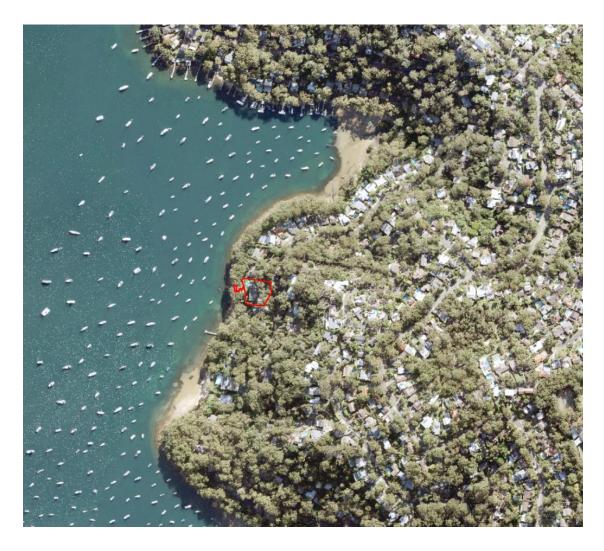
STATEMENT OF ENVIRONMENTAL EFFECTS

Development Application – for Maritime Structures Adjacent 316 Hudson Parade Clareville, NSW, 2107



Prepared by: Micheal Fountain Architects 2/5 Narabang Way Belrose NSW 2085



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INTRODUCTION

Use: Residential –

including a boatshed, ramp, slipway, concrete jetty, timber jetty & steps and berthing

area.

Address: Land adjoining 316 Hudson Parade, Clareville NSW 2107 (Lot 1 in DP 827733)

Lot No: Lot 2 in DP 827733

Crown land adjoining Lot 2 in DP 827733 & Lot 5 in DP 261693, known as "`Pittwater".

Zoning: E2 - Environmental Conservation (Crown Land)

W1 - Natural Waterways

Prepared by Micheal Fountain Architects Pty Ltd

For: Tony Walls

This Statement of Environmental Effects (SEE) has been prepared in support of a Development Application seeking approval to rebuild the marine structures that have existed lawfully on the site since at least 1947. (Ref Fig 1.)



The proposed uses enjoy existing rights and have not been abandoned.

The prior structures were dilapidated and not in keeping with the desired character of the area whereas the new structures, while similar in scale, form and configuration are proposed to be of far higher quality natural materials that will blend with the landscape background at a distance while being of high aesthetic value at close range.

The reinstatement of the marine structures will have a positive effect on the local marine ecology and land form.



Fig 2 Prior Development.



Fig 3. Proposed Development.

In preparation of this SEE, consideration has been given to a range of documents and plans including, but not limited to the following:

ARCHITECTURAL DRAWINGS:

1605 DA - 00 - PLAN - Location

1605 DA - 01 - PLAN - Site

1605 DA - 10 - ELEVATION - North

1605 DA - 11 - ELEVATION - South

1605 DA - 12 - ELEVATION - East

1605 DA - 13 - ELEVATION - West

1605 DA - 20 - SECTION AA

1605 DA - 21 - SECTION BB

1605 DA - 30 - FINISHES/ MATERIALS

SITE SURVEY:

42235DT-LTS

MONTAGE IMAGES - PREVIOUS & PROPOSED

COASTAL & MARINE DAMAGES ASSESSMENT:

Royal Haskoning DHV

PITTWATER LOCAL ENVIRONMENTAL PLAN 2014

PITTWATER 21 DEVELOPMENT CONTROL PLAN

PROJECT BACKGROUND

The structures at the address included a:

- Boatshed
- Timber Jetty & Steps
- Concrete Jetty
- Concrete Ramp
- Slipway Rails
- Berthing Area

The Proprietor currently enjoys the benefit of a licence from Crown Lands over the land seaward of the Mean High-Water Mark which is valid until 2035. & is in negotiations with Council for a licence over Lot 2 (DP 827733), that joins his property at 316 Hudson Parade Clareville to the waterfront structures below the mean high-water mark.



Figure 4.

In May 2016 an application was made to Crown Lands (DPI) to obtain Land Owners Consent to lodge an application to a Principal Certifying Authority (PCA) to provide a Complying Development Certificate, (CDC), to repair and replace the structures listed in abovementioned licence.

Approval to lodge was granted by Crown Lands (DPI) on 15th July 2016.

CDC 4957/16 was approved & issued by PCA on the 24th November 2016. CDC 4957/16-1 modification to the first CDC was issued on the 24th May 2017. CDC 4957/16-2 modification to the second CDC was issued on the 11th May 2018.

The works were commenced by a contractor shortly after the issuance of the second CDC.

During the works it was discovered that the concrete slab on which the boatshed had been built was poured over sand & rubble fill.

This fill was held in place by sandstone block sea walls.

Both the concrete slab & the seawalls were dilapidated and in danger of collapse.

It was decided that the safest solution was to:

- a. Remove the boatshed to gain access to the dilapidated slab.
- b. Pier through the slab to bedrock to support a new slab
- c. Use the old slab as formwork for the new concrete slab
- d. Build a new concrete wall, on sound footings outside the seawall to protect the seawalls from water & wave action during construction.
- e. Place a new sandstone seawall against the new concrete wall to match the existing seawall.

These works were carried out, the result being that the concrete slab & seawalls remained mostly intact, containing the sand and rubble foundations.

If the outer wall was not built there was a high potential that the old walls and slab would collapse and risk the, workers, machinery and fill entering Pittwater waterway.

Seeing the construction of the new concrete wall a neighbour complained to Northern Beaches Council that unauthorised works were being undertaken on the site.

The result was that Council officers attended the site & found that the removal of the boatshed and the construction of the concrete wall were not detailed in the CDC.

The Proprietor contended that these were foundation works in progress and that they would not be in view when the works were completed. Furthermore, it was noted that most CDC applications do not go to a level of detailing to include footings and support structures.

The PCA agreed with the Proprietor and following the presentation of more detailed documents & drawings, a modified CDC for the works was issued.

It was our clients view that this CDC remedied the situation.

Following the Council officers site visit, a Stop Works Order was issued to the proprietor on 14th September 2018, stating that the works carried out were not in accordance with the Complying Development Certificate.

Construction works on the site were suspended in accordance with the order.

An appeal against the order was lodged in the Land & Environment Court.

The outcomes of the court proceedings were filed on 25th July 2019.

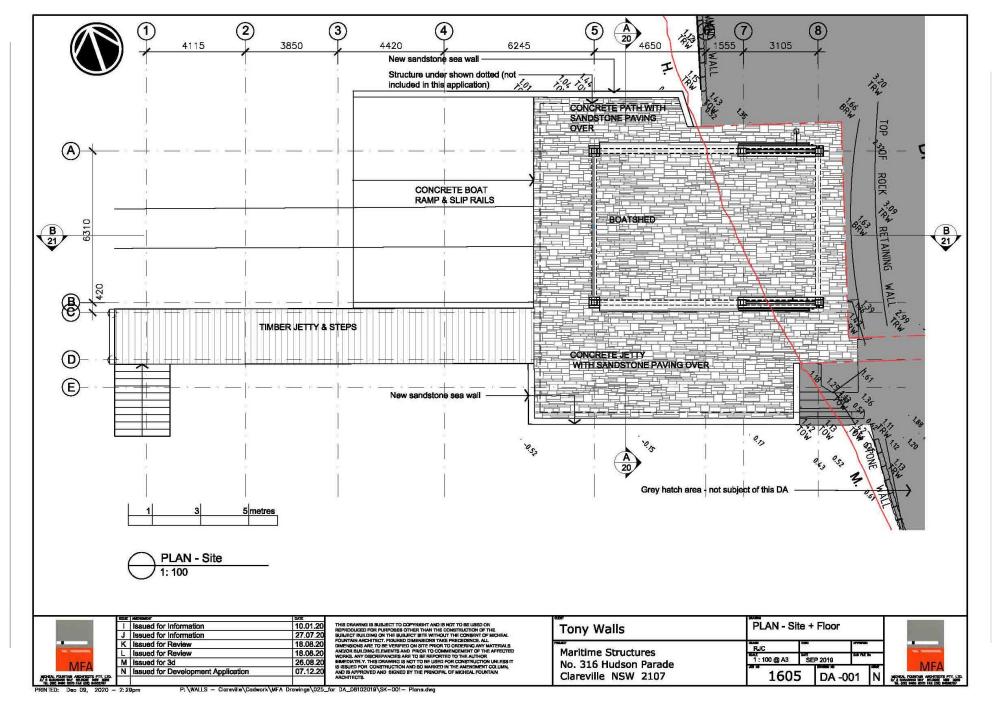
The proceedings were discontinued on the basis of an agreement between the parties.

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СНЕ



EXISTING USE RIGHTS

For the purpose of this section, the maritime structures which are the subject of this Development Application, which include a boatshed, concrete jetty, ramp, timber jetty & stairs, slipway rails & mooring pen, will be collectively referred to as "the Structures"

The land upon which the Structures were erected is currently zoned E2 Environment Conservation (Crown Land) & W1 Natural Waterways. The use of the land for the purpose of the structures is prohibited in each of the zones.

As a result, the structures rely upon existing use rights.

Referencing a "Memorandum of Advice" from Ian Hemmings SC.

In the conclusion of the "Memorandum of Advice", Ian writes:

- "67. The precise date of the erection of Structures upon the land is uncertain.
- 68. The Structures were erected after 1945 (and prior to 1951). Permission was required. That permission has not been located however; a presumption of regularity arises. That permission is deemed to be a development consent for the purposes of the Environmental Planning and Assessment Act.
- 69. The relevant use now being prohibited, there is an existing use founded upon the original permission (and now deemed development consent). The right to rely upon that (deemed) development consent cannot be abandoned.
- 70. In addition to that continuing consent the use also has the benefit of existing use rights. The existing use rights have not been abandoned. In those circumstances, a Development Application may be lodged to expand, alter, intensify and rebuild the structures. That Development Application must be limited to the relevant area (identified in the Regulations). That area is not limited to the surface area of the structures as they project above the water line. Nor is it limited to the area the subject of the permissive occupancy or now the licence.
- 71. Rather, the area extends beyond the surface area of the Structures as they project above the water line, to include support structures and also the area clearly and readily identifiable as being used for the purposes of the Structures.
- 72. A Development Application for the expansion, alteration, intensification and rebuilding of the Structures that confines itself to that area may both be lawfully made and determined, on the merits, by the Council."

The development enjoys existing use rights & as such, seeks approval from Council to:

- 1. Rebuild the boatshed
- 2. Rebuild timber jetty & stairs (jetty currently 1155mm to be widened to 2300mm)
- 3. Rebuild concrete jetty & ramp with similar
- 4. Rebuild slipway rails with similar
- 5. Re-instate berthing area & associated piles

The changes outlined above are minor in nature and are necessary on the grounds of safety, improvement of the local visual environment and structural integrity respectively.

PITTWATER LOCAL ENVIRONMENTAL PLAN 2014

PART 2 Permitted or prohibited development

The land upon which the Structures were erected is currently zoned E2 Environment Conservation (Crown Land) & W1 Natural Waterways. The use of the land for the purpose of the structures is prohibited in each of the zones. (Pittwater Land Zoning Map – figure 1)

The development will rely on existing use rights, as previously outlined in order to seek a Development Consent from Northern Beaches Council.

The proposed works are consistent with the objectives of the zone, in that the significant landform is maintained, & the structure does not dominate the landscape. The views to & from the water and cultural scenic quality will be preserved. Additionally, the scale and size of the development is appropriate to the locality and there is a demonstrated demand in the area.

PITTWATER LOCAL ENVIRONMENTAL PLAN 2014

PART 7 Additional local provisions

7.1 Acid Sulfate soils

With reference to the Pittwater Acid Sulfate Soils Map (Figure 9) the abutting site is zoned Class 5, which is the lowest possible rating. The proposed works do not involve excavation & as such it is not expected that acid sulphate soils will be influenced.

7.2 Earthworks

This control is not applicable to this development.

7.3 Flood planning

With reference to the NBC Flood Hazard Map (Figure 14) the sites are not on land with noted flood risk hazards.

7.4 Floodplain risk management

This control is not applicable to this development.

7.5 Coastal risk planning

With reference to the Pittwater Coastal Risk Map (Figure 10) the sites are not subject to any known coastal risk.

7.6 Biodiversity

With reference to the Pittwater Biodiversity Map (Figure 12) the sites are identified as "Biodiversity". Since the works involve the rebuilding of structures, there will be minimal impact to local aquatic & land-based fauna & flora. Furthermore, the proposed development is supported by a report - Coastal & Marine Damages Assessment by Royal Haskoning DHV that indicates that the works have little effect on the local environment.

7.7 Geotechnical hazards

With reference to the Pittwater Geotechnical Hazard Map (Figure 11) the proposed works encroach a Geotechnical Hazard Zone H1. A Geotechnical Risk Management Form 1 accompanies the application.

7.8 Limited development on foreshore

With reference to the Pittwater Foreshore Building Line Map (Figures 4 & 5) the proposed works are not within the illustrated foreshore area.

7.9 Residual lots

This control is not applicable to this development.

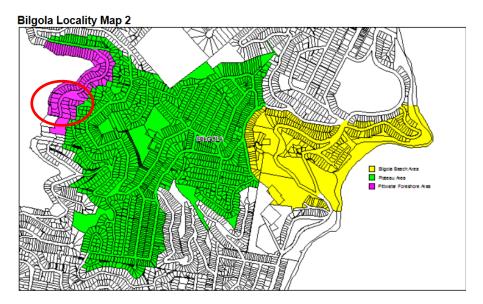
7.10 Essential services

This control is not applicable to this development.

SECTION A - Shaping Development in Pittwater

A4 - Localities

With reference to the locality maps following, the site is in the locality of Bilgola & Waterways Localities – refer to SECTION D – Locality Specific Development Controls.



Desired Future Character

"The Bilgola locality will remain primarily a low-density residential area with dwelling houses a 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. Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport.

The Pittwater Foreshore Area:

Contains areas of visual significance when viewed from the public open space of Pittwater. The visual amenity, natural flora and fauna, heritage and social values of the Pittwater Foreshore should be retained and protected. Future development will maintain a building height limit below the tree canopy, and minimise bulk and scale. 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, verandas 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.

Natural scenic views from the Bicentennial Walkway will be preserved.

Heritage items and conservation areas indicative of the Guringai Aboriginal people and of early settlement in the locality will be conserved.

Vehicular, pedestrian and cycle access within and through the locality will be maintained and upgraded. The design and construction of roads will manage local traffic needs, minimise harm to people and fauna, and facilitate colocation of services and utilities."

The proposed works are completely consistent with the desired future character of the area. The proposal is low density and domestic in scale and is constructed from natural materials that harmonise with the surrounding environment. The structures sit well below the tree canopy and dominant landform. As such they will maintain the visual significance of the landscape while maintaining the heritage and social values of the Pittwater Foreshore.

SECTION B - General Controls

B1 Heritage Controls

With reference to the Pittwater Heritage Map (Figure 8) the subject site does not have any heritage items, nor is it in a designated area with Aboriginal Heritage Significance.

B3.1 Landslip Hazard

With reference to the Pittwater Geotechnical Hazard Map, the site is an area that is zoned Geotechnical Hazard H1. As such, consultants will be engaged. Refer to Pittwater Local Environmental Plan 2014 – Part 7.7 Geotechnical hazards.

B3.2 Bushfire Hazard

With reference to the Bushfire Prone Land Map (Figure 13) the site is not located in an area that is associated with any bushfire hazards.

B3.3 Coastline (Beach) Hazard

This control is not applicable to this development (Figure 10)

B3.4 Coastline (Bluff) Hazard

This control is not applicable to this development (Figure 10)

B 3.7 Estuarine Coastal Hazard

This land is identified on the Estuarine Hazard Map. (Figure 16)

Control:

Development is to be protected from the effects of wave action and tidal inundation either by mitigation works or enduring that the floor levels of the development are at or above the Estuarine Planning Level. (EPL) Boatshed shed facilities – All floor levels shall be at or above the Estuarine Planning Level.

Variation:

"Consideration may be given on a merit basis to a floor level of a boat shed at a level lower than the EPL where it can be demonstrated through an Estuarine Risk Management Report that the boat shed is structurally designed to withstand periodic wave action and tidal inundation up to the EPL."

The floor level of the boatshed is below the EPL. It has been designed & will be constructed to address the Estuarine Hazard. The Coastal & Marine Report shall be amended to detail this issue.

B3.11 Flood Prone Land

This control is not applicable to this development (Figure 14).

B4.1 - B4.22 Landscape, Flora and Fauna

The proposed works do not involve any tree removal, there will be very little impact on the existing landscape, flora & fauna.

B5.1 Water Management

There will be no change to existing stormwater provisions on site as a result of this proposed development.

B6.1 – B6.11 Access and Parking

This control is not applicable to this development.

B8.1 - B8.6 Construction and Demolition - Excavation and Landfill

The subject works sit within a Geotechnical Hazard Zone H1 (Figure 11) however, the works are within the relatively flat beach & reef area seaward of the land & engineer's drawings & documents have been referenced to construct a sound foundation wall & pile. Reference is made to this wall in the Coastal & Marine Damages Assessment by Royal Haskoning DHV & describe it as having a stabilising affect.

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SECTION C - Development Type Controls

C1.1 Landscaping

The subject sites are rich with existing landscaping, including trees, shrubs, bushes & other vegetation. The landscaping will remain as existing.

C1.2 Safety and Security

The safety & security of the sites will not be altered as a result of these works.

C1.3 View Sharing

The proposed works will not change the view lines of neighbouring properties.

C1.4 Solar Access

The proposed works will not change the solar access of the existing residence on the site, nor of neighbouring properties.

C1.5 Visual Privacy

The proposed works will not impact on the visual privacy currently enjoyed by the existing residence on the site & neighbours.

C1.6 Acoustic Privacy

The proposed works will not impact on the acoustic privacy currently enjoyed by the existing residence on the site & neighbours.

C1.7 Private Open Space

This control is not applicable to this development.

C1.8 Dual Occupancy Specific Controls

This control is not applicable to this development.

C1.9 Adaptable Housing and Accessibility

This control is not applicable to this development.

C1.10 Building Facades

No stormwater, sewer, gas, electrical or communication services are proposed for these facades.

C1.11 Secondary Dwellings and Rural Workers Dwellings

This control is not applicable to this development.

C1.12 Waste and recycling facilities

Waste & recycling facilities are to remain as existing.

C1.13 Pollution Control

This project will be designed, constructed and maintained to prevent any threat to air, water, noise or land pollution.

C1.14 Separately Accessible Structures

This control is not applicable to this development

C1.15 Storage Facilities

This control is not applicable to this development, although the purpose of the boat shed is to store boats.

C1.16 Development Ancillary to Residential Accommodation - Tennis Courts

This control is not applicable to this development

C1.17 Swimming Pool Safety

The proposal does not seek to alter any elements of the pool or pool fencing and remain existing.

C1.18 Car / Vehicle / Boat Wash Bays

This control is not applicable to this development

C1.19 Incline Passenger Lifts and Stairways

This control is not applicable to this development

C1.20 Undergrounding of Utility Services

This control is not applicable to this development

C1.21 Seniors Housing

This control is not applicable to this development

C1.23 Eaves

Eaves will be incorporated into the boatshed roof form to reflect the coastal heritage & character of Pittwater.

C1.24 Public Road Reserve - Landscaping and Infrastructure

This control is not applicable to this development

C1.25 Plant, Equipment & Lift Over-Run

This control is not applicable to this development

SECTION D Locality Specific Development Controls - Bilgola

D3.1 Character as viewed from a public place

The bank & the spotted gums dominate the elevations as viewed from Pittwater. The boatshed is relatively small in comparison. The view is dominated by natural features.

Furthermore, the proposed materials, textures & finishes are to match & complement the local material palette. The new built form is designed to complement the local natural environment & surrounding built forms. Building bulk & scale is kept to a minimum to maintain the dominance of the existing natural landscape.

D3.2 Scenic Protection - General

The proposed works have been designed to integrate with the existing natural environment, to preserve the character of the locality.

D3.3 Building Colours and Materials

Colours will be natural and earthy & natural textures & material selection will be used to harmonise with the existing environment. The structures are not visible from the street.

D3.6 Front Building Line

This control is not applicable to this development.

D3.7 Side & Rear Building Line

This control is not applicable to this development.

D3.9 Building Envelope

The design of the boatshed form will reflect the character of the locality & bulk & scale will be minimised.

D3.10 Landscaped Area - General

This control is not applicable to this development – the site landscaped area will remain as existing.

D3.11 Landscaped Area – Environmentally Sensitive Land

This control is not applicable to this development - the site landscaped area will remain as existing.

D3.12 Fences - General

This control is not applicable to this development.

D3.13 Fences - Flora & Fauna Conservation Areas

This control is not applicable to this development

D3.14 Construction, Retaining Walls, Terracing and Undercroft Areas

This control is not applicable to this development

D3.15 Scenic Protection Category One Areas

This control is not applicable to this development.

SECTION D Locality Specific Development Controls - Waterways Locality

D15.1 Character as viewed from a public place

The adjoining sites are dominated by landscape, the maritime structures are designed to maintain & enhance the character of the area. The scale of the structures are minimised, substantial eaves are provided to articulate the form, & finishes are selected & proposed to address the natural context of the local environment.

Montage images have been provided with this submission, to illustrate the proposed structures & the intent for them to enhance the waterway & the local natural environment.

D15.2 Scenic protection - General

The proposed structures have been designed to maintain & compliment the visual character of the area, to not distract from the local environment. Montage images are included with this application to demonstrate that the development is sensitive to the existing visual character of the area.

D15.3 Building colours & materials

Natural materials & colours have been selected to harmonise with the existing environment & minimise visual prominence. A montage image has been provided with the submission, along with a schedule of proposed materials & finishes.

D15.6 Front building line

This control is not applicable to this development.

D15.7 Side & rear building line

This control is not applicable to this development.

D15.10 Fences

This control is not applicable to this development.

D15.11 Waterfront lighting

Lighting will be selected to provide safe access to & around the structures, without creating navigation hazards or substantial reflection off the water.

D15.12 Development seaward of mean high-water mark

The boatshed & concrete jetty that were originally on the site, were located partly above the mean high-water mark, it is intended that these locations will be re-instated with the proposed structures. The other structures, that are proposed seaward of the mean high-water mark, include timber jetty, steps, ramp & slipway rails that are in place to provide access to & from boats.

A study has been carried out on the impacts on estuarine habitat, vegetation & shoreline, by Royal Haskoning DHV, a "Coastal & Marine Damages Assessment", which accompanies this submission.

D15.13 Lateral limits to development seaward of mean high-water mark

The new development will be located in similar positions to the previous structures.

D15.14 Minimum frontage for waterfront development

The proposed development occupies the same unit of land as that which it replaces.

D15.15 Waterfront development

a) Jetties, Ramps and Pontoons

The new jetty, steps & associated piles will replace a previous jetty & steps, in a similar, but improved layout, size & construction. This submission is accompanied by a report by Royal Haskoning DHV, a "Coastal & Marine Damages Assessment". There is no mention of vegetation in the area. The site consists mainly of natural beach & rock platform.

b) Berthing Areas

The berthing area will be replaced in a similar layout to the original licenced area. The berth is parallel to the mean high-water mark, does not extend seaward of any related structures, it does not impinge on adjoining neighbours, nor create a navigation hazard, and enjoys substantial water depth.

c) Boatsheds

The boatshed will be rebuilt in a similar location & footprint to the original structure that was on site, which enjoys existing use rights. The new boatshed will be built from new improved materials & finishes which are low maintenance, & sympathetic to the natural surrounding setting. Montage images which illustrate the previous boatshed, & the new proposed structure, demonstrates the visual improvements. The floor level of the new boatshed will be RL 1.72, which is approximately 220mm higher than the original building floor level, to raise it above the Estuarine Planning Level.

d) Slipways & Launching Ramps

The ramp & slipway rails will be rebuilt in a similar location to the previous structures in a similar layout. They do not detract from the visual character of the foreshore, nor effect marine vegetation.

e) Piles

Piles will be rebuilt in similar locations to the previous structures, in compliance with the guidelines set out in the table which is included within this control, & in consultation with a structural engineer.

CONCLUSION

This submission seeks consent for a development application for the reconstruction of the marine structures that have lawfully existed on the site since at least 1947.

The prior structures were dilapidated and not in keeping with the desired character of the area whereas the new structures, while similar in scale, form and configuration are proposed to be of far higher quality natural materials that will blend with the landscape background at a distance while being of high aesthetic value at close range.

The proposed uses are not currently permitted in the zones; however, based on the advice of lan Hemmings SC the proposed structures benefit from existing use rights.

Under Part 5 of the Environmental Planning and Assessment Regulations 2000, development enjoying existing use rights, may be expanded, altered, intensified & rebuilt so long as the development does not expand beyond the unit of land that was available to it immediately prior to the use becoming prohibited.

The proposal does seek to straighten the former random extent of the development to the south and to otherwise make minor adjustments to the elements to meet contemporary standards and functions. None of these adjustments extend beyond the unit of land which was defined by the prior development.

While the uses may be currently prohibited the proposed development have been assessed with reference to the objectives of both the Pittwater 21 Development Control Plan & the Pittwater Local Environmental Plan 2014 and the proposal was found to generally meet those objectives.

In addition, the rebuilding of the structures will not negatively affect the amenity of any neighbouring dwellings, the general public or the natural environment.

Conversely the failure to consent to the reconstruction of the prior structures will continue the current negative aesthetic and environmental outcomes that have ensued from the stoppage of the works.

We seek Councils support and request that this application be viewed favourably.

APPENDICES

MAPS



Figure 2. PITTWATER LAND ZONING MAP

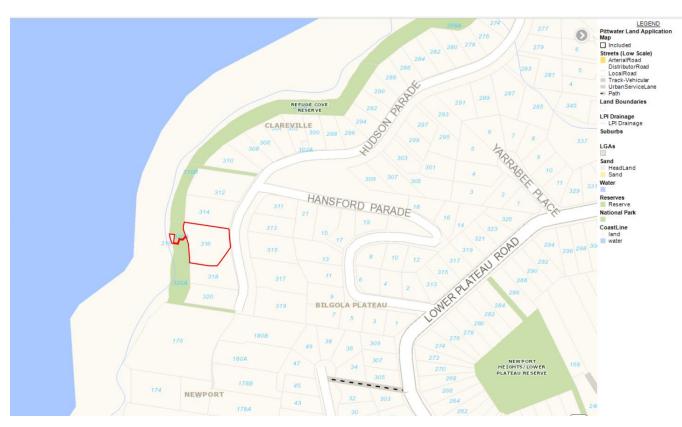


Figure 3. PITTWATER LAND APPLICATION MAP

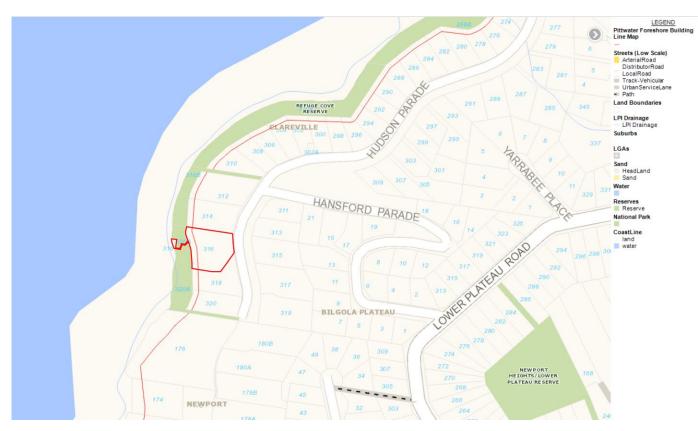


Figure 4. PITTWATER FORESHORE BUILDING LINE MAP

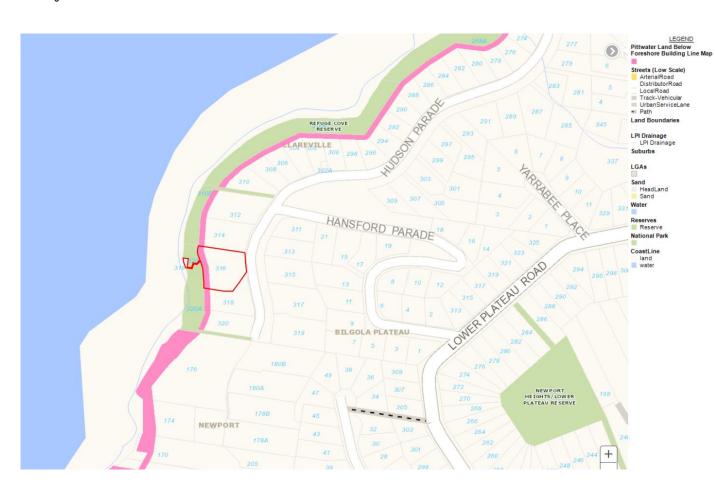


Figure 5. PITTWATER LAND BELOW FORESHORE BUILDING LINE MAP



Figure 6. PITTWATER HEIGHT OF BUILDINGS AREA MAP

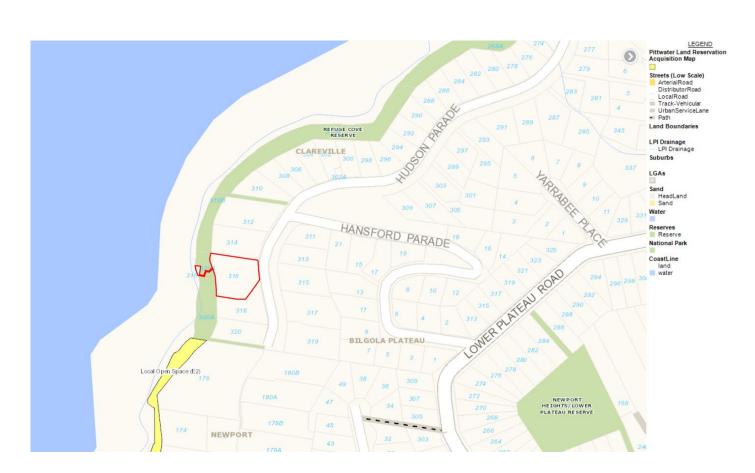


Figure 7. PITTWATER LAND RESERVATION ACQUISITION MAP



Figure 8. PITTWATER HERITAGE MAP



Figure 9. PITTWATER ACID SULPHATE SOILS MAP

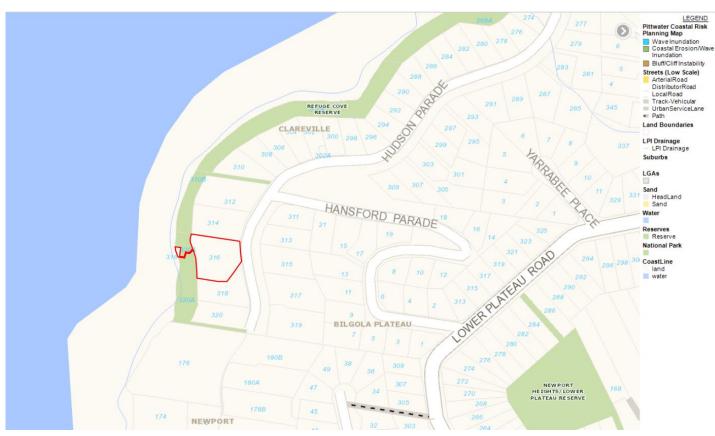


Figure 10. PITTWATER COASTAL RISK MAP

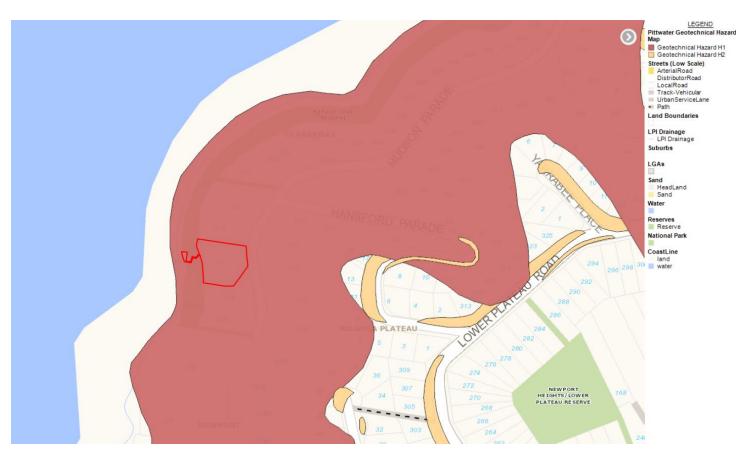


Figure 11. PITTWATER GEOTECHNICAL HAZARD MAP



Figure 12. PITTWATER BIODIVERSITY MAP

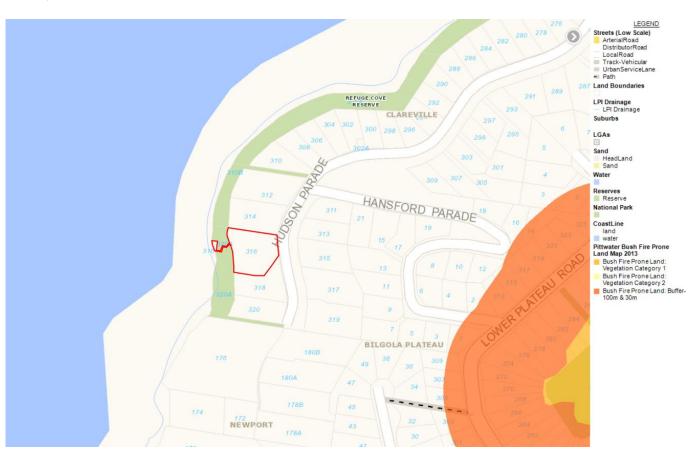


Figure 13. PITTWATER BUSH FIRE PRONE LAND MAP



Figure 14. NORTHERN BEACHES COUNCIL FLOOD HAZARD MAP



Figure 15. NORTTHERN BEACHES COUNCIL LANSCAPED AREA MAP

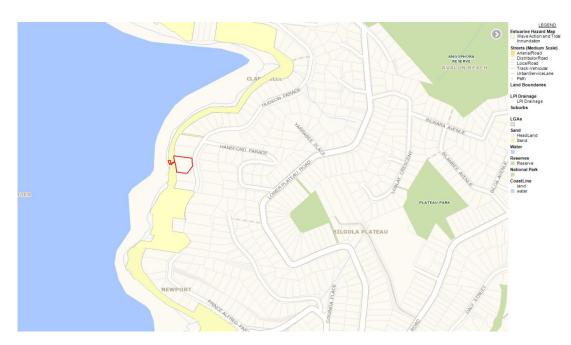


Figure 16. PITTWATER BUSH FIRE PRONE LAND MAP