

# Statement of Environmental Effects

## Development Application for future use - pontoon, jetty, floating ramp, and berthing on Crown Lands adjoining 38 Cabarita Road, Avalon Beach

### 1. Executive Summary

This Statement of Environmental Effects has been prepared in support of a development application for future use, seeking to regularise a **timber platform** adjacent to boatshed, **a pontoon, jetty and boat berthing** at the end of the jetty all which exist and have existed since approximately 1983 on Crown Lands adjoining 38 Cabarita Road, Avalon Beach.

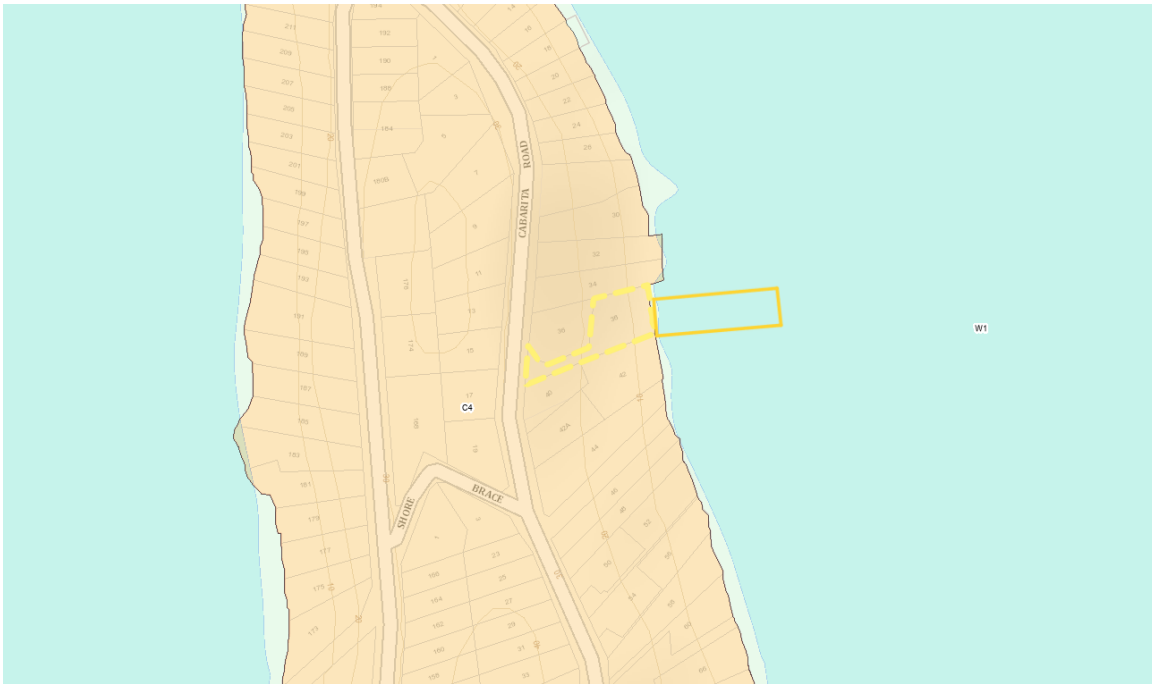
This application proposes no new works. The purpose of this application is to update formal records to recognise use and structures which have been in existence for over 40 years. This proposal therefore has nominal environmental impact and Council may be satisfied that the application should be approved having regard to the heads of consideration set out at section 4.15 of the *Environmental Planning and Assessment Act 1979*.

The proposal relies on the existing and continued use rights of the jetty as an ancillary structure to the dwelling house at 38 Cabarita Road which was constructed lawfully under previous planning regimes, and in the alternative, the proposal is permissible pursuant to the additional permitted uses available under item 23 of Schedule 1 of the *Pittwater Local Environmental Plan 2014 (PLEP)*.

### 2. Site and Locality

This development application relates to the Crown Land (below the mean high water mark of Careel Bay) fronting 38 Cabarita Road, Avalon Beach (the **Land**). The Land is subject to a domestic waterfront licence with the Department of Housing and Industry, to the benefit of 38 Cabarita Road, Avalon Beach (Lot 5 in DP 569291).

The Land is zoned W1 Natural Waterways under the PLEP. The Land Zoning Map from ePlanning Spatial Viewer is extracted below, with 38 Cabarita Road identified by the yellow dashed line. The solid orange line identifies the approximate location to which this application relates.

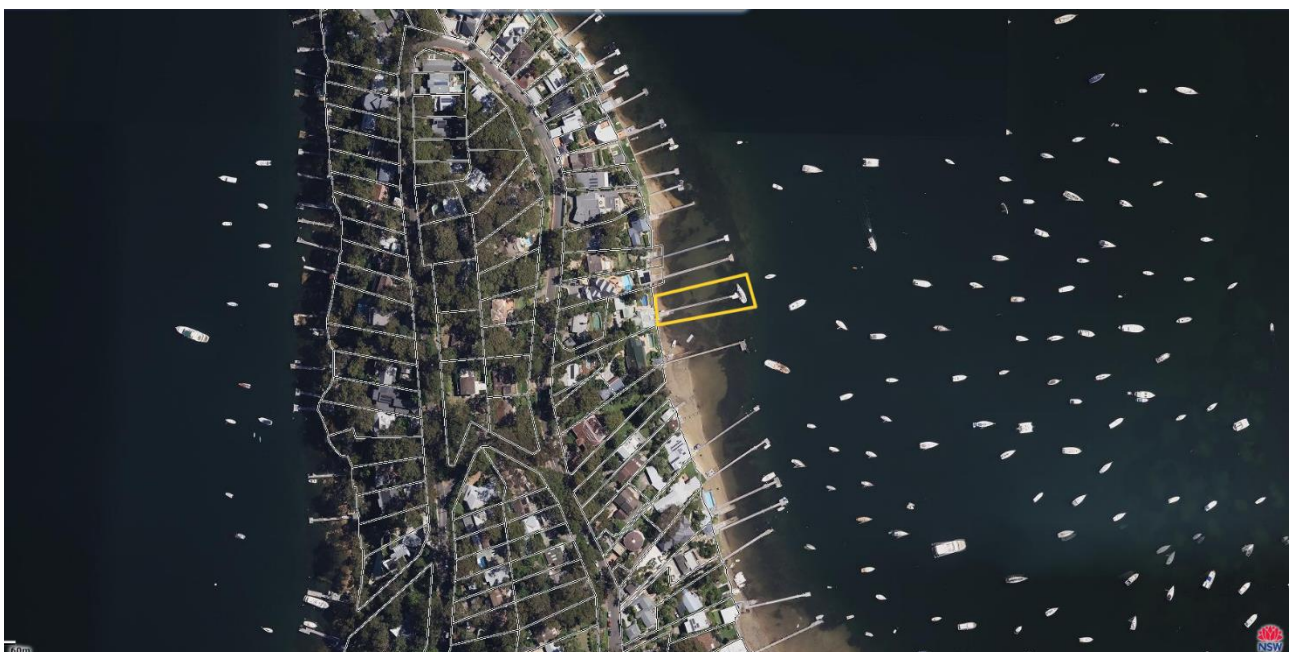


The objectives of the W1 zone are:

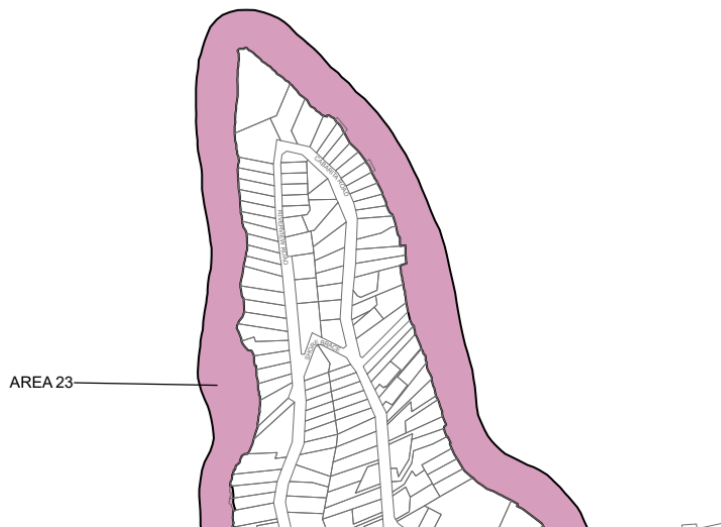
- *To protect the ecological and scenic values of natural waterways.*
- *To prevent development that would have an adverse effect on the natural values of waterways in this zone.*
- *To provide for sustainable fishing industries and recreational fishing.*
- *To ensure development does not adversely impact on the natural environment or obstruct the navigation of the waterway.*
- *To provide opportunities for private access to the waterway where these do not cause unnecessary impact on public access to the foreshore.*

The Land adjoins the C4 Environmental Living Zone, which in this area consists of low density detached residential dwellings.

An aerial image from SixMaps has been extracted below, with the relevant structures shown within the solid yellow line. Boats and jetties are common in the locality and in this W1 Zone.



The land is also located within "Area 23" of the Additional Permitted Uses Map, extracted below. Item 23 of Schedule 1 of the PLEP relevantly states that "*Development for the purposes of boat sheds, jetties or water recreation structures is permitted with development consent*".



### 3. Proposal

This application seeks to legitimise the pontoon at the end of the jetty, timber decking adjoining the boat shed, and boat berthing on the Land. The structures were erected at the Land on or around 1983.

The jetty was originally constructed as ancillary to the dwelling house at 38 Cabarita Road and was erected under the planning regime of the former *Local Government Act 1909*.

On 1 March 2024, we made two formal access applications under the *Government Information (Public Access) Act 2009* to Northern Beaches Council, and the Department of Planning, Housing and Infrastructure (**DPHI**) (as Crown Lands manager) respectively. These searches revealed a documentational gap with respect to the former approval of these works despite their longstanding existence. The most recent survey plan DPHI produced was prepared in 1957.

A survey was undertaken and resulted in a plan dated 19 March 2024 (**Survey**). This has been lodged with this development application. It reflects the current state of the jetty and pontoon which are sought to be regularised. The jetty has been in existence and in use at the Land since at least the time of the 1957 survey produced by DPHI. The other works detailed in this application (pontoon, timber decking adjoining boat shed, and berthing) have been in existence and use since at least 1983. The minor variations identified on the Survey to the south of the jetty and boat shed have resulted from maintenance works and storm impact reconstruction undertaken over the years. In addition there is the pontoon, put in place in 1983, and access stairs to the north of the boatshed, also in place last century.

### Planning Controls

This application seeks to regularise the structures which have been in ongoing existence and are ancillary to the dwelling house at 38 Cabarita Road. This application relies on the existing and ongoing use of the jetty as an ancillary component of the dwelling house at 38 Cabarita Road (the lawful erection and use of which commenced under the *Local Government Act 1909*).

In the alternative, the application relies on the additional permitted uses at item 23 of Schedule 1 of the PLEP which permits "*Development for the purposes of boat sheds, jetties or water recreation structures*".

As the aerial image above demonstrates, jetties are common in this locality within the W1 Zone.

The proposal satisfies the objectives of the W1 Zone because the works for which approval is sought have been in continuing existence and have been well established for several years. The development does not adversely impact the scenic and natural values, the environment, or navigation of the waterway.

The Land is mapped as a Coastal Environment Area under *State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP)*. Having regard to the considerations under section 2.10 of the Resilience and Hazards SEPP, Council can be satisfied that the development application will not cause any change in impact and is designed to avoid any adverse impact to the integrity and resilience of the environment, coastal processes, water quality, vegetation and fauna, public access along the foreshore. The development application is not proposing any change to what has been in continued existence for over 40 years.

Council can similarly be satisfied that the considerations under section 2.12 of the Resilience and Hazards SEPP have been met.

#### **4. Section 4.15 of the Environmental Planning and Assessment Act 1979**

Having regard to the above, Council can be satisfied that the considerations under section 4.15 of *Environmental Planning and Assessment Act 1979 (EPA Act)* have been taken into account and met as part of the Development Application. In this regard:

- a. the provisions of relevant environmental planning instruments have been considered above.
- b. there will be no impacts as there are no proposed works.
- c. the site is suitable for the proposed development as it has existed in situ for over 40 years and is consistent with the character of surrounding properties.
- d. it is in the public interest to regularise these sort of works.

#### **5. Conclusion**

Given this development application for future use merely proposes a formalised update to the records regarding the jetty at the Land, we are of the view that this development is capable of approval and Council can be satisfied that the environmental impacts are zero.

**Chris Shaw**