

Dear Hon. Brad Hazzard MP

Please find attached our concerns with the proposed draft 2013 Sutherland Shire LEP.

We have provided a detailed letter covering our concerns on the process used by council in determining the impact of the LEP on our property with regard to both the proposed LEP changes under the mayoral minute and what occurred in the 2006 LEP that has placed us in the position we find ourselves in today.

Also attached are supporting items to confirm to you that we believe there has been a major failure of council to properly disclose to private property owners what is taking place and that councillors have a duty of care to make property owners fully aware of changes that have a direct impact on their property.

It appears to us that the heritage issues we face have been a closed door affair and cannot help but feel there are personal agendas impacting the proper process that should apply in such circumstances.

We appreciate your time and effort into looking into this matter and would be happy to discuss or supply any information to clarify the comments made in our address.

Kinds Regards

A black rectangular redaction box covering the signature of the sender.

[REDACTED]  
[REDACTED]  
[REDACTED]

Hon Brad Hazzard MP

NSW Depart. Planning & Infrastructure

PO Box 39 Sydney NSW 2001

RE: Sutherland LEP Review – **“IN CONFIDENCE”**

Dear Mr Hazzard,

My address to your department is in relation to a heritage listing placed on the 17 properties at Crammond Ave Bundeena and the proposed change to extend the current heritage listing from the rock platform/cliff face up to and inclusive of the 20 metre foreshore building line, of which we are one.

I would like to point out that I have no experience around planning, development or legal matters – I am not aligned with any political group or have any hidden agenda other than standing up for what I believe is right and what is fair. Unfortunately these values do not appear to align with the process used to develop the draft 2013 LEP and the previous 2006 LEP where the owners of Crammond Ave are concerned. This comment will be supported by facts and will be outlined in this letter.

The position we find ourselves in today is a direct result of the precedent set by the draft 2003 LEP that was Gazetted on the 29<sup>th</sup> of November 2006 and that is a lack of direct communication between council and affected property owners.

The 2006 LEP encumbered properties 1-49 with a heritage listing. Lots 1 to 15 were once privately owned however kindly donated to the public and today it is a public reserve. The remaining 17 lots are privately owned properties. The

heritage listing occurred on the private properties without our knowledge and without our consent. At no time where we ever consulted directly during the draft process for such a major item to impact personal property and encumber our property title.

Council only published/distributed information of a general nature to all residents and the only direct correspondence received from council was a letter dated **24th November 2003** and is attached for your reference (**Attachment 1**).

This letter addresses the **"primary changes that affect your property are explained in this letter"** - no reference was made to a proposed heritage listing or mentioned that a covenant would be placed on our land and recorded on our title deed. This letter provided sufficient comfort for us not to explore the draft LEP any further given the information contained therein.

I therefore ask the question – is this fair and reasonable?

As a consequence, the proposed heritage listing proposed for Cabbage Tree Point headland incorporated the personal properties along Crammond Ave with the headland and was gazetted without a challenge from landowners because we did not know about it under the proposed LEP heritage listing at the time.

During the course of 2004/2005 my husband and I applied to Council for DA to demolish and construct a new residence which was approved on the 19<sup>th</sup> October 2005. The approval contained no reference to the draft LEP in regard to stormwater control over the proposed heritage listing of the cliff face. Council are known to refer to draft plans when assessing DA's but did not on this occasion.

On the 10<sup>th</sup> of November 2006 we had our property valued for mortgage purposes – Refer **Attachment 1A**. The report refers to a number of aspects that could affect property values – in this case, I highlight the Heritage Issue category of the report. The valuer response was “**None Known**”.

Would this Heritage listing have affected the valuation given?

On the 7/12/06 we lodged DA for pedestrian access to our waterfront (one week after new LEP in place).

We received a letter dated 8/12/06 from Council stating that our land had a Heritage Listing, for council to consider our application further, we need to provide a heritage impact statement by a suitable experienced practitioner.

The heritage report was prepared by Warrick Mayne Wilson a Heritage Consultant and key witness at a significant cost to us and we provided the report to council in 2007 as requested – refer **attachment 1B**.

In this report Warrick states amongst other things:-

1)

**“No SHI form was prepared at the time of nomination, nor since, so that the particular values or criteria on which the nomination was made are not available.”** In other words the impact of the stairs could not be assessed because no evidence for the reasons of the heritage listing was recorded with council.

2)

**“the presence of other staircases down the cliff face and occasional boatsheds, ramps and seawalls. These have already established a cultural landscape character to Cabbage Tree Point. (in other words, the sandstone cliff-face is by no means ‘pristine’).**

Council declined the application.

We made an approach to some of our neighbours about the heritage listing and they advised that they knew nothing about the heritage listing. From our investigations, council advised us that the Bundeena Progress Association had nominated "***Cabbage Tree Point Headland***" to be heritage listed in the draft 2003 LEP. How this nomination extended to capture personal properties along Crammond Ave remains a mystery. **Attachment 2** is an article extracted from the Sutherland Shire Leader in 2007 and refers to the chairperson of the Bundeena Progress Association, Neil Dennett who states that that the Bundeena Progress **“Association had no objection to the stairs, and was concerned about the unintended ramifications of the heritage listing”** and **“We mainly intended the heritage listing to apply to the public land on the headland.”**

We would also like to add that the Bundeena Progress Association had no authority to act on our behalf on such major matter – On what authority they acted, I do not know. Nor did they seek our input.

The application went to full council and was declined.

The application went to IHAP and was declined on the 5<sup>th</sup> June 2007.

IHAP's review recommended Sutherland Council to properly document the reason behind the Heritage listing so that future DA could be properly assessed which states the following:-

**"the criteria upon which the listing was based was not fully explained. In those circumstances it is difficult to assess the impact of the development on the heritage significance of the item. The Panel recommends that the criteria for listing of the item be fully documented for future reference so that applications can be assessed in the light of that criteria and further information."**

The report known as LF27 was created on December 2008 as a result of our IHAP hearing but we were never made aware of its existence and is referred to later in this address.

I question the integrity of council in the way in which this process of heritage listing has been handled and concerned why property owners were never contacted directly for consultation.

After 4 design changes to our application we rec'd approval on the 8/4/09 over two years later.

My point here is that the Pedestrian access is/was a complying development and permissible under the existing code subject to Council approval, yet the heritage listing created a whole new level of compliance that is very subjective by the assessing officer. The enormous amount of red tape, cost and time was abundantly apparent and unnecessary especially when the existing LEP & proposed LEP have in place a strong and effective set of guidelines, standards and policies under the waterfront development code and the 20 metre set back rules.

On the 15/3/13 we rec'd a general letter from Mayor Johns notifying us that the 2013 draft LEP was on exhibition.

During the exhibition period we uncovered a report known as LF27 – Heritage Assessment of Cabbage Tree Point Landform, dated December 2008, prepared by Claudia Miro, Heritage Architect for Sutherland Council. Refer **Attachment 3**.

This report was prepared without the involvement of any of the property owners affected on Crammond Ave and we were not provided a copy of the report or advised of its very existence. It was by chance we found the report due to our research around the potential implications with the draft 2013 LEP being proposed.

I would like to remind the department of planning that this report (LF27) was created after the heritage listing.

On review of the LF27 report, it raised serious questions about the recommendation made in the report, that all man-made structures should be removed – refer page 15 of the report. The report failed to address the implication and impact of such measures to property owners.

With this information we sent an email to council outlining our concerns on 1 May 2013 see **attachment 4**. Council acknowledged the email but did not provide a response to our concerns.

On the 15th August 2013 we received a letter from the Mayor Johns **stating that the heritage listing would be amended and extended to correspond with the foreshore building line stating** and would be on exhibition from 20/8/13 to 17/9/13 – refer **Attachment 5**

We note the idea to have the heritage boundary correspond to the foreshore building line *became one of 75 late changes made to the draft 2013 LEP by Mayoral Minute 06/13-14 of 29 July 2013*. This proposed amendment was not referred to in the LF27 heritage report. We received no information or the opportunity to have an input as to why our properties would be further encumbered and restrict the right of usage and enjoyment of our land.

I contacted the Sutherland Council by phone about the proposed heritage amendment letter to ask what this meant. I also told them I had no reply from my email dated 1/5/13 and was referred to the website where a response to submissions is addressed (lucky I called) – refer **attachment 5A**.

This response contains significant and important information that should have been directly provided to the property owners and not just a website posting. Most neighbours (including those that signed a petition) did not know the response existed.

I therefore question the process of handling delicate and important information in such a general manner. It is very concerning where questions are raised by individuals on changes that impact directly on their property that a written reply is not provided and this needs to change.

The website response states that the existing legal structures will remain however contradicts the LF 27 heritage report recommendation. The word legal is also subjective as the LEP code keeps changing and the heritage aspect only clouds the issue on everything that exists in your backyard.

We believe there was a failure by council to recognize the complexity of this issue despite the potential significant impacts on private land owners in Crammond Avenue, Bundeena and the process was carried on behind the scenes without an opportunity for direct consultation with property owners.

This boundary change and associated processes are in direct contradiction to the view expressed by the recently completed *Sutherland Shire Community Based Heritage Study Review* that the complexity of the situation must be taken into account. As per Council's website response, the Heritage Study Review recognized that increasing the extent of the heritage curtilage will entail "complex political, legal and financial implications and is probably no longer feasible".

We submitted a letter of objection to the proposed amendment on 10 September 2013 - **see attachment 6.**

Council responded on the 13/9/13 acknowledging our letter **but failed to address our concerns or provide any consultation** – refer **Attachment 6A.**

To our knowledge council has **not published a response to the amended draft 2013 LEP concerns raised.**

With regard to "**The recently completed Sutherland Shire Community Based Heritage Study Review**" although it is referred to in the council's website, response to concerns, we cannot find a copy of the actual review.

With reference to financial implications I would like to refer to **attachment 7** which is a response from council to our neighbor **on the 7<sup>th</sup> of November 2013** stating **“current Planning legislation does not address the effect of heritage listings on land values”**.

In conclusion:-

We have not been provided with any reason why the council is increasing the heritage listing up to the 20m foreshore building line **rather than** relying on existing foreshore building codes.

There is nothing of heritage significance that we are aware of in existence on private property nor is the landscape pristine native vegetation.

Numerous properties already have decks, boat sheds, retaining walls, stairs, lawns, landscaping and other structures below the foreshore building line. What are the implications for these in the future ? Council has not addressed the future impact of this heritage listing for private land owners to be able to enjoy the use of the land without having to report to “big brother” on what appears to be any little detail you carry out in your backyard.

It does not consider the impact on land values, property marketability given our title deed has a covenant or address any compensation for the negative this will have.

The heritage listing should never have encumbered private owners from the beginning when the apparent reason for the listing was for the headland only where “Pulpit Rock” and the undeveloped headland (lots 1 to 15) remain in their natural state.

Finally and to clarify, we ask State Planning to consider our position and how council has failed with its obligation to involve property owners in the process where the impact is of a major nature to individual properties.

The experience has been completely undemocratic and request the following.

- 1) The proposed amendment to the heritage listing under the draft 2013 LEP be estopped on the grounds that it is not justified, inequitable, lacks owners consent, fails to recognise the rights and future implications for land owners and does not address the impact of land values or compensation.*



- 2) *We request the heritage listing only apply to the original public headland of cabbage tree point apparently requested by Bundeena Progress Assoc.*
- 3) *Rescind/Release the heritage listing on private land owners along Crammond Ave created in the 2006 LEP .*
- 4) *Address the process in which Council has handled this matter as all the evidence suggests that Council lacks proper process when implementing changes where it directly affects personal property."*

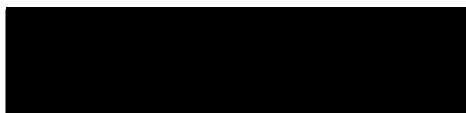
Yours Faithfully



13/2/14

LEP Hotline 9710 0800  
File Ref: 03/00609

24 November 2003



Administration Centre  
4-20 Eton Street  
Sutherland NSW  
Australia

Please reply to:  
General Manager  
Locked Bag 17  
Sutherland NSW 1499  
Australia

Tel: (02) 9710 0333  
Fax: (02) 9710 0265  
DX4511 SUTHERLAND  
Email: [ssc@ssc.nsw.gov.au](mailto:ssc@ssc.nsw.gov.au)  
[www.sutherland.nsw.gov.au](http://www.sutherland.nsw.gov.au)  
ABN 52 018 204 808

Dear Sir/Madam

**Sutherland Shire People's Plan**

**Re: Your Property at 33 Crammond Avenue BUNDEENA NSW 2230**

\* Draft changes to controls for waterfront development were recently exhibited as part of Draft Sutherland Shire People's Plan. Many people raised concern about the proposed amendments to the foreshore building line, a sliding scale for floor space limits and landscaped area requirements, and how these changes may affect development of waterfront land. However, many residents were also concerned about overdevelopment, protecting and enhancing the natural environment and improving the visual appearance of development. After examining the submissions in detail council has made numerous changes to the plan. The primary changes that affect your property are explained in this letter. \*

Some zone names have been changed in the amended plan. The Environmental Housing (High Risk) zone is now named the Environmental Housing (Environmentally Sensitive Land) zone and the Environmental Housing (Low Risk) zone is now named Environmental Housing (Scenic Quality) zone.

A foreshore building line applies to all waterfront lots and some lots adjacent to waterfront land. The foreshore building line is indicated by a black line on the zoning maps at a distance specified from mean high water mark (MHWL).

[ The area between MHWL and the FBL does not permit access by the general public on to private land. Buildings or works must not be carried out below the FBL. However, some small scale development is permissible between MHWL and the FBL including: boatsheds, watercraft facilities, swimming pools, pedestrian access, landscaping and barbeques subject to development consent. New dwellings alterations and additions must be located behind the FBL. The aim of this control is to protect the amenity of the area and retain and promote a natural landscaped appearance to the water.

Council may require the removal of buildings or works (other than those permissible) below the FBL, when it determines a development application on any land affected by a FBL. This provision is also part of Council's current plan, SSLEP2000. Essentially, the objectives of this control are to restore the natural state of land adjacent to the foreshore and minimise the number of structures below the foreshore building. However, in order to give certainty to recently approved development, the amended plan makes provision for structures or work below the FBL approved since 1 September 1995 to remain.

The FBL currently ranges in width between 7.5metres and 30metres. The draft People's Plan exhibited earlier this year, increased some foreshore building lines. 444 properties, or 13.9% of all properties with a FBL, were subject to an increase under the exhibited plan. In response to community concern, Council has undertaken a complete review of the foreshore building line along the Georges River, Port Hacking and the Woronora River. The review was based on constraints to development, including scenic quality, topography and slope, Greenweb, and bushfire. As a result of the review 101 properties were excluded from the proposed changes. Your FBL has remained the same, in relation to the existing adopted foreshore building line.

Floor space ratios and minimum landscape areas are a quantitative way of controlling a building's bulk and scale. The floor space ratio (FSR) sliding scale for waterfront land has been reviewed in response to submissions received. A revised sliding scale reinstates a gross floor area of 0.4:1 for lots smaller than 850 sq.m. and reduces the impact on the amount of floorspace that can be achieved on larger blocks. Consequently, the affect of the sliding scale has been reduced on large lots.

The landscape area requirement has also been revised to reflect the amended floor space ratio sliding scale. The amended requirement introduces a sliding scale, with the required landscaped area ranging from 45% for lots smaller than 850sq.m to between 55% and 70% for larger lots.

Further details relating to these changes are provided in the Frequently Asked Questions relating to the People's Plan on Council's web page. For further information you are advised to consult the amended Sutherland Shire People's Plan, on exhibition from 1 December 2003 to 16 January 2004, at Council's Administration Centre and Council Libraries. The plan is also available at Council's web page located at [www.sutherland.nsw.gov.au](http://www.sutherland.nsw.gov.au). Submissions close on 16 January 2004. Submissions should be marked File Ref: 03/00609. Should you require any further information please contact the LEP hotline on 9710 0800.

Yours faithfully



M Carlon  
for J W Rayner  
General Manager

## Attachment 1A

**API**  
PropertyPro  
Pro-forma Report

Payne Pacific Valuations P/L

COPY

Property Analysts and Valuers  
RESIDENTIAL VALUATION and SECURITY ASSESSMENT for Mortgage Purposes

\* Organisation/Lender: Westpac \*  
Business unit: Attention:  
Postal Address:

Fax/E-mail to: VMS  
Branch: Sales Support Unit - 2

Borrower: Ryan

Loan Ref: 464144452232  
Our Ref: W34938

## 1. PROPERTY SUMMARY - Vacant Land

Encumbrances/Restrictions: None disclosed or evident. Please notify valuer if searches reveal otherwise.  
Site Dimensions: 12.19/MHWM x 48.77/45.72  
ZONING/INSTRUMENT: Residential 2(e2) + FSPA Sutherland LEP  
MARKETABILITY: Good  
ENVIRONMENTAL ISSUES: None apparent

Site Area: 592m<sup>2</sup>

LGA: Sutherland

\* Heritage Issues: None known \*

The property comprises vacant land devoid of any significant improvements

## 2. RISK ANALYSIS

\* MUST "comment" overpage on any 4 or 5 Risk Ratings, or if three or more "3" Risk Ratings

## Property Risk Ratings

Location && 2  
Land (incl. planning, title): 2  
Environmental Issues: 2  
Improvements:

Market Risk Ratings  
Reduced Value next 2-3 yrs: 3  
Market Volatility: 3  
Local Economy Impact: 2  
Market Segment Conditions: 2

\* Risk Ratings: 1 = Low, 2 = Low to Medium, 3 = Medium, 4 = Medium to High, 5 = High

## 3. VALUATION &amp; ASSESSMENTS

Interest Valued: Fee Simple vacant possession

## Other Assessments

Value Component Existing Property

Rental Value Unfurnished: N/A

Land: Land: \$1,150,000

Replacement Insurance: N/A

Improvements: Improvements: \$0

Market Value: Market Value: \$1,150,000 (One million one hundred and fifty thousand dollars)

Rec. Documents to Sight: Title Search and Deposited Plan are unsighted  
I hereby certify that I personally inspected this property on the date below and have carried out the assessments above as at that date. Neither I, nor any member of this firm, has any conflict of interest, or direct, indirect or financial interest in relation to this property that is not disclosed herein.  
This report is for the use only of the party to which it is addressed and its mortgage insurers for mortgage purposes and is not to be used for any other purpose. No responsibility is accepted or undertaken to third parties in respect thereof. This report does not constitute a structural survey.  
This report is made in accordance with the Australian Property Institute (API) Residential Valuation and Security Assessment Pro-forma Supporting Memorandum dated 8 May 1998 and must be interpreted with that Memorandum.

Valuer: Glen Hamilton

Qualifications/Reg. #: GAPI, AICV & Com (Land Ec) Reg. 8021  
Inspection & Valuation 18 September 2006

Firm: Payne Pacific Valuations P/L

Address: Shop C, 84-86 Cronulla Street Cronulla NSW 2230  
Phone: 0295440000 Fax: 0295239225  
Mobile: Firm: ID No. 1234  
Email: payne.pacific@paynepacific.com.au

Signature:

Valuer's File Reference: W34938

Authorised for Issue By:



B7537034



**HERITAGE & VISUAL IMPACT ASSESSMENT  
OF  
PROPOSED STAIRCASE ON CLIFF FACE  
AT**



**Prepared for**



**by**  
**Mayne-Wilson & Associates**  
Conservation Landscape Architects  
Paddington NSW 2021

February 2007

## 1. Introduction and Purpose

As part of their residential redevelopment at [REDACTED] have sought Council approval through DA06/1419 to have a staircase constructed on the subject site from the upper level down the cliff face to the area of rock platform below. There is currently a residence under construction on the subject site.

The purpose of this report is to provide my expert opinion on the impact of the proposed access stairs on the heritage-listed cliff face as nominated under SSLEP 2006.

The proposed staircase would be wholly within their property on Cabbage Tree Point, which is bounded on the north by the high water mark on the southern shore of Port Hacking. It would be an ancillary development to the residence, and would constitute a pedestrian access forward of the Foreshore Building Line.

The sandstone formations of the headland at Cabbage Tree Point (fronting 1-49 Crammond Avenue) are, however, listed as item Lf27 in the Heritage Schedule to Sutherland Shire LEP 2006. The listing adds that "at base of headland, sandstone rock shelf provides public access". For that reason, Council in its letter of 8 December 2006 advised that "a heritage statement prepared by a suitably experienced practitioner will be required to be submitted". The report should "provide details in relation to how the visual amenity of the rock will be maintained, as well as detailing if any damage is likely to be caused to the rock as a result of the construction and fixing of the stair to the sandstone surface".

In accordance with this requirement, the Building designer for this project, Mr John Hatch of JMH Living Design, engaged Warwick Mayne-Wilson, Director of Mayne-Wilson & Associates, Conservation Landscape Architects, to prepare the requested heritage impact statement. This report is therefore provided in accordance with that engagement. A brief resume of Mr Mayne-Wilson's qualifications and experience is attached as Appendix A.

## 1.2 The Study Area

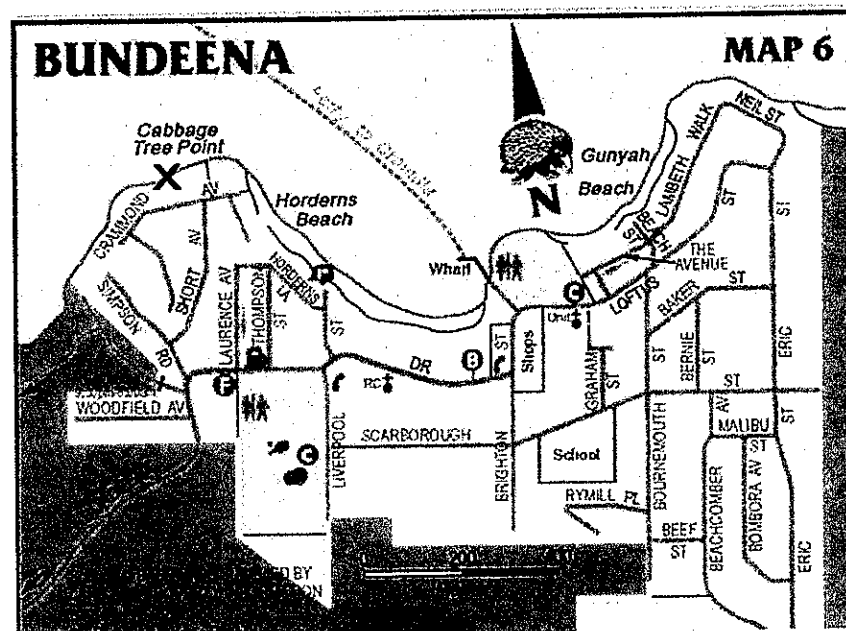


Fig. 1 The site of the proposed staircase is indicated by the red cross. Source: Land & Property Information, NSW

### 1.3 Methodology

The author visited the site on 22 December, in the company of the building designer, and inspected and photographed the cliff face from the rock platform between the high water mark and the bottom of the cliff. He also recorded the environs of the site, including other sectors of the cliff face on which stairs from nearby lots down to the rock platform had already been built. It was noted that a few boatsheds and slipways were also present along the water's edge. The top of the cliff was then inspected and recorded, and discussions held with the owner and designer.

Concurrently, the heritage aspects of the listing were examined, with a view to determining the values for which the sandstone cliff headland had been assessed as having heritage significance. The physical evidence was then compared with that information. Next, the client's proposals for the stairway were examined against the significance criteria, and an assessment made as to whether they would have an adverse impact on that significance. As no significant adverse impacts were identified, however, no mitigating measures needed to be proposed.

### 1.4 Authorship

This report was prepared by Warwick Mayne-Wilson, Director of Mayne-Wilson & Associates.

### 2.0 Physical Characteristics

The site is a segment of the Cabbage Tree Point headland which faces northward, addressing distant Cronulla across the broad reach of water of Port Hacking.

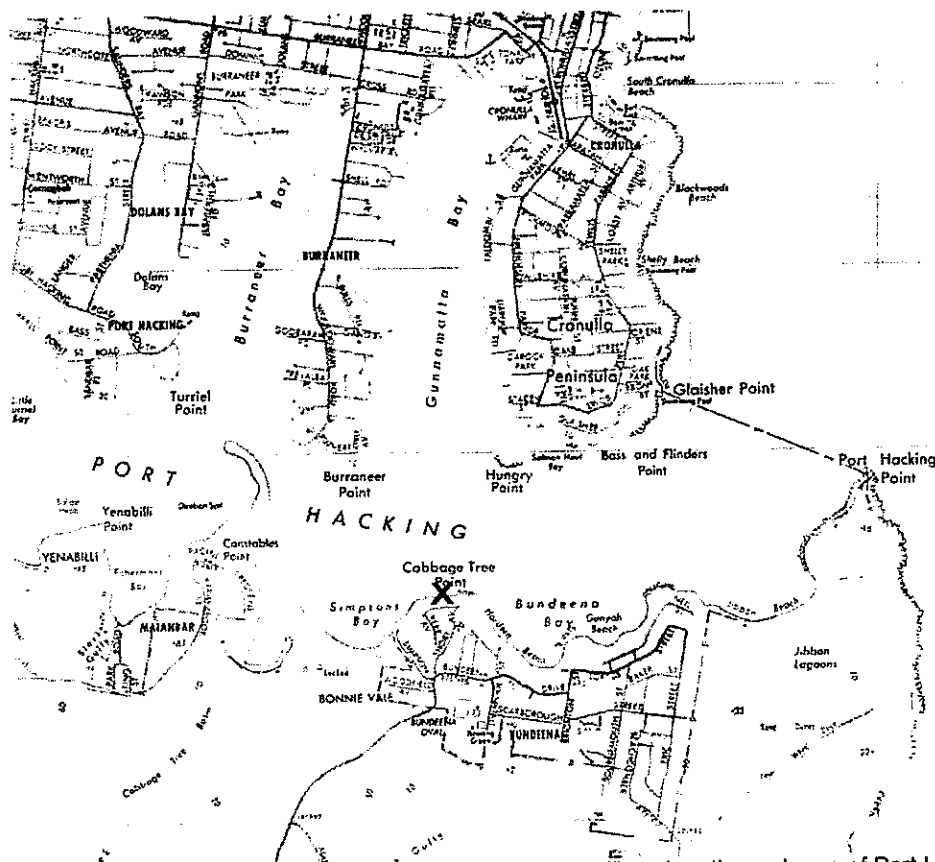


Fig. 2 Note the broad reach of water between the site (marked 'X') and northern shores of Port Hacking

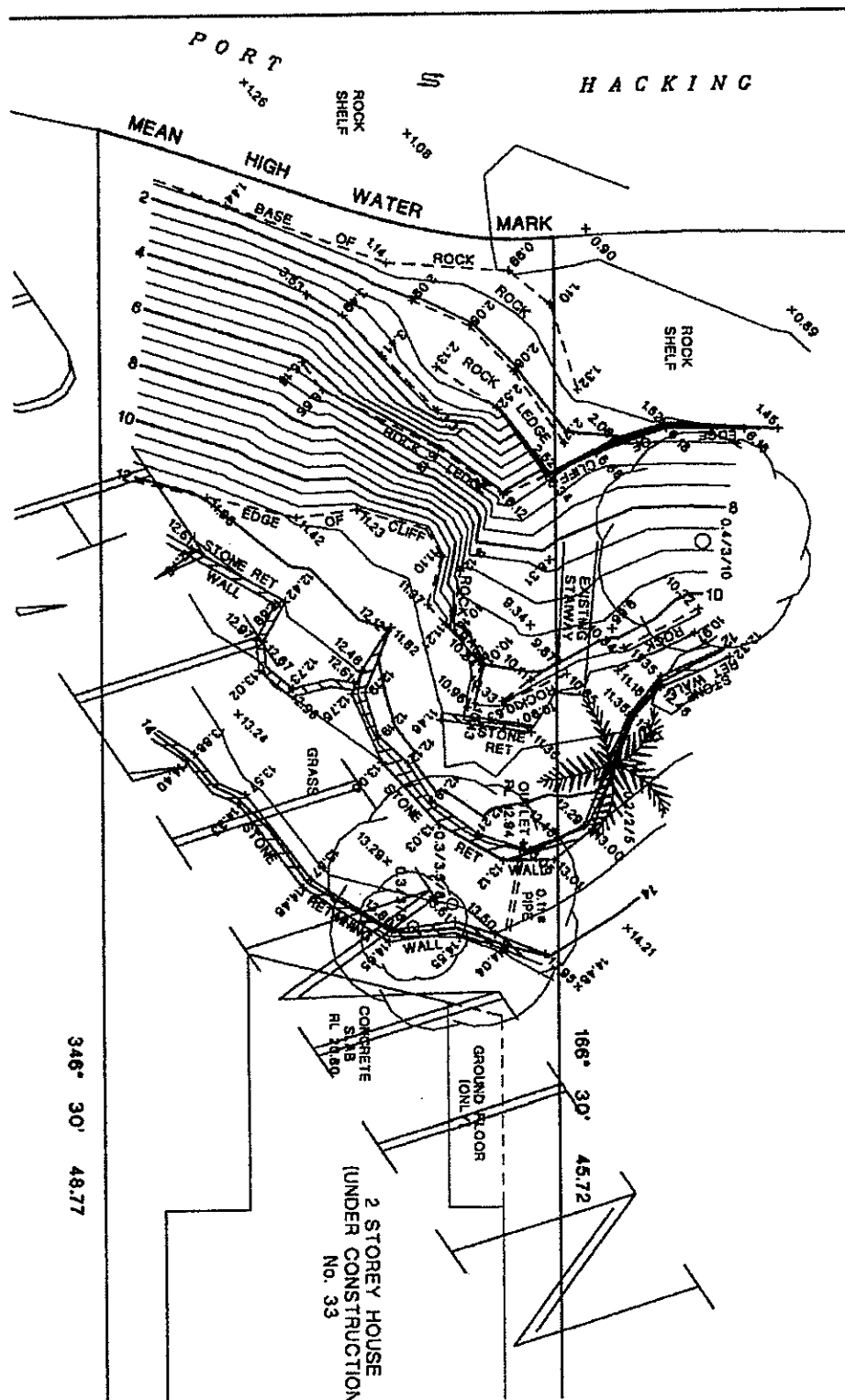


Fig. 3 The northern part of the site plan for [REDACTED] showing details of the gully down the cliff face. It is into this that it is proposed to insert the new staircase. Plan by Bottaro de Nett 23.1.2007



As the images below show, at high water, the sea laps close to the bottom of the cliff, which limits pedestrian access around the headland at that time.



Fig. 4 The cliff base at low tide. Photo JMH



Fig. 5 The cliff base at high tide. Photo WMW



Fig. 6 Closer view of the gully in the cliff face. The incised 'V' shape of the gully is clearly evident.

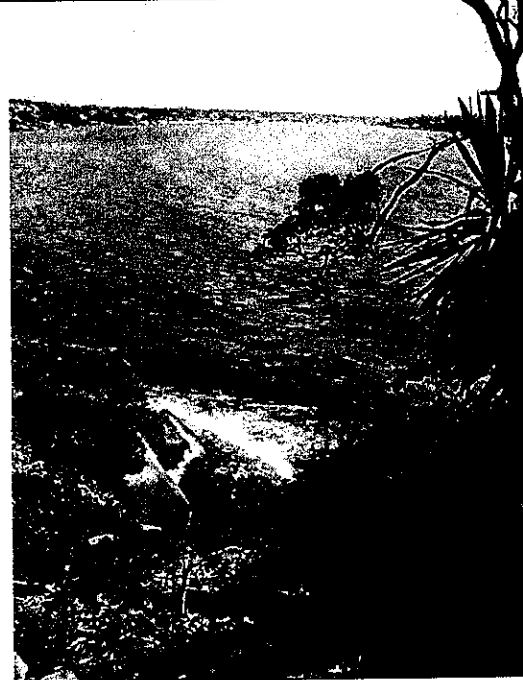


Fig. 7 The gully down the cliff face, seen from above. Note the long reach to Gunnamatta Bay (top).



Fig. 8 Old inclinator (?) rail (centre) down the gully, installed on the adjacent property decades ago



Fig. 9 The terraced cliff top, seen from the east.

The rock of the headland is typical Hawkesbury sandstone with some iron mineralisation causing orange-brown staining in parts. The vegetation is a mixture of weeds (garden escapes) plus some recently regenerated *Casuarina glauca* and Eucalypts typically present on Hawkesbury sandstone locations close to the sea. An old Norfolk Island Pine is also present, but behind the foreshore building line and well away from the proposed staircase. It is a typical cultural planting in a seaside location, and has no particular heritage significance.

Along the seashore, on either side of the [redacted] lot, are other staircases giving direct access to the narrow beach/rock platform. As the photographs show, these have been inserted skillfully onto the cliff face, and being a weathered grey colour, blend readily into the scene.



Fig. 10 Examples of neighboring staircases down the cliff face, which are not visually intrusive.

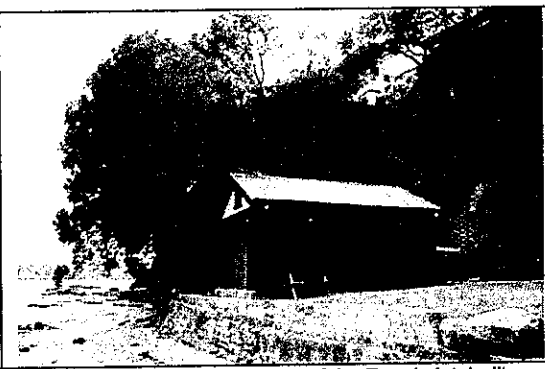


Fig. 11 A boatshed to the west of the Ryan's lot, built on a platform retained by a stone and concrete seawall.

### 3.0 Heritage Considerations

It is understood that the headland was nominated by a number of members of the Bundeena community as a landscape formation which they valued for its natural characteristics. [No SHI form was prepared at the time of nomination, nor since, so that the particular values or criteria on which the nomination was made are not available.] Cabbage Tree Point is one of a number of headlands within Port Hacking, however, and is held in some regard by the local community.

In landscape formation terms, the headland is typical or representative of many Hawkesbury sandstone headlands along the NSW coastline, but is somewhat lower and more vegetated, though it is substantially covered with weed growth. It has been settled for much of the 20<sup>th</sup> century, and with its changed vegetation and scattered waterside structures, has become as much a cultural landscape as a natural one.

#### 4.0 The Proposals

As with their neighbours, the property owners wish to be able to gain direct access to the seashore at the bottom of their lot, which extends to the high water mark. In the past, this was achieved by the previous owners of no. [REDACTED] through an inclinor or similar device. For the [REDACTED], the building designer has designed a galvanised steel staircase, which would also fit snugly within the 'V' shaped gully down the cliff face and would terminate on a rock platform enabling access to the lower levels of the site.

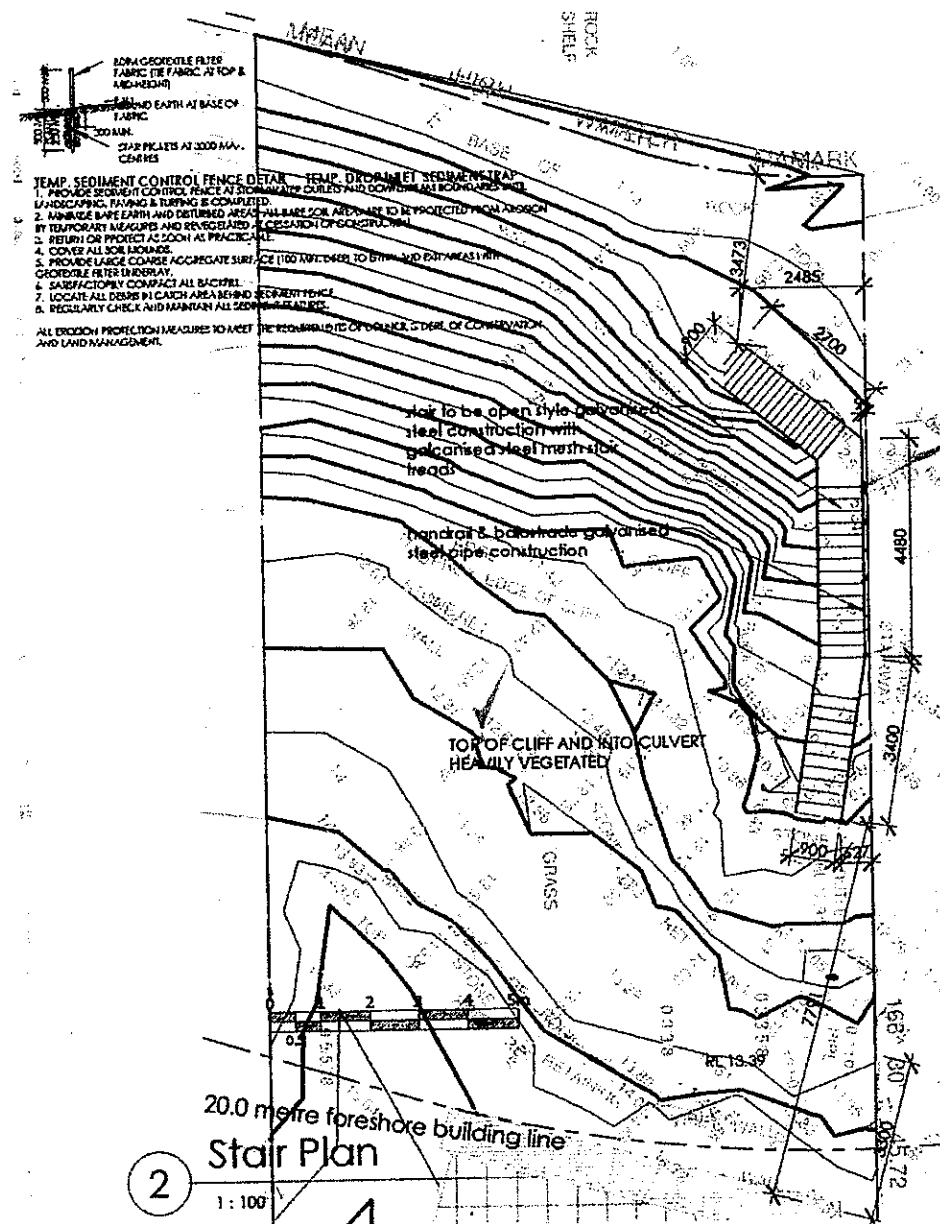


Fig.12 Detail of the proposed staircase, as drawn by JMH Living, February 2007

No excavation or alteration to the rock shelf or cliff face is required, and no disruption to existing vegetation on and above the cliff face is necessary. The stair is to be of an open style galvanized steel construction with galvanized steel mesh stair treads. The handrail and balustrade are also to be of galvanized steel pipe construction. It is understood that the staircase will be hot-dip galvanized after fabrication, in order to minimize future rusting of the joints

It is understood the staircase would be fastened to the cliff by means of stainless steel bolts inserted into narrow holes drilled into the rockface. [Stainless steel bolts would be used in order to avoid rust stains on the cliff face.] The bolt holes would be drilled into the rock face to a depth of 200mm, it being considered that the sandstone should be sufficiently solid to withstand the drilling without flaking or shattering.

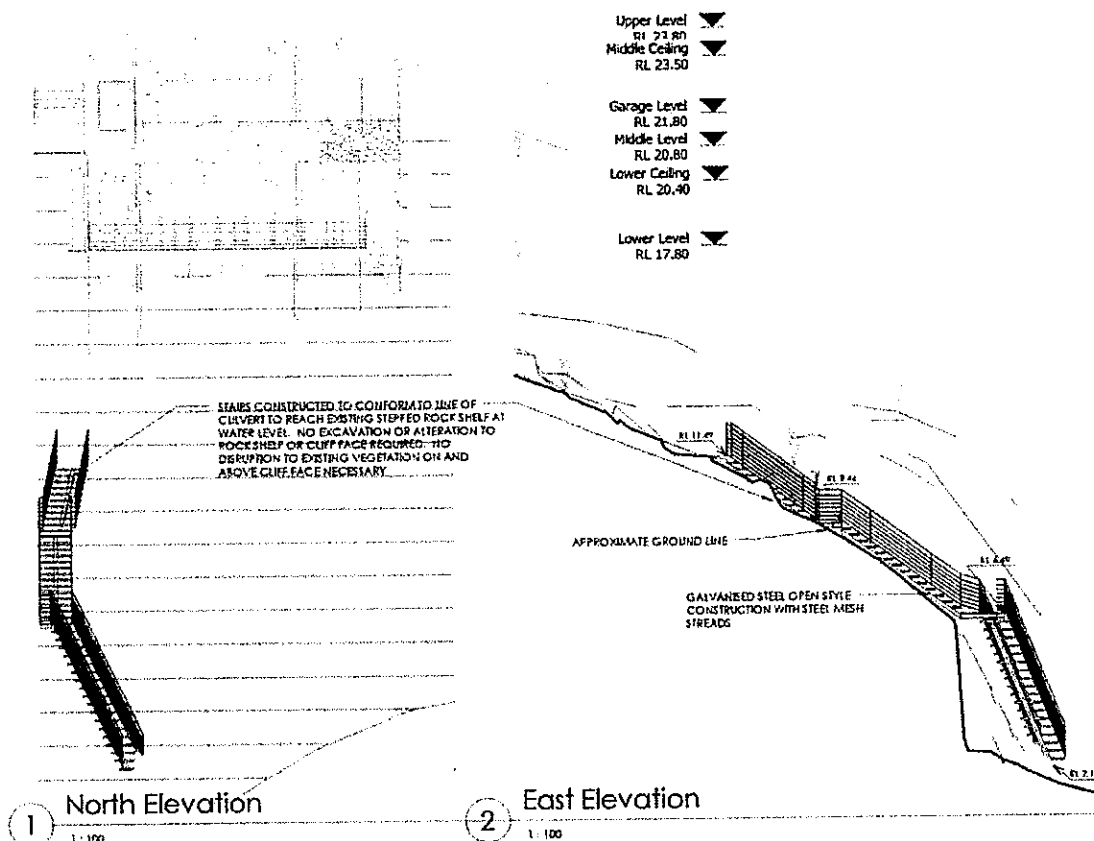


Fig.13 Drawing no. 45.06A showing the staircase in elevation, prepared by JHM Living, February 2007.

The drawings submitted as part of the Application for Development also specify the appropriate sediment control measures to be put in place for the period of construction of the staircase – see text on Figure 12 above.

## 5.0 Site Considerations & Implications

As noted above, there are several considerations which combine to minimize both the likely visual and physical impacts of the proposed staircase on the cliff face. These can be summarized as:

- The natural, recessed gully in the cliff face
- The fairly extensive vegetative cover on that face
- Limited public pedestrian opportunities along the base of the cliff (which is not possible at high tide)
- Lack of other land-based opportunities to view the staircase (Hungry Point on the Cronulla Peninsula and Burraneer Point are too distant for it to be visible from there).
- The very long reach of water between Cabbage Tree Point and the head of Gunnamurra Bay
- Limited boat traffic along Port Hacking. The main navigation channels for boat craft are generally concentrated on the northern side of the Port Hacking River, where channel markers are located – though note the ferry route on Figure 1.
- The presence of other staircases down the cliff face, and occasional boatsheds, ramps and seawalls. These have already established a cultural landscape character to Cabbage Tree Point. (In other words, the sandstone cliff-face is by no means 'pristine'.)

## 6.0 Impact Assessment

As the owners and building designer have proposed to locate the staircase mostly within the gully down the cliff face, and as the structure will be light-weight, relatively transparent, and subdued in colour, it is my opinion that it will have a negligible impact on the visual or heritage values of Cabbage Tree Point.

Factors underlying this conclusion are:

- The proposed galvanized stairway will acquire a dull lead patina in a relatively short time, and so will differ little visually from that of the weathered timber staircases nearby.
- With minimal pedestrian access around the Point, no nearby land-based viewing platforms, and only spasmodic, distant boat traffic, viewing opportunities to the Point are extremely limited and fleeting, and the staircase would scarcely be noticed.
- The listing of Cabbage Tree Point is very recent, and although 'natural values' are cited, it is by no means pristine. Those who nominated it have implicitly accepted the cultural modifications that have occurred to it over time. Access stairs down the cliff to the rock platform are part of these, as are boatsheds, ramps and seawalls. Without such facilities, it could be asked whether the local community would have experienced sufficient familiarity with, and enjoyment of use of, the headland for it to have generated enough esteem among them to nominate it.

## 7.0 Are Mitigating Measures Required?

At this point in a heritage impact assessment it is customary to address a possible requirement for mitigating measures. In view, however, of the considerations discussed in sections 5 and 6 above, including the care and sensitivity with which the design and siting of the proposed staircase has been approached, I do not consider there are adverse impacts that warrant mitigation. Measures to limit visibility and avoid rusting and staining are already cited above.

## 8.0 Conclusion

In my professional opinion, the proposed access stairs will have little impact on the visual amenity or heritage value of the cliff face, and hence I see no reason, on heritage grounds, why this Application should not be approved.

Heritage Impact Assessment

- October 2003 Expert Witness, Land & Environment Court, on heritage values of the sandhills on Kurnell Peninsula, on behalf of Sutherland Shire Council.
- Dec. 2002, & install  
Feb.- April 2003 Landscape Assessment and Heritage Impact Assessment of proposals to a helipad and alter the grounds of the Blue Mountains District Hospital.  
Client: NSW Dept. Health
- Nov. 2002 Assessment of the impact of a proposed Swimming Centre on heritage elements within Greenway Park, Cherrybrook, for Hornsby Shire Council.  
  
Assessment of the impact of the proposed redevelopment of Cherrybrook Shopping Centre on adjacent heritage places. Client: Saunders Creative.
- April 2002 Heritage Impact Assessment of proposed changes to the grounds of heritage-listed Redfern Public School for Dept. Public Works & Services
- March 2002 Heritage Impact Assessment of proposed residential subdivision on the adjacent heritage park, Castle Hill.
- August 2001 Visual Impact Study of Western Sydney Orbital on adjacent heritage items along its route, as subconsultant to Casey & Lowe, Archaeologists, for RTA
- July 2001 Heritage impact assessment of a proposed port access road on the White Bay Power Station and Glebe Island silos, for Sydney Ports Corporation.
- Jan. 2001 Visual analysis and heritage impact assessment on heritage-listed *Macquarie Field House* of proposed residential subdivision at Macquarie Links Estate

## APPENDIX A

### WARWICK MAYNE-WILSON : SHORT RESUMÉ

Warwick Mayne-Wilson is a Conservation Landscape Architect and Director of Mayne-Wilson & Associates of Paddington, NSW. He has Honours Degrees in Arts and in Landscape Architecture, and a Masters Degree in Heritage Conservation. He is also a Registered Landscape Architect of the Australian Institute of Landscape Architects, and a member of Australia ICOMOS (Australia's peak heritage body). He specialises in researching and undertaking heritage assessments and conservation plans on historic landscapes, streetscapes, parks and gardens. He also undertakes curtilage studies for heritage buildings, and prepares landscape and visual assessment studies. He has served as an expert witness on visual quality, curtilages, and the impact of development proposals on heritage places at the Land and Environment Court. He has also lectured on curtilages, cultural landscapes and the conservation of historic gardens, parks and streetscapes to Masters Students at the University of Sydney. He is a former chairman of the National Trust's Parks and Gardens Conservation Committee (NSW) and Trustee of Centennial Park, Sydney.

- Awards:** (1) Merit Award by Australian Institute of Landscape Architects for the Wyong Valleys Landscape Assessment and Visual Quality Study, with Illustrated Landscape Guidelines. 1997  
 (2) National Trust Heritage Award 1998 (Commendation) for Heritage Assessment of the Dry Stone Walls of West Kiama.  
 (3) National Trust Heritage Award 2000 (Commendation) for the Conservation Management Plans for the six rock pools of Warringah Shire.

#### Previous, relevant Heritage Impact Assessments

- |                                    |  |
|------------------------------------|--|
| December 2006                      | Assessment of proposed extensions to the Tom Uglys' Bridge marina at Sylvania on the visual quality of the area and on adjacent heritage items.  |
| July 2006                          | Assessment, as Expert Witness for Land & Environment Court case, of visual and heritage impacts of proposed sandmining by Rocla P/L of bare dune at Kurnell for Sutherland Shire Council   |
| Aug. 2004                          | Heritage Landscape and Visual Quality Assessment of Governor Bligh's farm <i>Blighton</i> near Pitt Town, for Johnson Property Group.  |
| June 2004<br>Mays, for & Dec. 2006 | Landscape & Visual Impact Study on <i>Dunheved</i> homestead historic site, St Delfin Lend Lease Development.  |
| May 2004                           | Landscape and visual quality assessment of the <i>Chipping Norton Homestead</i> , as subconsultant to Rod Howard & Associates, for Liverpool City Council.   |
| March 2004                         | Visual Impact Assessment of proposed development on historic view corridor between heritage-listed <i>Bella Vista</i> and historic <i>Heywood</i> homesteads,  |
| April/May 2003                     | Drafting of submission to Wollondilly Council on behalf of residents of Glenmore (near Camden) on foreseen impact on heritage places, curtilage, setting, and scenic character of a proposed rural community title sub-division. |
| December 2003                      | Heritage report and impact assessment of development proposals for <i>Parklands Estate</i> , Blackheath, for Macquarie Bank Golf and Leisure.  |

Fairfax Community Newspapers

# One step at a time for family's dream

By Mark O'Brien

WHEN Bundeena Progress Association lobbied Sutherland Shire Council to heritage list the headland at Cabbage Tree Point, members were a little too successful.

Now Bundeena resident Michael Ryan has been stopped from building a set of wooden stairs that would give his family access to their own waterfront.

The council recently endorsed a recommendation from its independent hearing and assessment panel to deny permission for a Crammond Avenue landowner to build a set of stairs providing access down the rock face.

The decision turned on heritage listing concerns, and debate at the council meeting revolved around consistency in decision-making, the preservation of waterfront areas and the rights of landowners to access their own waterfronts.

The council voted to endorse the panel's recommendation, citing the fact the rock face had been heritage listed at the urging of the progress association.

Owner Michael Ryan said that when he bought the property in 2001 there was no heritage listing and he was unaware of any recent changes.

"We've got three young kids and our dream was to raise them in Bundeena," Mr Ryan said.

"Part of that was being able to access the waterfront, to sit up in the yard and watch over them as they played near the water.

"Pedestrian access to our own waterfront was a huge part of our decision to buy and build there."

Progress association secretary Neil Denett said the association had no objection to the stairs, and was concerned about the unintended ramifications of the heritage listing.

"We don't have any objection to someone having a stairway from their doorway to the



**Heritage item:** A proposed set of stairs down this cliff face has been knocked back by Sutherland Shire Council.

Picture: Chris Lane

waterfront," Mr Denett said.

"We mainly intended the heritage listing to apply to the public land on the headland.

"I don't think we expected it to mean that landowners were unable to do anything at all to their own properties."

Councillor Bob Spencer said he was outraged by the council decision and was one of the signatories to a rescission motion to be debated at the August 13 meeting.

"It's a 12-foot drop to give a man access to his own waterfront on his own land," Cr Spencer said.

"The idea of the heritage listing was to make sure boat sheds and boat ramps would not detract from the beauty of Cabbage Tree Point.

"It was never intended to stop people putting timber stairs in to access their own waterfront."



LF27

## HERITAGE ASSESSMENT

## OF CABBAGE TREE POINT LANDFORM

December 2008

## INTRODUCTION

## BACKGROUND

The subject site known as Cabbage Tree Point consists of a headland and rock shelf. It is located on the southern shore of the Port Hacking, 2.1km west of Jibbon Headland, in the suburb of Bundeena. The site is between Hordens Beach and Simpsons Bay beach and is bound by Crammond Avenue to the south. This Heritage Assessment has been prepared to more precisely determine the heritage significance of the item. The landform is heritage listed as item Lf27 in the Schedule SSLEP2006. This study was requested by IHAP as \* recommendation B of IHAP082-07 as repeated below: PLEASE INCLUDE DA REFERENCE.

*B. That the criteria for the heritage listing of the cliff face (LF27) in the Sutherland Shire Local Environmental Plan 2006 be fully documented for future reference so that applications can be assessed in light of that criteria.*

## SITE LOCATION AND DESCRIPTION

Cabbage Tree Point headland and its rock platform are situated on the southern shore of the Port Hacking, 2.1km west of Jibbon Headland in the suburb of Bundeena. It is the Sandstone headland between Hordens Beach and Simpsons Bay beach. It is bound by Crammond Avenue to the south, low density residential development to the west and Hordens Beach to the east. The northern boundary to Port Hacking and is dominated by spectacular 10m high sandstone cliffs. The reserve to the west has a gentle north sloping gradient.

The site includes a sandstone formation known as Pulpit Rock (major) and there is remnant bushland covering over most of the site. In the adjoining reserve there is a set of steps and several informal paths that lead to the rock platform.

## AUTHORSHIP

The report has been prepared by Claudia Miro, Heritage Architect for the Sutherland Shire Council

## LIMITATIONS

A time frame of 2 weeks was established for the preparation of the Report. Access was given to the site and Council records held by Council. No physical intervention was undertaken to prepare this report. No historical archaeological work other than the site surveys provided herein was commissioned for the report.

## METHODOLOGY

The Assessment has been prepared in accordance with the methodology outlined by the NSW Heritage Office. The report complies with the principles of the Australian ICOMOS

Charter for the Conservation of Places of Cultural Significance (the Burra Charter) and its guidelines.

It seeks to identify from documentary and physical evidence any historic, aesthetic, social and scientific values of the headland and rock shelf and to determine their level of representatives or rarity by comparison with other identified examples. The analysis also looks at the overall character of the adjoining area to determine if it contributes to a characteristic of the Port Hacking landscape which is unique or of sufficient importance to require protection.

#### TERMINOLOGY AND DEFINITIONS

The terms *fabric*, *place*, *preservation*, *reconstruction*, *restoration*, *adaptation* and *conservation* used throughout this report have the meaning given them in Australia ICOMOS Charter for the Conservation of Places of Cultural Significance (Burra Charter).

In order to achieve a consistency in approach and understanding of the meaning of conservation by all those involved a standardised terminology for conservation processes and related actions should be adopted. The terminology in the Burra Charter is a suitable basis for this. Article 1 of the Burra Charter gives the following definitions:

*Place* means site, area, landscape, building or other work, group of buildings or other works together with associated contents and surround.

*Cultural significance* means aesthetic, historic, scientific or social value for past, present or future generations.

*Fabric* means all the physical material of the place.

*Conservation* means all the processes of looking after a place so as to retain its cultural significance. It includes maintenance and may, according to circumstance include preservation, restoration, reconstruction and adaptation and will be commonly a combination of more than one of these.

*Maintenance* means the continuous protective care of the fabric, contents and setting of a place and it is to be distinguished from repair. Repair involves restoration and reconstruction and it should be treated accordingly.

*Preservation* means maintaining the fabric of a place in its existing state and retarding deterioration.

*Restoration* means returning the existing fabric of a place to a known earlier state by removing accretions or by reassembling existing components without the introduction of new material.

*Reconstruction* means returning a place as nearly as possible to a known earlier state and is distinguished by the introduction of materials (new or old) into the fabric. This is not to be confused with either recreation or conjectural reconstruction which is outside the scope of the Burra Charter.

*Adaptation* means modifying a place to suit proper compatible uses.

*Compatible use* means a use which involves no change to the culturally significant fabric, changes which are substantially reversible, or changes which require a minimal impact.

**ACKNOWLEDGMENTS**

Sutherland Shire Council

Sutherland Shire Local Studies Library – Helen McDonald

**EXTENT OF SEARCHES**

Information searches have occurred with the following organisations:

Sutherland Shire Local Studies Library

Sutherland Shire Historical Society

Council records

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**HISTORICAL DOCUMENTARY ANALYSIS****TIMELINE OF THE AREA**

Year	Date	
1770	29 April	James Cook came ashore at Kurnell Point.
1796		George Bass and Matthew Flinders set out in Tom Thumb III a small sailing boat. On their return trip from Port Kembla, sailing northwards, they were driven by storms to a place called Wattamolla. From there they continued north and entered Port Hacking. They explored the estuary and named the place after Henry Hacking, Quartermaster of H.M.S. Sirius of the First Fleet. The aboriginal name for the area was Deeban (Jibbon)
1815		There were reports of felons in Cabbage Tree Creek region and in the bushland south of Port Hacking, who were producing sly grog for sale in Sydney. Caves along the foreshore provided storage for raw materials and finished product
1823-1940		Original grants of land were made to Owen Byrne and George Simpson. William Simpson built a hotel known as the Simpson Hotel
1860s		Thomas Holt purchased 12,000 acres
1863-1940		William Simpson built a hotel known as the Simpson's Hotel at Bonnie Vale. It was a very popular resort in the Port Hacking area during the early part of the 20 <sup>th</sup> Century. Photographs and postcards from the 1900s pictured the resort hotel and Pulpit Rock as tourist destinations. In 1940 it was abandoned due to siltation.
1879		Royal National Park was proclaimed by the State Parliament. By this time the original Bundeena grants had passed into the hands of the Holt-Sutherland Estate Land Company and were therefore excluded from the dedication.
1900		Flood gates constructed at Audley
1915		The Cronulla Bundeena ferry service commenced

1916		Mrs. Kingham of Simpson's Hotel commenced a ferry service from Gunnamatta Bay to the hotel.
1929		The Great Depression began. Depression villages were created in Bundeena
1946		Bundeena residents lobbied for better services in the area. As a result electricity and telephone lines were extended to Bundeena.
1956		Bundeena residents demanded the completion of access road through the National Park ( Stevens Drive)
1986		Public Works Department proposed to build a "tombolo" structure into the estuary, projecting north from Cabbage Tree Point towards Hungry Point to save Port Hacking from siltation.
1987		Bundeena residents made the strongest representations against the proposed "Tombolo" arguing loss of shallow waters and adverse impact on the landscape visual qualities of Cabbage Tree Point.
1988		The State Government of the day withdrew the proposal due to community uproar.
2002		SSC invited the community to submit applications to heritage list landforms and landscapes.
2002		Bundeena Progress Association incorporating The Bundeena and Maianbar Precinct Residents Association submitted the Cabbage Tree Point Headland and rock platform, including Pulpit Rock, to be heritage listed. A full documented photographic record was prepared by the Progress Society and lodged at the Local Studies Library.
2004		Daft LEP2006 exhibited and community forums at Bundeena organized to comments on the submissions
2007		Cabbage Tree Point landform was gazetted under the SSLEP2006 and it is listed as heritage item Lf27.

## HISTORICAL CONTEXT OF THE SITE

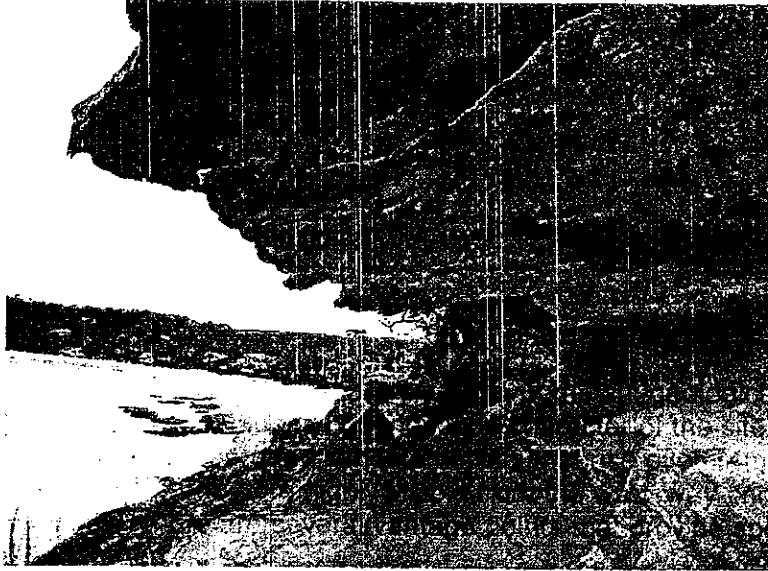
The site at Cabbage Tree Point headland and rock shelf, on the southern shore of the Port Hacking 2.1km west of Jibbon Headland in the suburb of Bundeena, between Hordens Beach and Simpson's Bay beach and bound by Crammond Avenue to the south was nominated by the Bundeena Progress Association for heritage listing and this reports contains a brief history of the Association and the Bundeena community to establish the social associations with the heritage item.

## ABORIGINAL HERITAGE

The subject site is located within the suburb of Bundeena, 24 kilometres south of Sydney in the Sutherland Shire. 'Bundeena' is an Aboriginal word meaning *noise like thunder*. Prior to European settlement, archaeologists suggest that Aboriginal people had occupied the Sydney/Illawarra coastal areas for at least 7,000 years. Prior to the arrival of the Europeans, the Sutherland area was populated by the Dharawal people, whose traditional tribal boundaries stretched from the south-eastern shore of Sydney Harbour as far south as the Shoalhaven River and west to Mossvale. The whole of the Port Hacking area was rich in resources and there is evidence throughout the area of camping sites and ceremonial sites. The bays and inlets of Port Hacking show abundant evidence of Aboriginal occupation (History of Sutherland Shire, Sutherland Shire Council, 2008).

## ESCARPMENT AND GEOLOGICAL FEATURES

Triassic Hawkesbury Sandstone is the dominant geological stratum and has influenced the soil, vegetation, fauna and landscape character of the site. A significant feature of the headland is the eroded sandstone cliffs that rise over 14m from the water and expand some 300 metres. They are highly visible from the waterway and surrounding areas. Along the headland there are several vantage points that provide spectacular views of Gunnamatta Bay and Cronulla.



Sandstone cliff

- Headland only  
- nothing Heritage about personal property.

The foreshore and rock platform is an important ecotone between terrestrial and aquatic environments and is habitat for a variety of shorebirds and intertidal organisms including, molluscs, crustaceans and alga.

Cabbage Tree Point forms part of a vegetation corridor along the southern foreshore of the Port Hacking and is linked to the Royal National Park further south through remnant vegetation in the low density residential areas. The Cabbage Point Reserve on the eastern side of the Headland has been classified as core habitat on the Council's Greenweb map that identifies the vegetation corridors within the Shire.

Cabbage Tree Point Reserve allows important visual access to the Port Hacking and provides foreshore scenic values from the waterway.

## LOCAL HISTORICAL CONTEXT

### The Bundeena Progress Association

The Bundeena District Progress Association was founded on Australian Day 1940 "for the Progress and Preservation of the Natural Beauty of Jibbon, Bundeena and Simpson's Bay". From the time of its creation, the progress society fought many battles for the improvement of the village, being Cllr. Arthur Harper, the driving force behind the association.

Since the 1940's, the achievements of the Progress Society, which had its own periodical newsletter the *Recorder*, had been many and important benchmarks in the history of Bundeena. They lobbied for the extension of the services of electricity, water and telephone and for the establishment of several reserves and parks. They were also behind the celebrations of Electricity Day at Bundeena, 14 December 1946, to celebrate their long battle

to install electrical services in the suburb. The Bundeena Progress Association campaigned for the opening of the first Bundeena Public School on the 14 September 1948.

The community of Bundeena proved to be very active when fighting for their rights and improvements, and transforming this original holiday destination and fisherman's cottages to a permanent settlement for families escaping the "Sydney madness".

The opening of the road through the National Park (Stevens Drive), bringing vehicular access to Bundeena, was a milestone in the development of Bundeena as an independent suburb and it was achieved by the strong representations to Council by the Bundeena Progress Society.

### The "Tombolo"

In the 1980's Bundeena was a well established suburb of the Port Hacking area and the local boating community was pressing for dredging. There was also the political pressure from the poor cost-effectiveness of the traditional approach to maintaining navigational channels. One of the recurring issues was the disposal of the dredged spoils. The Public Works Department's studies and deliberations in the early 1980s on the issues associated with the shoals, gained some momentum that received a huge boost by the adoption by the then state government of its Better Ports policy. This policy was aimed at port improvements for commercial and recreational purposes. Work by the Public Works Department climaxed in 1986 with its Port Hacking Marine Delta Management Options study. This was a paper that put forward a series of options along with the costs, benefits and negative impacts. Its preferred option was:

*'A very different alternative would involve the creation of a tombolo, or sand breakwater, projecting northwards off Cabbage Tree Point (Bundeena) projecting northwards for some 500 metres...The tombolo would be created by progressively dumping about 400,000 cubic metres of sand, the head of which would be protected by rock.... approximately 10,000 tonnes of rock would be required.....sand for the wall would be taken from the channels leading into and across the mouth of Gunnamatta Bay, from the channel off Burraneer Point, and by the general deepening of Simpson's Bay. In this way a 50 hectare area of sheltered water between 3 and 5 metres deep would be created in Simpson's Bay.'*

Residents of Bundeena created two groups of action to oppose to the Tombolo structure off Cabbage Tree Point, the *People for Port Hacking* and the *Port Hacking Protection Society* and between them they collected 6000 signatures to petition the State Government to withdraw the proposal to build the sand spit.

The Bundeena Progress Association spokesperson Mr. Bob Spencer was quoted in several newspapers as to why the residents of Bundeena opposed the proposal.

*"It is a beautiful open river and they are planning to put a great lump of land in the middle of it that will change the character of the river"*

*"They [State Government] claim the spit would enhance the recreation potential of this area but in our view they will destroy it....leaving us with a rock wall a la Port Kembla"*

After lobbying and two petitions the residents of Bundeena won the battle against the spit. The State Government abandoned the proposal to build the Tombolo structure off Cabbage Tree Point.

The Heritage nomination\* *Affected owners never consulted.*

The Bundeena community had submitted to Council a photographic inventory of significant landforms around the Bundeena area that in their view were valuable to the community. Copies were lodge at the Local Studies library and at Council's Heritage Library.

The Heritage listing was initiated by community interest, residents of Bundeena voiced their interest to have this particular landform as part of the heritage of the Sutherland Shire because of its value as a landmark, being a natural sandstone cliff backdrop at the entrance of Port Hacking and as a popular tourist attraction of Bundeena.

During 2002 Council invited the community to submit a list of Heritage Landforms and Significant Trees and Vegetation with a view to incorporating these items onto the Heritage Schedule under Council's local environmental plan (LEP). The Bundeena Progress Association made a submission re-iterating its desire to have its previous submission which included the Cabbage Tree Point Headland and rock platform incorporated into the Local Environmental Plan. Council endorsed this particular landform together with a range of other items as part of the draft Local Environmental Plan 2003. The community consultation was lengthy:

- *The draft LEP was exhibited from 18 February to 31 May 2003 and was further re-exhibited from 1 December 2003 to 16 January 2004.*
- *The local Bundeena community was letter box dropped for both of these LEP exhibitions.*
- *The Council Web Site provided details of all relevant components of the draft plan.*
- *Council provided opportunities for forums here at Council covering the main components of the draft LEP.*
- *Council provided residents the opportunity for one on one discussion/question forums with Council staff.*

The Cabbage Tree Point Heritage Landform was gazetted under the SSLEP 2006 on 15 November 2006. The listing in the Schedule 6 of the SSLEP2006 is as follows,

**Bundeena (Royal National Park)**  
**Bundeena and Maianbar**

Sandstone formations in headland at Cabbage Tree Point, including Pulpit Rock (Major). (Fronting 1-49 Crammond Avenue.) At base of headland, sandstone rock shelf provides public access—L127

## CRITERIA FOR ASSESSMENT OF CULTURAL SIGNIFICANCE

### GENERAL

A statement of cultural significance is a declaration of the value and importance given to a place or item, by the community. It acknowledges the concept of a place or item having an intrinsic value which is separate from its economic value.

There are a number of recognised and pre-tested guidelines for assessing the cultural significance of a place or item established by organisations including among others, the ICOMOS (International Committee on Monuments and Sites, Australia), The National Trust

*Not recorded  
accurately*

*not  
the  
owners*

of Australia, The Australian Heritage Council (Commonwealth Government) and in New South Wales by the State Government (The Heritage Council of NSW).

The Heritage Council's criteria "NSW Heritage Assessment Criteria" are based on the Australian Heritage Commission criteria (used for assessment of items for inclusion on the Register of the National Estate) and encompass the five values in the Australia ICOMOS Burra Charter: Historical Significance, Historical Association Significance, Aesthetic Significance, Scientific Significance, Social Significance and 'two' grading level Rarity and Representativeness. These criteria were gazetted following amendments to the Heritage Act which came into force in April 1999 and further amended in 2004.

This report uses the NSW Heritage Assessment Criteria to assess the significance of the study area.

#### **THE NEW SOUTH WALES HERITAGE ASSESSMENT CRITERIA**

An item will be assessed to be of heritage significance if it meets one or more of the following criteria:

##### **4.2.1 Criterion A – Historical Evolution**

An item is important in the course, or pattern, of NSW's cultural or natural history (State significance); OR

An item is important in the course, or pattern, of the local area's cultural or natural history (local significance).

##### **Guidelines for Inclusion**

- Shows evidence of a significant human activity.
- Is associated with a significant activity or historical phase.
- Maintains or shows the continuity of a historical process or activity.

##### **Guidelines for Exclusion**

- Has incidental or unsubstantiated connections with historically important activities or processes.
- Provides evidence of activities or processes that are of dubious historical importance.
- Has been so altered that it can no longer provide evidence of a particular association.

##### **4.2.2 Criterion B – Historical Associations**

An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (State significance); OR

An item has strong or special association with the life or works of a person, or group of persons, of importance in the cultural or natural history of the local area (local significance)

##### **Guidelines for Inclusion**

- Shows evidence of a significant human occupation.
- Is associated with a significant event, person, or group of persons.

##### **Guidelines for Exclusion**

- Has incidental or unsubstantiated connections with historically important people or events.
- Provides evidence of people or events that are of dubious historical importance.



- Has been so altered that it can no longer provide evidence of a particular association.

#### 4.2.3 Criterion C – Aesthetic Values

An item is important in demonstrating aesthetic characteristics and/or high degree of creative or technical achievement in NSW (State significance) OR

An item is important in demonstrating aesthetic characteristics and/or high degree of creative or technical achievement in the local area (local significance).

##### Guidelines for Inclusion

- Shows or is associated with, creative or technical innovation or achievement.
- Is the inspiration for a creative or technical innovation or achievement.
- Is aesthetically distinctive.
- Has landmark qualities.
- Exemplifies a particular taste, style or technology.

##### Guidelines for Exclusion

- Is not a major work by an important designer or artist.
- Has lost its design or technical integrity.
- Its positive visual or sensory appeal or landmark and scenic qualities have been more than temporarily degraded.
- Has only a loose association with a creative or technical achievement.

#### 4.2.4 Criterion D – Social Value

An item has strong or special association with a particular community or cultural group in NSW for social, cultural or spiritual reasons (State significance) OR

An item has strong or special association with a particular community or cultural group in the area for social, cultural or spiritual reasons (local significance).

##### Guidelines for Inclusion

- Is important for its associations with an identifiable group.
- Is important to a community's sense of place.

##### Guidelines for Exclusion

- Is only important to the community for amenity reasons.
- Is retained only in preference to a proposed alternative.

#### 4.2.5 Criterion E – Technical Value

An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (State significance) OR

An item has potential to yield information that will contribute to an understanding of the area's cultural or natural history (local significance).

##### Guidelines for Inclusion

- Has the potential to yield new or further substantial scientific and/or archaeological information.
- Is an important benchmark or reference site or type.

- Provides evidence of past human cultures that is unavailable elsewhere.

#### Guidelines for Exclusion

- The knowledge gained would be irrelevant to research on science, human history or culture.
- Has little archaeological or research potential.
- Only contains information that is readily available from other resources or archaeological sites.
- The knowledge gained would be irrelevant to research on science, human history or culture.

#### 4.2.6 Criterion F – Rarity

An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (State significance) OR

An item possesses uncommon, rare or endangered aspects of the area's cultural or natural history (local significance).

#### Guidelines for Inclusion

- Provides evidence of a defunct custom, way of life or process.
- Demonstrates a process, custom or other human activity that is in danger of being lost.
- Shows unusually accurate evidence of a significant human activity.
- Is the only example of its type.
- Demonstrates designs or techniques of exceptional interest.
- Shows rare evidence of a significant human activity important to a community.

#### Guidelines for Exclusion

- Is not rare.
- Is numerous but under threat.

#### 4.2.7 Criterion G – Representativeness

An item is important in demonstrating the principal characteristics of a class of NSW's cultural or natural places or cultural or natural environments (State significance) OR

An item is important in demonstrating the principal characteristics of a class of the area's cultural or natural places or cultural or natural environments (local significance).

#### Guidelines for Inclusion

- Is a fine example of its type.
- Has the principal characteristics of an important class or group of items.
- Has attributes typical of a particular way of life, philosophy, custom, significant process, design, technique or activity.
- Is a significant variation to a class of items.
- Is part of a group which collectively illustrates a representative type.
- Is outstanding because of its setting, condition or size.
- Is outstanding because of its integrity or the esteem in which it is held.

#### Guidelines for Exclusion

- Is a poor example of its type.
- Does not include or has lost the range of characteristics of a type.

- Does not represent well the characteristics that make up a significant variation of a type.

#### LEVELS OF SIGNIFICANCE

The terms 'local', and 'state' relate to the geographical and social context of an item's significance. For example, an item of local significance will be of historical, aesthetic, social or technical / research significance in a local geographical context; an item of state social heritage significance will be important to an identifiable, contemporary, statewide community.

##### 4.3.1 Local Heritage

This comprises items significant in a local historical or geographical context, or to an identifiable contemporary local community. This report regards the local area as the boundaries of the Local Government Area.

##### 4.3.2 State Heritage

This comprises items significant in a statewide historical or geographical context, or to an important and identifiable contemporary statewide community.

## ASSESSMENT OF CULTURAL SIGNIFICANCE

### CRITERION A – HISTORICAL EVOLUTION

An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area).

The Cabbage Tree Point landform has historical significance for its association with the initial waterfront development of Bundeena and Port Hacking as a tourist and weekend destination from the 1890s to the 1920s. The unusual characteristics of the landform known as "Pulpit Rock" and the coloured Sandstone cliff overhangs are significant for its connection with the tourism of the area, several postcards from the 1920's and photographs show Cabbage Tree Point as backdrop feature. The rock platform at the base of the headland was used by locals for leisure and recreational activities such as boating, fishing, swimming and picnics.

### CRITERION B – HISTORICAL ASSOCIATIONS

An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area).

The landscape has historical associative significance with the works of community activism at Bundeena and its Progress Society Association that have been guiding the development of Bundeena as a suburb since the 1940's. Also it has historical associative significance as result of the events on 1986 when the Bundeena community, leader by the Bundeena Progress Association, stop the State Government of the time proposal to build a Tombolo off Cabbage Tree Point.

### CRITERION C – AESTHETIC VALUES

An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area).

Cabbage Tree Point is a landmark, a prominent landscape feature comprising Hawkesbury Sandstone which provides a natural cliff backdrop at the entry to Port Hacking. Although not rare, its location makes it a significant feature of the river. Pulpit Rock is a particular erosion feature of the Sandstone cliff headland recognized as a tourist landmark by the residents of Bundeena. The Triassic Hawkesbury Sandstone is a dominant geological stratum of the Hawkesbury River and the Cabbage Tree Point landform is representative of its type. The rock platform and headland has been classified as a core habitat for terrestrial and aquatic environments. Direct views from the Cronulla-Bundeena ferry.

*"The Cabbage Tree Point Headland and its coloured overhangs are particularly iconic as it faces directly North towards to the mouth of Gunnamatta Bay and the Headlands of South Cronulla and Burraneer." IHAP082-07*

### CRITERION D – SOCIAL VALUE

An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons.

The landform is important to the community the Bundeena as it was demonstrated by the community uproar and strongest representations to stop the State Government proposal to build a sand pit off Cabbage Tree Point.

The heritage listing was also driven by the Bundeena Progress Association, the oldest Bundeena resident's social group and responsible of the development of Bundeena from a holiday destination into the suburb that is today.

**CRITERION E – TECHNICAL / RESEARCH VALUE**

An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area).

The Hawkesbury Sandstone cliff headland and rock platform has the ability to yield information about the geological configuration of the Triassic stratum and the Woronora Plateau, as well as its influence in the soil, vegetation and fauna of the river ecosystem.

**CRITERION F - RARITY**

An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area).

It is not rare but possesses endangered aspects of the natural history of the area, such as remnant of the Indigenous landscape of the Royal National Park. Also Pulpit Rock is an erosion feature unique to the region.

**CRITERION G - REPRESENTATIVENESS**

An item is important in demonstrating the principal characteristics of a class of NSW's

- cultural or natural places; or
- cultural or natural environments  
(or a class of the local areas' cultural or natural places; or cultural or natural environments).

The Cabbage Tree Point Headland and rock platform is a fine example of Triassic Hawkesbury Sandstone eroded cliff characteristic of the Hawkesbury River and is outstanding because of its setting at the entrance of the River.

**INTACTNESS**

Its intactness is high although some of its significance has been diminished by unsympathetic man made structures attached to the cliff of rock platform.

**LEVEL OF SIGNIFICANCE**

- Local Due to the historic, social, aesthetic and natural scientific research level of significance, the landform does reach the threshold for local significance and should be conserved.
- State Due to the representative level of significance, the landform does not reach the threshold for state significance.

**HISTORIC THEMES**

Australian Theme	NSW Theme	Notes	Local Theme
1 Tracing the natural Evolution of Australia	Environment - naturally evolved	Feature occurring naturally in the physical environment which have significance independent of human intervention	It is a representative geological formation, ecotone of the local ecological community. The headland and rock platform is a landmark at the entrance of Port Hacking. Because of its prominent location, it has a strong visual quality.

3 Developing local, regional and national economies	Events	Activities and processes that mark the consequences of natural and cultural occurrences	Place of protest and demonstration of community disagreement with the State Government proposals for the region in the 1980's
8 Developing Australia's cultural life	Leisure	Activities associated with recreation and relaxation	Cabbage Tree Point is part of the historic evolution of tourist and leisure industry in Bundeena. It is a fishing spot and the backdrop of 1900 postcards and tourist photographs. Direct view from the Bundeena Ferry

### SUMMARY STATEMENT OF SIGNIFICANCE

Cabbage Tree Point Headland, Pulpit Rock (mayor) and rock platform is significant as a geological stratum characteristic of the region, in a prominent location at the entrance of Port Hacking. It is significant as a landform feature, comprising eroded Triassic Hawkesbury Sandstone (Woronora Plateau) which provides a natural cliff backdrop at the entry to Port Hacking, recognised as a landmark by the Bundeena community. It has been identified as the core habitat of local aquatic and terrestrial flora and fauna, and part of the remnant indigenous canopy of the Royal National Park in Bundeena.

Cabbage Tree Point has also social significance and is associated with community activism in Bundeena and the Bundeena Progress Association. The Association was founded in the 1940's and was behind the evolution of Bundeena from a seaside resort to the suburb that it is today.

The landform has also local historic associations as centre of the 1980's events that defined the future of Port Hacking as a port. Cabbage Tree Point and the particular erosion feature known as Pulpit Rock is associated with the Bundeena tourism and leisure industry and it has been feature in postcards and photograph since 1900.

	Rare	Associative	Representative
Historic		X	
Aesthetic			X
Social		X	
Scientific			X

*\* This all conflicts with Heritage Consultant Report.*

### CONSERVATION GUIDELINES

Cabbage Tree Point landform and landscape has been identified as a Sutherland Shire natural environment heritage item and it is listed as item Lf27 in the Schedule 6 of the SSLEP 2006.

The objectives under the clause 54-Heritage are as follows,

#### 54 Heritage (1) Objectives

The objectives of this clause are as follows:

- (a) to conserve the environmental heritage of Sutherland Shire,
- (b) to conserve the heritage significance of heritage items, including associated fabric, settings and views,
- (c) to conserve archaeological sites,
- (d) to conserve places of Aboriginal heritage significance,
- (e) to protect and recognise locally significant trees and natural landforms as part of Sutherland Shire's environmental heritage,
- (f) to provide flexibility in the application of standards for development or permitted uses of land to enable appropriate conservation of heritage items,
- (g) to ensure timely consultation with State agencies, the relevant local Aboriginal land council and local communities to ensure that measures to conserve items are appropriate,
- (h) to limit inappropriate and unsympathetic development in the vicinity of cultural heritage items.

The site presents extreme soil erosion and mass movement (rock fall) hazard, and preventative measurement can be implemented to avoid or delay these unwanted effects and to maintain slope stability. Also accessibility for fishing/ water sports and the continuation of the historical use of the site as a tourist attraction must be considered when making decisions about the place. A basic list of maintenance works and conservation guidelines to safeguard the integrity of the place is detailed below.

- I. Implementation of erosion control and soil stabilisation measures as revegetation to secure this extremely steep prominent cliff top area.
- II. Revegetation to be carried out utilising suitable indigenous plant species including trees, understorey shrubs, groundcovers native grasses and ferns.
- III. Mulching works to be implemented as well as weed clearance to improve the visual quality of the rock face.
- IV. Removal of man made structures, such as boatsheds, access stairs and other structures on the rock platform and headland to reduce the negative impact on the visual catchment of the site and the historical views from the water.
- V. Restoration of the cliff face to its natural state, as a significant landform of Bundeena.

Where the reduction of man made structures is not possible, then

- VI. Any man made structure on the cliff face and rock platform must appear recessive and the materials used need to be complimentary of the natural landscape. Hue tones and weathered timber will blend sympathetically with the cliff face. Reflective material should be avoided.
- VII. Fixings and fittings attached to the cliff face must be of a non reactive material and done in such a manner that would not promote existing seams to expand resulting in the chipping and braking away of larger sections of rock.

## RECOMENDATIONS

The face of the cliff is currently cluttered with access stairs from different properties in several degrees of disrepair as well as other man made structures and they should be removed to allow

the revegetation of the headland. Pedestrian access can be achieved upgrading the existing access steps and paths in the adjoining Reserve, incorporating some interpretative signage about the heritage values of the site and the social and historical connections of the site. These measurements will allow the stabilisation of the steep slope and the core habitat for aquatic and terrestrial fauna that are representative of the site.

Claudia Miro  
Heritage Architect  
December 2008

#### **Bibliography**

**The Bundeena book**, Les Philpott, 1980

**Southerland Shire Foreshore Study**, Pauline Curby October 1998

**Port Hacking CMP** – Sutherland Shire Council - Dr. Albani 2006

**Natural Areas Reports** - Catchment Plan of Managements – Sutherland Shire Council- 2006

**The Leader-** February 5, 1987 page 3  
February 10, 1987 page 9

**Pictorial News** October 8, 1986





Attachment (4)

## Draft Sutherland Shire Local Environment Plan 2013

2 messages

Wed, May 1, 2013 at 1:09 AM

To: epu@ssc.nsw.gov.au

Under the draft 2013 LEP our residential zoning will change to E3 which appears to be o.k. on the surface and we rely on the right of our amenity and enjoyment of our land under this zone and the safeguards this zoning provides. However our main concern is the Heritage Listing known as LF27. The LF27 report dated December 2008 which, no copy has never been provided to the effected property owners nor was their an opportunity to have any direct input into the report in any way shape or form. It is a consequence of the draft 2013 LEP we have uncovered this report from our investigations. The LF27 report was prepared after the Heritage Listing became part of 2006 LEP.

This report makes certain comments and recommendations that are a concern and highly questionable to us and other property owners. In particular we would like to draw your attention to and ask that you clarify points IV & V on page 15 and provide further clarification on the recommendation at the bottom of page 15 and top of page 16.

If it is the council's intention to remove, limit, restrict or not allow replacement/maintenance of our pedestrian access to the waterfront or boat sheds, then this will severely impact our amenity and right of enjoyment of our property(s) and therefore object to the proposed draft changes.

Regards

e pu@ssc.nsw.gov.au< epu@ssc.nsw.gov.au>

Thu, May 2, 2013 at 12:14 PM

To:

Thank you for your submission in response to the public exhibition of draft Sutherland Shire Local Environmental Plan 2013. Your input is valuable and will be reported to Council for their consideration.

Once the draft plan is endorsed by Council, it will be referred to the Department of Planning and Infrastructure for finalisation. Please refer to the website for updates on the progress of the plan.

For further information, please call the Environmental Planning Unit on 9710 0800

Environmental Planning Unit  
Environmental Services Division

Sutherland Shire Council  
Locked Bag 17 Sutherland 1499 Australia  
Tel: 61 2 97100800  
Fax: 61 2 97100265  
Email: epu@ssc.nsw.gov.au  
Web: <http://www.sutherlandshire.gov.au>

In reply please send to EPU@SSC.NSW.GOV.AU

From: [REDACTED]  
To: epu@ssc.nsw.gov.au,  
Date: 01/05/2013 12:50 AM  
Subject: Draft Sutherland Shire Local Environment Plan 2013

[Quoted text hidden]

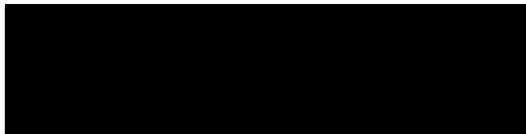
\*\*\*\*\*  
Important: This email / fax and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email / fax in error please notify the sender via return mail. You must not disclose the contents of this email / fax to any third party without the consent of the Sender.  
\*\*\*\*\*



Office of the Mayor

File Ref: LP/03/79340

15 August 2013



Councillor Kent R Johns

Tel 02 9111 0800  
Fax 02 9711 1000

Email [kjohns@sutherlandshire.nsw.gov.au](mailto:kjohns@sutherlandshire.nsw.gov.au)

Attachment (5)

Dear Sir or Madam

**Exhibition of Amended Draft Sutherland Shire Local Environmental Plan 2013**

[In response, please quote File Ref: LP/03/79340]

The amended Draft Sutherland Shire Local Environmental Plan 2013 is on exhibition from 20 August 2013 to 17 September 2013 for a period of 28 days. This letter provides information about specific changes to the previously exhibited DSSLEP2013 that affect your land or adjacent land.

For land at 25-33 Crammond Avenue Bundeena, and 43-49 Crammond Avenue Bundeena, it is proposed to amend the area of each lot to be heritage listed, so that the maximum extent of the heritage listing corresponds with the foreshore building line.

The amended draft plan can be viewed at:

- Council's Customer Service Centre
- All branch libraries
- Council's website [www.sutherlandshire.nsw.gov.au](http://www.sutherlandshire.nsw.gov.au)

If you wish to comment on this draft plan you may do so in writing to Environmental Planning Unit, Locked Bag 17, Sutherland, NSW, 1499, no later than 17 September 2013. In your submission, quote file number LP/03/79340, Amended Draft Sutherland Shire Local Environmental Plan 2013. Please note, if you make a submission you are also required to disclose any political donation or gift made to any Councillor or Council employee. All submissions received in response to the draft plan will be available as a public record. For further information on the amended draft plan, please contact Council's Environmental Planning Unit on 9710 0800.

Yours sincerely

Councillor Kent R Johns  
Mayor

Extract from "Response to submissions"  
 \* refer bottom of page for Crammond Ave - pages 7-12

#### Summary of issue

A submission has been received regarding the site known as "Apollo Gate" (Breen House) at 4-6 Cowra Place, Cronulla. The request is for the inclusion of this property as Item of Heritage significance in draft SSLEP2013.

The request for inclusion is based on the architectural significance of the house which was designed by Sydney Architect Reuben Lane (FRAIA) and the listing of this property in the former Sutherland Historic Places Register. The house was originally photographed by Max Dupain.

#### Analysis of issues

The dwelling at 4-6 Cowra Road Cronulla, known as "Apollo Gate" is a late sixties organically designed dwelling by Sydney Architect Reuben Lane (FRAIA). The building was first identified in the 1993 by the Perumal, Murphu and Wu Heritage Study as an "Example of an interesting, modern, Post War design." It was not heritage listed at the time.

Apollo Gate's curved; organic design is rare in the Sutherland Shire and is an intact surviving example of the 60's-70's architecture. The house was originally photographed by Max Dupain which adds a layer of significance to the building.

"Apollo Gate" may warrant further research for possible inclusion in a twentieth's century list of significant buildings in the Sutherland Shire. It is an outstanding building and appreciated by many. However, the fact that it is for sale does not imply a direct threat to its significance and does not require an immediate heritage order.

Further research is warranted for possible inclusion of this property as an 'Item of Heritage Significance' in SSLEP2103. Limited detail regarding this request has been provided to Council in the submission received.

TO date Sutherland Shire Council has not investigated the value of its post 1950's buildings. Yet it has many significant buildings from renowned architects and the protection of signature buildings from each era would make a valuable contribution to the heritage inventory.

#### Response to issues

Proceed as exhibited however, council should consider undertaking an analysis of 20<sup>th</sup> Century buildings to ensure more modern buildings of significance are given heritage protection.

\* **Crammond Ave Bundeena**

2 submissions received, one with 8 signatories

### **Summary of issue**

A submission has been received regarding the heritage listing of the sandstone formations at Cabbage Tree Point, Bundeena. The submission indicates that the residents only support the heritage listing of the sandstone formations provided that:

- The heritage listing does not restrict the rights afforded by the proposed E3 zoning of the properties.
- The heritage listing does not preclude their rights to stairway access to the water and the cliff top.
- The existing stairs, boatsheds and other structures on the cliff top are permitted to remain.

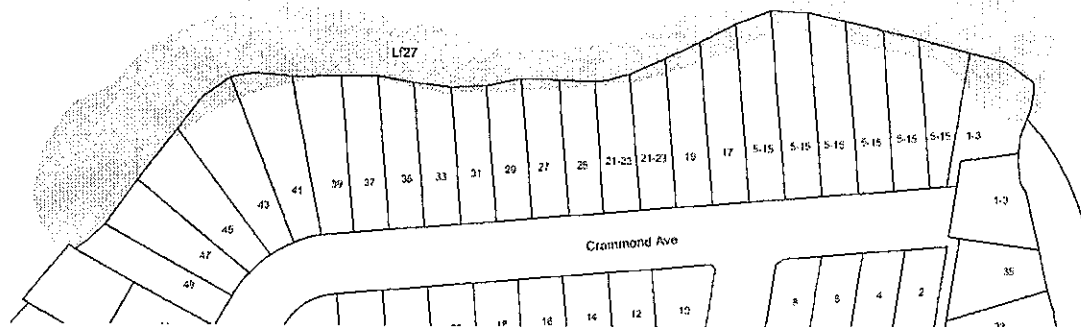
One of the submissions also requests clarification of some matters relating to the Heritage Inventory for the item.

### **Analysis of issue**

The issues raised in the submission relate directly to the heritage listing of the sandstone formations at Cabbage Tree Point. Also relevant to consideration of the submission are the controls on development along the foreshores, particularly the foreshore building line.

### **Heritage Listing**

The sandstone formations in the headland at Cabbage Tree Point (fronting 1 – 49 Crammond Avenue) are listed as a heritage item in Sutherland Shire Local Environmental Plan 2006 (Lf27). This listing was in response to local community nomination of the headland during the preparation of SSLEP2006. The mapped extent of the current listing is indicated in Figure 1 below. It should be noted that the listing extends onto all the privately owned properties along the headland, meaning that development on these properties requires a development application to be lodged and triggers consideration of the heritage significance in the assessment of any application.



The recently completed Sutherland Shire Community Based Heritage Study Review describes the headland as '*An outstanding example of the many facets of Hawksbury sandstone rock formations and the influence of erosive forces on them*'. The Review recommends that the headland should be included in the Heritage Schedule of the LEP. The Review notes that the mapping of the existing heritage listing provides a satisfactory curtilage only for the rock platform, and recommends that the heritage listing (and associated mapping) include the cliff faces going up to about 16m above sea level and about 15-20 metres inland. The Review notes that there are man-made elements along the cliff face, and recommends that these be excluded from the heritage listing. The Review recognises that increasing the extent of the curtilage will entail '*complex political, legal and financial implications, and is probably no longer feasible*'.

The heritage mapping contained in the DSSLEP2013 for the item (Item no 0405) reflects the recommended expansion of the heritage listing to the 16m contour. This yields an irregular line, which on some properties extends further inland from the mean high water mark (property boundary) than 20m (see Figure 2).

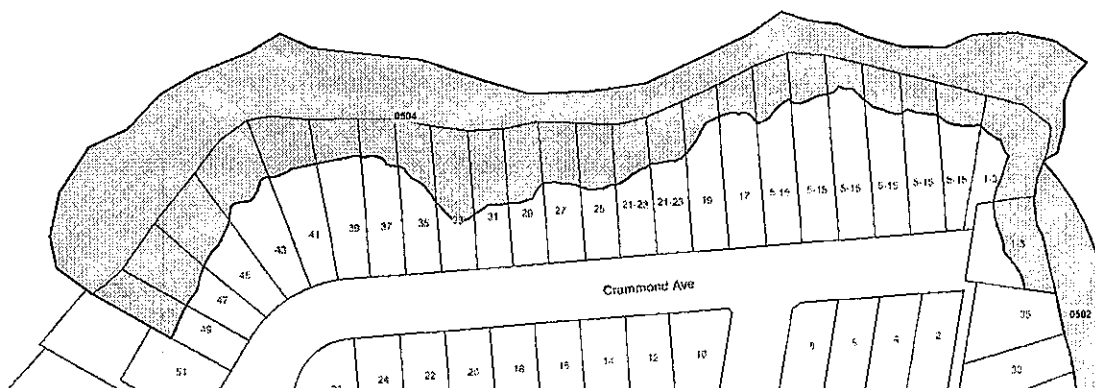


Figure 2: Proposed extent of heritage listing under DSSLEP2013.

The heritage listing does not affect the permissible uses under the proposed E3 zoning. It requires more careful consideration of the possible impacts of a proposed development on the heritage item.

The request for clarification of specific statements in the Heritage Inventory sheet is best addressed separately to the LEP process.

#### Foreshore Building Line

The properties from 17 to 49 Crammond Avenue, Bundeena have a 20m foreshore building line under SSLEP2006. This is proposed to be maintained in DSSLEP2013.

The foreshore building line prohibits development below the foreshore building line, with the exception of specified forms of development. Under SSLEP2006, the permitted forms of development are boatsheds, watercraft facilities, in-ground swimming pools, works to enable pedestrian access (which would include stairs), landscaping, barbeques and utility installations. DSSLEP2013 proposes to permit boat sheds, drainage, sea retaining walls, wharves, slipways, jetties, waterway access stairs, inclinators, in-ground swimming pools, cycleways, walking trails or picnic facilities below the foreshore building line. The concern raised in the submission regarding the permissibility of stairways under the draft plan is unfounded; however, development consent is required. Council can require the removal of illegally erected structures.

As noted in the discussion regarding the extent of the heritage listing, the 16m contour extends further inland than 20m, meaning that it extends beyond the foreshore building line at 25, 29, 31, 33, 45, 47 and 49 Crammond Avenue, as shown in Figure 3.

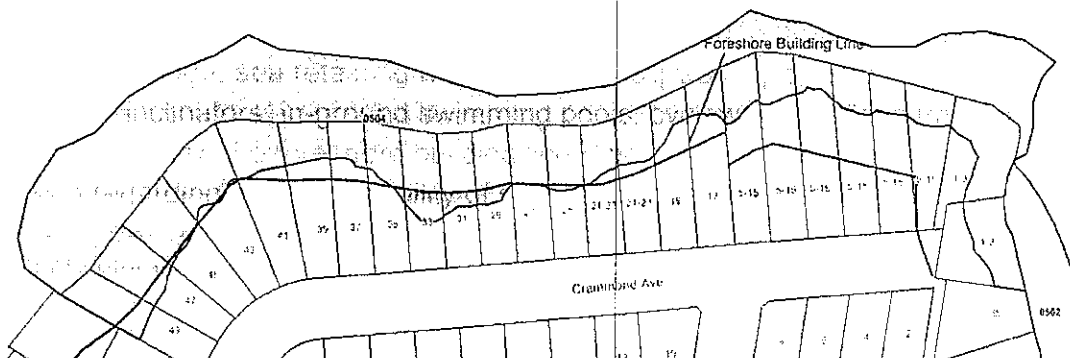


Figure 3: Proposed extent of heritage listing and foreshore building line

#### Existing development 1 – 49 Crammond Avenue, Bundeena

There are some existing structures (e.g. stairs, boatsheds etc) below the foreshore building line and within the proposed mapping of the heritage item. The existing dwellings at 1-49 Crammond Avenue are generally located above the foreshore building line. However, dwellings at No. 49, 35 and 33 are located within the proposed mapping of the heritage item.

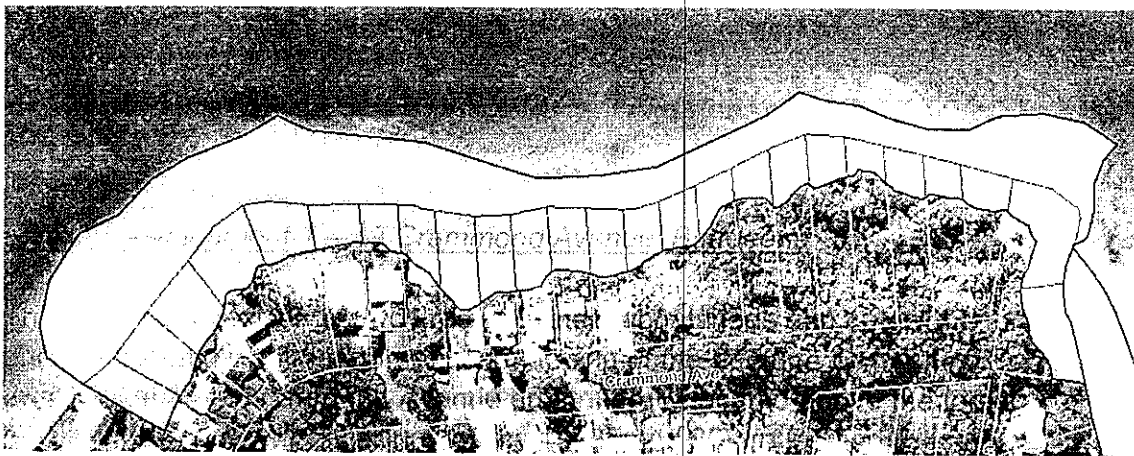


Figure 4: Existing development

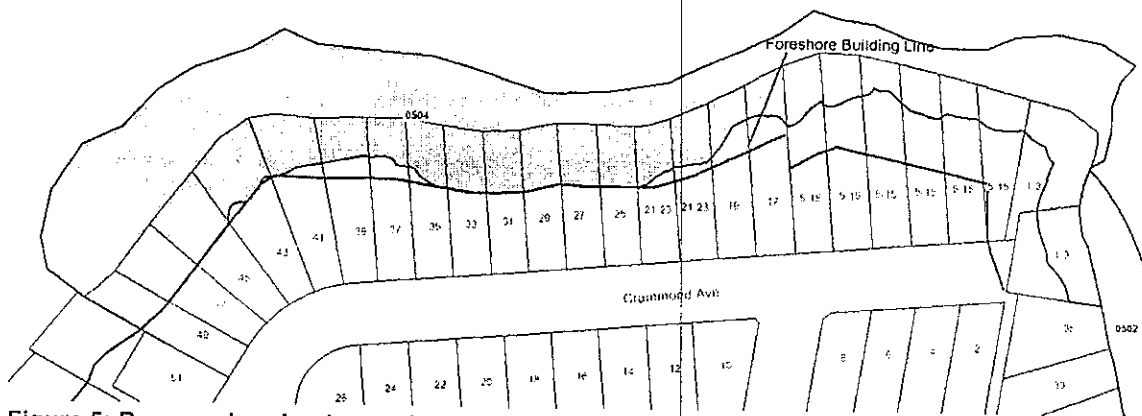
The heritage listing does not require the removal of existing structures. Removal of structures can only be required when these are unlawful.

SSLEP2006 has a provision (Clause 18) which can be utilised to require the removal of structures below the foreshore building line as a condition of consent for new development. This provision is not included in the DSSLEP2013.

#### **Response to issue**

There is a foreshore building line on these properties which limits the forms of development that are permissible in the foreshore area. The foreshore area largely corresponds with the proposed expansion of the heritage listing to include the cliff face. It is considered that the extent of the heritage listing should be revised so that the maximum extent of the heritage listing aligns with the foreshore building line, as illustrated in Figure 5. Only one dwelling, that is below the foreshore building line, will be within the heritage area. As there is a heritage item on the properties, any development proposed on these properties will require consideration of the impact on the heritage listed cliffs and rock platforms.



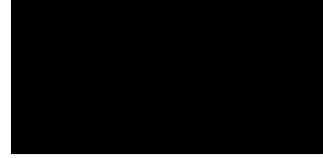


\* **Figure 5: Proposed revised mapping of heritage item 0504**

To enact this amendment, will require re-exhibition of the DSSLEP2013.

Attachment ⑥

1/2



10<sup>th</sup> September 2013

Councillor Kent R Johns  
Mayor  
Sutherland Shire Council  
Locked Bag 17  
Sutherland NSW 1499

Re: LP/03/79340 Draft 2013 LEP

Dear Councillor Johns,

We are writing this letter to strongly object to the draft 2013 LEP that directly affects our property and other properties located at 1-49 Crammond Ave Bundeena.

A Heritage Listing known as LF27 was created and recorded on our title deed in the 2006 LEP. The process by which this occurred was very disappointing to us and other property owners as we felt there was a lack of communication by Council considering the nature of the impact on our property(s). The ramifications of this are numerous including the right of usage, value & resale potential of our property(s) and now with the draft 2013 LEP your council is seeking an amendment which will burden our waterfront property(s) even further.

The draft 2013 LEP recommends that the current heritage listing on the "sandstone formation" and "cliff face" LF27 be extended from the cliff face to include all of our land up to the 20 metre foreshore building line and for some property owners even further. Why do you need to do this and for what purpose?

The current zoning and 20 metre foreshore building control plans work well presently and are surely adequate enough to ensure any DA applications are assessed on these guidelines. Surely, impairing our property even further is not necessary. The impact of this proposal with regard to our waterfront residential property value (past & future) as a result of this Heritage Listing raise serious questions around financial compensation.

This recommendation proposed under the draft 2013 LEP came out of a heritage report (LF27) dated December 2008 by Claudia Miro. The interesting aspect about this report was that IHAP could not determine the criteria on which the Heritage Listing was created in the first place and how a DA assessments could be assessed against that criteria. *So LF27 report dated December 2008 was prepared after the heritage listing was gazetted in the 2006 LEP.* We might add that we were never advised or consulted about this report in 2008 and stumbled across this by chance in the 1<sup>st</sup> round of notification letters sent out for the Draft 2013 LEP.

All the talk around the heritage listing focuses on the "point" of the headland and "Pulpit Rock". We do not understand how the heritage listing has been applied to all the residential properties along Crammond Avenue.

We are also concerned that the reason provided for the heritage listing is not actually representative of those people's original intention behind the listing (i.e. the Bundeena Progress Association).

Attached is an article that was published in the Sutherland Shire Leader sometime in 2006 or thereabout, where Neil Dennett (Chairperson of the Bundeena Progress Assoc at that time) is quoted saying "we mainly intended the heritage listing to apply to the public land on the headland. I didn't think we expected it to mean that landowners were unable to do anything at all to their own properties."

The Heritage Listing applies a whole new layer of unnecessary & costly compliance for land owners and is very subjective at the best of times. As a consequence our rights and amenity under the current zoning is diminished by this heritage listing.

An independent report by a qualified Heritage Consultant - Warrick Mayne-Wilson dated February 2007 - Where he states: "It is understood that the headland was nominated by a number of members of the Bundeena community as a landscape formation which they valued for its natural characteristics. No SHI form was prepared at the time of nomination, nor since, so that the particular values or criteria on which the nomination was made are not available"

In conclusion we object to the proposed changes in the 2103 for the following reasons:

- Restricts the rights of landowners
- Has and will have further impact on the value of properties in Crammond Ave
- Reduces the marketability of our property due to a covenant placed on our title deed.

Yours Sincerely,



Sutherland Shire  
COUNCIL



Office of the Mayor



Councillor Kent R Johns  
Mayor

Locked Bag 17  
Sutherland NSW 1499

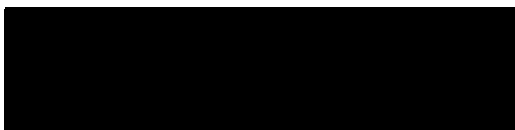
Tel 02 9710 0360

Fax 02 9710 0270

Mob 0414 194 822

Email [kjohns@ssc.nsw.gov.au](mailto:kjohns@ssc.nsw.gov.au)  
[www.sutherlandshire.nsw.gov.au](http://www.sutherlandshire.nsw.gov.au)

File Ref: CRMS: 772294050



Attachment 6A

Dear Mr & Mrs Ryan

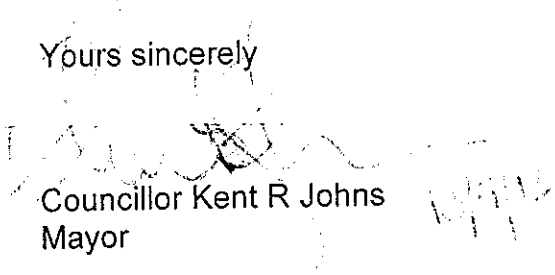
Thank you for your letter of 10 September 2013 concerning the draft Sutherland Shire Local Environmental Plan 2013, in particular to the heritage listing of properties along the foreshore building line in Crammond Avenue, Bundeena.

I appreciate your concerns in relation to the proposed listing. I take all submissions seriously and equally.

Your submission has been registered as a submission to the exhibition of the amended draft Sutherland Shire Local Environmental Plan 2013, and will be considered by the Councillors, staff and myself before Council makes a final decision on the content of the draft plan.

Updates on the progress of the draft plan will be available on Council's website at [www.sutherlandshire.nsw.gov.au](http://www.sutherlandshire.nsw.gov.au).

Yours sincerely

  
Councillor Kent R Johns  
Mayor

Attachment 7  
page 1 of 2

Sutherland Shire  
COUNCIL



Office of the Mayor

Please advise:

Tel:

Fax:

E-mail:

Web:

ABN:

File Ref: CRMS: 772344220



- 7 NOV 2013

Dear [REDACTED]

Thank you for your letter of 30 October 2013 concerning the draft Sutherland Shire Local Environmental Plan (SSLEP) 2013 and the proposed amendment to the Heritage listing of the sandstone formations in the headland at Cabbage Tree Point, Bundeena. I note your concerns regarding the extent of the heritage listing.

The sandstone formations in the headland at Cabbage Tree Point (fronting 1-49 Crammond Avenue) are currently listed as a heritage item in SSLEP2006 (Lf27). This listing was in response to local community nomination of the headland during the preparation of SSLEP2006. The recently completed Sutherland Shire Community Based Heritage Study Review describes the headland as '*An outstanding example of the many facets of Hawksbury sandstone rock formations and the influence of erosive forces on them*'. The Review recommends that the headland should be included in the Heritage Schedule of the LEP. The Review notes that the mapping of the existing heritage listing provides a satisfactory curtilage only for the rock platform, and recommends that the heritage listing (and associated mapping) include the cliff faces going up to about 16m above sea level and about 15-20m inland. The Review notes there are man-made elements along the cliff face and recommends these be excluded from the heritage listing.

The heritage mapping contained in the draft SSLEP2013 for the item (Item No 0405) generally aligns with the proposed foreshore building line, as recommended by the study. The position of the foreshore building line is unchanged in the draft plan.

It should be noted that it is the sandstone formations in headland at Cabbage Tree Point, including Pulpit Rock and sandstone rock shelf that are listed as heritage items by the draft plan. The dwelling is not listed as a heritage item. This heritage listing does not affect the permissible uses under the proposed E3 Environmental Management zoning of your property.

Cont'd...2/-

Attachment 7

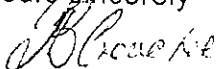
2/2


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Re: Draft SSLEP2013

\* However, it is agreed that development that may adversely affect the heritage item will require more careful consideration as part of the development application process. [I note your concerns about land values, however current planning legislation does not address the affect of heritage listings on land values.] \*

Attached is an extract of the relevant Council report prepared in response to public submissions raised in the first exhibition of the draft plan. The report includes an indication of the extent of the proposed heritage mapping. The issues you have raised will be further considered by Council before it makes a final decision on the content of the draft plan. Please consult Council's website for progress on the draft plan.

Yours sincerely



 Councillor Steve Simpson  
Mayor

Encl