

Dear Mr Brad Hazzard MP,

The purpose of this email is to object to the proposed draft SSLEP 2013 in relation to a heritage listing (landform only) fronting lots 1-49 on Crammond Ave Bundeena (Cabbage Tree Point).

I am also concerned that the whole process of the heritage listing on private property has been a “closed door affair” in that the owners were never made aware of a covenant being placed on their land, were never informed or provided an opportunity to address what occurred in 2006 LEP (the precedent of what is occurring now) and there was a lack of disclosure around a heritage listing on the direct impact on private property owners and now we find the same process is occurring all over again with draft 2013 SSLEP.

Lots 1 to 15 make up the headland at Cabbage Tree Point. Originally these lots were owned privately and had shacks on them but kindly donated back to the public and today is it a reserve covered by trees, shrubs and weeds. Lots 17 to 49 are private properties / residential homes.

The Draft proposes to increase the heritage from the rock platform right up to our 20 metre foreshore building line. **I strongly object to this for the following reasons:-**

- We now have a heritage condition slapped on our title deed without consent (2006 LEP) – what is the future impact of this?
- We were never consulted – Nor our neighbours, many of which have resided here for over 20 years
- Unjustified – there is nothing of heritage value in our backyards and raises serious questions around structures in existence or future needs we may have in living on our property
- Unnecessary – the existing waterfront development control plans and the 20 metre set back requirements provide appropriate compliance requirements – why add another level of compliance where the zoning says you can do something but now you have a heritage compliance requirement placed on a civilised developed strip of properties that are already littered with stairs, retaining walls, landscaping, boatsheds, etc. It will make future DA submissions complex and open to subjectiveness by the assessing officer. It is not transparent or clear.
- Why the residence owners of Crammond Ave have been affected by a heritage listing is a mystery to us.
- No consideration has been made as to the impact on our property value, resale potential or compensation.
- The process this has been handled is very poorly in that this is not a general change to a zoning at large but a specific direct covenant placed on people’s property without their knowledge, without their consent, without consultation, without legal advice, without compensation, without consideration of compliance issues, diminishes the rights and usage of our land where one set of rules says “you can” subject to council approval but the heritage covenant turns this all upside down because what you are doing doesn’t look nice to the assessing officer or it isn’t made from the right material and on it goes.

I only became aware of the listing after I applied to council for stairs to my waterfront. I was told that our property had a heritage listing and for council to assess the impact of the stairs on the heritage item we needed a heritage impact assessment report prepared by a suitably qualified person. The heritage report was completed however it could not properly address the impact of the stairs because council did not have any records available for this comparison to be made. The report also noted that the private properties were not worthy of a heritage listing as “It is a typical cultural planting in a seaside location, and has no particular heritage significance”.

Council prepared a report in December 2008 for Cabbage Tree Point (LF27) as a result of a IHAP recommendation. The report was never provided to, or were the affected property owners involved in the formation of the report. It remained a mystery until 2013 when we uncovered the document when reviewing any impact on our property with the 2013 draft LEP. This report was completed after the heritage listing was gazetted in the 2006 LEP which does not look good in terms of proper processes.

Council look to justify the proposed amendment to the heritage listing by referring to **"The recently completed Sutherland Shire Community Based Heritage Study Review"**. We cannot find a copy of the actual review on council website or by a google search. No such report has been provided to us or our neighbours, yet it is referred to in the communication by council when owners question the LEP. It is also referred to on the Council website in response to submissions from the 1st exhibition but nowhere to be found.

What is recent – it does not refer to a date!

A response by council to our neighbour on 24/1/13 states *"the review notes that the mapping of the existing heritage listing provides satisfactory cartilage only for the rock platform, and recommends that the heritage listing include the cliff faces 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."* This conflicts greatly to the LF 27 report dated December 2008. Why does this not apply to every headland/waterfront property owner on the port hacking river?

Council does not address why this extra measure is necessary and has not consulted property owners. It stinks of hidden agenda.

Council has not responded to my concerns raised on the 10th of September. They did acknowledge my letter however made no attempt to address my concerns has been made, note even a phone call.

It is my understanding from council corospondance 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. Attached 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 BPA had no authority to act on our behalf on such major matter – On what authority they acted I do not know. There should be legal ramifications for this.

I have no objection to the heritage listing applying to the public land at the point of the cabbage tree point however request the panel consider the following:-

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.

We request the heritage listing only apply to the original public headland of cabbage tree point.

Release the heritage listing on private land owners along Crammond Ave.

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."

Regards

Michael Ryan

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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."