirmed in the accompanying photographs taken over the last decade (Appendix A of this Statement) which include both summer, winter and transition periods with the resultant photographic evidence that the public parking generally copes with the operation of all the activities on the subject site and within the adjacent Governor Phillip Park.

Consideration also needs to be given to the impacts of activities within the park which include filming for advertisements and television series and also the operation of Dunes Restaurant which does not appear to provide any car parking on-site.

The aerial photographs in Appendix A confirm, apart from some fairs or similar

events, that the general availability of car parking is reasonable and the proposed café with a seating capacity of 152 will not, by itself, generate an unreasonable load upon the availability of car parking spaces within the Governor Phillip Park boundaries which are described as a total of 488 spaces with a variable capacity due to informal arrangements for car parking that occur from time to time.

It should also be noted that several of the photographs within Appendix A indicate the car parking is at capacity however on closer examination it can be seen that several of these occasions were at the time of an “event” within the park and resulted in an exceedances of the parking capacity.

In accordance with the recommendations of the earlier assessment of a similar (but larger in terms of seating numbers) the applicant has engaged the services of GTK Consulting, qualified and experienced traffic and parking consultants, who provide the following summary within the report submitted with this development application -

Assessment of the proposal indicates that:

- *The Boathouse has been in operation as a café in various forms prior to 1975.*
- *There is regular public bus transport available during weekdays and weekends to Beach Road. The Boathouse is within acceptable walking distance of the nearest bus stop.*
- *In accordance with Council's Development Control Plan Pittwater 21 DCP Part B & Part C 2015 the proposed renovations of the Boathouse will require 9 car parking spaces.*
- *The current Plan of Management acknowledges that Council agrees to overflow parking for the Boathouse during summer periods*
- *Car parking surveys undertaken on a typical summer Sunday revealed that there is considerable spare car parking capacity within Governor Phillip Park during the peak parking accumulation time of 1.00pm.*
- *At the time of survey the Boathouse was fully operational with 200 seats serving beach goers, visitors to Governor Phillip Park and the National Park.* •

The proposal reduces the existing number of seats from 200 to 152.

• Car parking generated by the operation of the café, seaplane and boat hire businesses is accommodated within the 9 car parking spaces on the site and within Governor Phillip Park, with adequate spare capacity available at times of peak parking accumulation on a typical summer Sunday.

This report concludes that the car parking elements of the proposal are in accordance with Council's DCP, current Plan of Management and RMS guidelines and that car parking within Governor Phillip Park will not be negatively impacted by the proposed renovations of the Boathouse at 1191 Barrenjoey Road, Palm Beach.(emphasis added)

The provision of an additional 10 public carparking spaces to Governor Phillip Park, as described within the Voluntary Planning Agreement will bolster the available carparking spaces for both patrons of the facility and the public as Council proposes to set a 4 hour time limit on the subject spaces.

B8 Site Works Management

B8.1 Construction and Demolition - Excavation and Landfill

Outcomes

Site disturbance is minimised.

Excavation, landfill and construction not to have an adverse impact.

Excavation and landfill operations not to cause damage on the development or adjoining property.

Response

Construction Management in the form of sediment and erosion control, construction management planning, safe practice and adherence to the Coastal Engineering Report will ensure that excavation and construction will not have an adverse impact to the subject site or adjoining properties.

Accompanying this Statement is a comprehensive Construction Management Plan prepared by the building contractor engaged to carry out the works upon the subject site.

B8.2 Construction and Demolition - Erosion and Sediment Management

Outcomes

Waterways, coastal areas, watercourses, drainage systems and the public domain are protected from the transportation of sedimentation from development sites.

Reduction of waste throughout all phases of development.

Public safety is ensured.

Protection of the public domain.

Response

Erosion and Sediment control will be installed for the duration of the development, ensuring upkeep and maintenance is carried out to protect coastal areas.

It should be noted however that the inground works to replace the existing piles will be carried out using driven piles and as such the disturbance will be localised to the driven area of these piles which due to the fact that they are being driven into sand will result in very little if any migration of sediment off site.

The accompanying report by Cardno sets out the criteria for ensuring that there will be no migration of silt off site.

B8.3 Construction and Demolition - Waste Minimisation

Outcomes

Reduction management of demolition, excavation and construction works is to be minimised by reuse on-site, recycling, or disposal at an appropriate waste facility.

Response

Construction and demolition will be carried out in accordance with the Waste Management Plan.

B8.4 Construction and Demolition - Site Fencing and Security

Outcomes

Ensuring public safety.

Protection of public domain.

Response

The subject site will be appropriately fenced throughout demolition and construction.

B8.5 Construction and Demolition - Works in the Public Domain

Outcomes

Protection of Infrastructure.

Ensuring Public Safety.

Compliance with the Roads Act 1993.

Response

The majority of works proposed are within an adjoining the public domain as the subject site and ancillary licensed site are both under the jurisdiction of Crown lands with the licensed site being under the care control and management of Northern Beaches Council. Construction Management will ensure that no damage occurs to these areas throughout demolition or construction.

B8.6 Construction and Demolition - Traffic Management Plan

Outcomes

Minimal disturbance to the residential community.

Protection of Roads.

Response

It is not considered that the proposal will result in an unreasonable disturbance to the residential community. Traffic Management will be employed as required. The submitted Construction Management Plan describes the methodology for controlling demolition and construction traffic to ensure minimal disruption to

traffic flow and safety within the area of the proposed works.

C2.10 Pollution Control

Outcomes

Development does not adversely impact public health, the environment or other lands.

Controls

All developments must be designed, constructed, maintained, and operated in a proper and efficient manner to prevent air, water, noise or land pollution.

Development and business operation must comply with the Protection of the Environment Operations Act 1997, and any relevant legislation.

Compliance with the NSW Environment Protection Authority Industrial Noise Policy (January 2000).

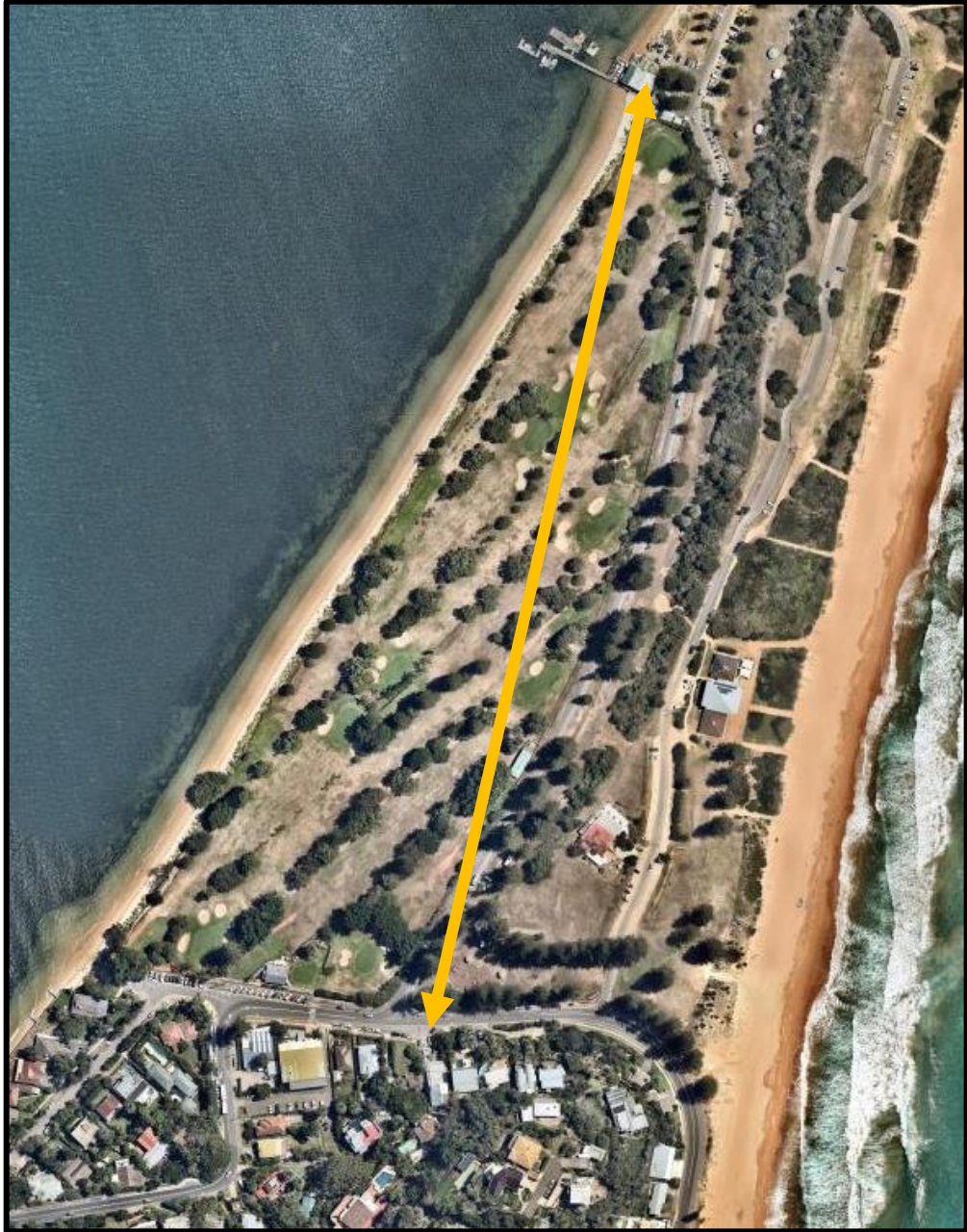
Response

The proposal will not impact on the locality in terms of air or water pollution due to the provision of entirely new equipment and the fact that the operator will ensure that the proposal, due to its locality, being on a sensitive water based site, is protected.

The issue of noise pollution has been addressed by the applicant who has provided advice from Envirotech, a qualified and experienced firm of acoustic consultants who advise that due to the significant separation between any residential properties and the subject site, activities on the subject site are unlikely to result in any material impact upon the locality in terms of acoustic disturbance.

The proposed conduct of a Function Centre during summertime evening hours (4pm to 11 pm), two days a week (Friday and Saturday) has been addressed as this activity is consistent with a number of operations in closer proximity to the Beach Road residential area and these operations appear to be carried out in a noise sensitive manner.

The photograph below indicates the spatial separation between the subject site and the nearest residential receptor.



**Aerial photograph showing distance of subject proposal to residences in
Beach Road (approx. 590 metres) Nearmap**

**PITTWATER 21 DEVELOPMENT CONTROL PLAN
C2 DESIGN CRITERIA FOR BUSINESS DEVELOPMENT**

Control	Proposal	Compliance
C2.1 Landscaping Outcomes A built form softened and complemented by landscaping. Landscaping that reflects the scale and form of development. Landscape elements provided in accordance with an approved masterplan.	The built form will be generally consistent with the existing built form however the preservation of the mature Norfolk Pines specimens along with substantially augmented landscaping will result in a proposal that we'll accord with the outcomes sought by the control and also the Plan of Management for the locality.	Yes
C2.2 Safety and Security Outcomes On-going safety and security of the Pittwater community. Opportunities for vandalism are minimised. Unobtrusive security devices that are sympathetic to the character of the building and the streetscape. Inform applicant's of Council's requirements for crime and safety management for new development. Improve community awareness in relation to Crime Prevention through Environmental Design (CPTED), its principle strategies and legislative requirements	The proposal when operational will be operated in accordance with the provisions of the development consent, the Plan of Management where relevant and the provisions of the landowner namely Crown lands as well as the controls imposed by the liquor licence for the operation of the premises.	Yes

<p>Identify crime and safety priority areas in Pittwater LGA</p> <p>Improve community safety and reduce the fear of crime in the Pittwater LGA</p> <p>Develop and sustain partnerships with key stakeholders in the local area who are involved in community safety.</p>		
<p>C2.7 Building Facades</p> <p>Outcomes</p> <p>Improved visual aesthetics for building facades.</p>	<p>The subject proposal will result in a completed proposal that respects the Heritage Conservation Area within the park boundaries and the resultant structure will be very similar to the existing structure however due to the necessity for protection against future storm events and a raised Estuary Planning Level, the structure will be increased in height.</p>	Yes
<p>C2.8 Energy and Water Conservation</p> <p>Outcomes</p> <p>More efficient use of resources in Pittwater.</p> <p>The orientation, design and siting of buildings makes the best use of natural ventilation, daylight and solar energy.</p> <p>Water sensitive urban design.</p>	<p>Energy efficient components such as lighting, water reticulation and the like will be incorporated within the proposal to give effect to the outcomes sought by this control.</p>	Yes
<p>C2.9 Waste and Recycling Facilities</p> <p>Outcomes</p>	<p>The proposal contains a waste management plan to ensure that the operation of the café and associated activities on</p>	Yes

Statement of Environmental Effects

The Boathouse Palm Beach

To facilitate sustainable waste management in a manner consistent with the principles of Ecologically Sustainable Development.	the site endorse the principles of responsible waste management.	
C2.10 Pollution Control Outcomes Development does not adversely impact public health, the environment or other lands.	The subject proposal will operate in a manner that does not result in any pollution migrating off site nor any risk to public health.	Yes
C2.11 Signage Outcomes Signage is compatible with the desired amenity and visual character of the locality. Signage does not adversely impact upon any heritage item or conservation area. Signage does not result in visual clutter of the landscape. Signage is of high quality design and finish.	Any signage proposed will be sympathetic to the architectural values of the building and the public areas surrounding and will endorse the objectives of the adjacent Heritage Conservation Area	Yes
C2.20 Public Road Reserve - Landscaping and Infrastructure Outcomes Achieve the desired future character of the locality. Consistency in the design and construction of landscape works in the road reserve.	The proposed landscaping on and around the subject site will remove inappropriate species and significantly supplement the landscape regime on and around the subject site to remedy inappropriate planting of species on a site that is visually important and needs to integrate with the landscaping of the locality	Yes
C2.21 Food Premises Design Standards	The proposed fit out is required to abide by Pittwater Council's Code for the Construction & Fit Out of Food Premises, the Food Act 1989 and the Food (General)	Yes

	Regulations 1997.	
<p>C2.22 Plant, Equipment Boxes and Lift Over-Run</p> <p>Outcomes</p> <p>To achieve the desired future character of the Locality.</p> <p>The bulk and scale of the built form is minimised.</p> <p>Equitable preservation of views and vistas to and/or from public/private places.</p> <p>To achieve reduction in visual clutter.</p> <p>The appropriate location and design of noise generating equipment.</p>	<p>All plant and equipment will be located or enclosed in such a manner as to avoid visual clutter, noise generation or an appearance that is at odds with the intent of the Heritage Conservation Area nearby.</p>	<p>Yes</p>
<p>C2.24 Take-away Food Premises</p> <p>Outcomes</p> <p>To ensure food and drink premises are appropriately located with minimal adverse impacts on vehicular traffic and pedestrian movement.</p> <p>To minimise adverse impacts on surrounding land uses, including parking.</p>	<p>The proposed Café is located and will operate in a manner that will not result in any adverse impacts upon the surrounding land uses as the proposal has been recognised as providing a valuable service to residents, tourists and visitors to the area.</p>	<p>Yes</p>

5.0 SECTION 4.15 Evaluation

7.6 Matters for consideration—general

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

(i) any environmental planning instrument, and

(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and

RESPONSE

The relevant provisions of the PLEP 2014 have been addressed in the body of this Statement. The accompanying clause 4.6 request is to be read in conjunction with this Statement of Environmental Effects.

(iii) any development control plan,

RESPONSE

The relevant provisions of the Pittwater DCP have been addressed in the body of this Statement.

and

(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4,

RESPONSE

No planning agreements apply to the proposal

and

(iv) the regulations (to the extent that they prescribe matters for the purposes of this

paragraph),

RESPONSE

The relevant regulations have been given due regard in the construction of this Statement.

and

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

RESPONSE

The body of this Statement describes the potential impacts upon the natural and built environments and the mechanisms to be incorporated to reduce or prevent these impacts upon the locality.

(c) the suitability of the site for the development,

RESPONSE

The subject site, by virtue of its existing layout, topography and locality is suitable for the proposal.

any submissions made in accordance with this Act or the regulations,

RESPONSE

Any submissions received in response to Councils notification of the proposal will be considered as part of Councils assessment of the proposal.

(d) the public interest.

RESPONSE

The proposal, by virtue of the design quality of the replacement building being virtually identical to the architectural form and finishes of the existing structure together with the significant enhancement of the landscape setting surrounding the subject building will enhance the character of the area and support the public interest in maintaining the existing character of the subject

proposal when viewed from public spaces on and around the adjacent Governor Phillip Park.

(2) Compliance with non-discretionary development standards—development other than complying development

If an environmental planning instrument or a regulation contains non-discretionary development standards and development, not being complying development, the subject of a development application complies with those standards, the consent authority:

(a) is not entitled to take those standards into further consideration in determining the development application, and

(b) must not refuse the application on the ground that the development does not comply with those standards, and

© must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards, and the discretion of the consent authority under this section and section 4.16 is limited accordingly.

(3) If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards:

(a) subsection (2) does not apply and the discretion of the consent authority under this section and section 4.16 is not limited as referred to in that subsection, and

(b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard. Note. The application of non-discretionary development standards to complying development is dealt with in section 4.28 (3) and (4).

(3A) Development control plans

If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

(a) if those provisions set standards with respect to an aspect of the development and

the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and

(b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and

© may consider those provisions only in connection with the assessment of that development application. In this subsection, standards include performance criteria.

(4) Consent where an accreditation is in force

A consent authority must not refuse to grant consent to development on the ground that any building product or system relating to the development does not comply with a requirement of the Building Code of Australia if the building product or system is accredited in respect of that requirement in accordance with the regulations.

(5) A consent authority and an employee of a consent authority do not incur any liability as a consequence of acting in accordance with subsection (4).

(6) Definitions

In this section: (a) reference to development extends to include a reference to the building, work, use or land proposed to be erected, carried out, undertaken or subdivided, respectively, pursuant to the grant of consent to a development application, and (b) non-discretionary development standards means development standards that are identified in an environmental planning instrument or a regulation as non-discretionary development standards.

Environmental Planning Instruments

The proposal is a permissible use in the Zone by virtue of the Additional Use provisions of PLEP 2014.

Development Control Plans

This is addressed in the body of this SEE.

Impact on the Natural Environment.

The proposal is unlikely to unreasonably impact upon heritage values, flora and fauna, soil or water quality, air quality or the conservation of natural resources due to the sensitive location of the works within the existing disturbed footprint.

Impact on the Built Environment.

Scenic qualities – the proposal is consistent with the current and future character of the area as expressed within the provisions of Councils planning controls and the relevant Plan of Management.

Compatibility with adjacent land uses – The proposal is compatible with surrounding recreational and residential uses.

Impact on the Social and Economic Environment.

The proposal is unlikely to result in any negative social or economic impacts.

Suitability of the Site.

The subject site, by virtue of its existing development, topography and locality is suitable for the proposal.

6.0 CONCLUSION

The submitted development application, architectural plans and comprehensive professional reports accompanying the development application have been prepared to respond to the site constraints and opportunities and particularly the failure of the previous development application to satisfy councils concerns over the proposal, particularly uncertainty over the potential impact of traffic and parking generation figures based on the seating capacity of up to 300 persons.

The traffic and parking issues have been extensively examined and it is clear that the growth of the patronage of the café over time along with the incremental impacts of other attractions within the Governor Phillip Park area, result in a demand for car parking which gives recognition to the appeal of the diverse number of attractions within the locality. The current proposal gives clarity to Council and likely affected parties in assessing the potential parking impacts by proposing a maximum number of 152 patrons within the new Boathouse Café. This certainty enables an objective assessment to be undertaken.

The provision of additional carparking spaces for the use of patrons and the public as described within the submitted draft VPA will bolster the availability of carparking spaces for all users of the park.

As can be seen from the architectural plans, the current development application seeks consent for the total rebuilding of the existing Boathouse Café at a height that responds to potential sea level rise reflected in the Estuary Planning Level with the resultant breach of a development standard for the height of buildings. This breach, although numerically significant is supported by a Heritage Impact Statement that acknowledges the proximity of the building to the adjacent Heritage Conservation Area and regards the proposal as entirely appropriate. This has been an important facet of the proposal to ensure that the replacement building, although being constructed to current standards for fire rated components, accessibility for differently abled persons and of a structural soundness that will withstand significant future storm events will mirror the architectural typology and finishes of the existing boathouse building and result in a proposal that has an appropriate “fit” in this locality.

It is not only the building itself that seeks to make a positive contribution to the locality but it is the sensitive provision of all aspects of the development to protect the three specimens of Norfolk Pines along the building frontage. The detailed ecological investigations surrounding the site both above and below the waterline have concluded that building works below the Mean High Water Mark will not have any material impact upon marine species whilst the landscaping works proposed encompass primarily endemic species which will endorse the objectives of the relevant controls and the Plan of Management for Governor Phillip Park.

The earlier assessment of the of the previous development application expressed concerns over the conduct of after hours functions on the subject site however this aspect is seen as entirely reasonable as it is consistent with similar facilities in the locality, will occur outside peak hours of visitation to the park and will not result in any material acoustic impacts on the nearest residential receptor due to the significant spatial separation between the Café and Beach Road.

It is also very clear that the boundary of Governor Phillip Park, expressed as the Mean High Water Mark does not encroach upon any component of the Café building itself and the building is clear of the boundary and outside the boundaries of the Park. Although not strictly bound by the Plan of Management nor the Heritage Conservation Area the proposal respects the provisions of these controls and seeks to make a valuable contribution to the range of attractions available for visitors, tourists and local residents in a manner that endorses the public interest.

The proposal has revisited, addressed and resolved matters of concern leading to the refusal of the previous development application and as such is worthy of consent.

LANCE DOYLE

M.Plan (UTS), B.App Sc. (UWS) MPIA

April 2021