



**Lot 2, DP 827733,
316 Hudson Parade, Clareville**
Plan of Management
Draft 2024

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The document has been prepared with assistance from Parkland Planners.

We acknowledge the Traditional Custodians of this land and show our respect to all Aboriginal people. We acknowledge the Elders past, present and emerging and the spirits and ancestors of the Clans that lived in this area.



1. Introduction

What is a Plan of Management?

A Plan of Management provides the framework for managing public land. It sets out how public land is intended to be used, managed, maintained and enhanced in the future.

A Plan of Management is required to be prepared for public land which is classified as community land under the Local Government Act 1993.

Land to which this Plan of Management applies

This Plan of Management applies to Lot 2 DP 827733 at 316 Hudson Parade in Clareville (the Site) as shown in Figure 1.

The Site comprises land on which timber access stairs and part of the footprint of a former boatshed stand.

The Site is adjoined by Refuge Cove Reserve to the north and south, a residential property legally identified as Lot 1 DP 827733 and known as 316 Hudson Parade in Clareville to the east, and Crown land comprising the Pittwater waterway below the mean high water mark to the west.

Background to this Plan of Management

The current owner of Lot 1 DP 827733 requested that Council grants a 20-year licence over Lot 2 DP 827733 for private access to and use, management and development of a boat-shed and associated structures (part of) and access structures (stairs) on the land according to the approved DA 2020/1762.

As the Site is community land owned by Northern Beaches Council, a licence agreement is required to allow the owner of Lot 1 DP 827733 to access and use the stairs and boatshed. The current Plans of Management - Urban Bushland Plan of Management and Inventory and Action Plan Volume 2 North Ward Reserves (1998) and Pittwater Natural Areas Plan of Management (2009) - and the C2 Environmental Conservation zoning which apply to the Site do not expressly authorise the granting of any lease or licence for this purpose. As such, a Plan of Management prepared under the Local Government Act 1993 is required to authorise the licence agreement.

Upon adoption, this Plan of Management will supersede the *Urban Bushland Plan of Management Volume 1* and *Inventory and Action Plan Volume 2: North Ward Reserves* (1998) and *Pittwater Natural Areas Plan of Management* (2009) as they apply to the Site.

Figure 1

The Site and surrounds



Objectives of this Plan of Management

This Plan of Management has been prepared under the Local Government Act 1993 to:

- meet all relevant legislative requirements
- comply with Northern Beaches Council's relevant plans and policies, particularly the Pittwater Local Environmental Plan 2014 and Pittwater 21 Development Control Plan
- set out how the Site will be improved, used, maintained and managed in the future
- identify the categorisation of the Site as General Community Use
- expressly authorise a licence agreement between the owner of residential land adjoining the Site legally identified as Lot 1 DP 827733 and Northern Beaches Council to facilitate the restoration and remediation of the coastal area and the construction and future use of a boatshed and access stairs
- ensure safe access to the foreshore and through the Site for the public and the owner of Lot 1 DP 827733.

Process of preparing this Plan of Management

The process of preparing this Plan of Management involves the following tasks:

Figure 2
Process of preparing this Plan of Management

Community and stakeholder engagement	Stages	Outputs
<div>Public exhibition of the Draft Plan of Management notified to stakeholders and the community by:</div> <ul style="list-style-type: none">Northern Beaches News' e-newsletterLetterbox drop to nearby residentsDirect emails to site owner and Clareville and Bilgola Plateau Residents AssociationTemporary onsite signage <div>Written comments to Council at Your Say and by email and mail</div>	Prepare draft Plan of Management	Draft Plan of Management
	↓	
	Council resolution	
	↓	
	Public exhibition of Draft Plan of Management and receipt of submissions for minimum 42 days: 12 January to 3 March 2024	50 public submissions received, with the majority in support of the Draft Plan of Management
	↓	
	Consider public submissions	Community Engagement Report
	↓	
	Prepare final Plan of Management	Final Plan of Management
	↓	
	Council adoption	Report to Council
	↓	
	Implementation	

Contents of this Plan of Management

This Plan of Management is divided into the following sections, as outlined in Table 1

Table 1
Structure of this Plan of Management

Section	What does it include?
1 Introduction	Background to the Plan of Management
2 Description of The Site	History, ownership and management, physical description, condition, proposed facilities and uses, maintenance
3 Planning Context	State planning legislation, regional and local planning context
4 Basis for Management	Values of the community, management objectives
5 Permitted uses and developments	Permitted future uses and developments, scale and intensity of use, use agreements
6 Action Plan	Strategies and actions, responsibilities, performance measures and targets to implement actions.
7 Implementation and review	Management, funding, reporting, review

Requirements for a Plan of Management for community land, are as provided by the *Local Government Act 1993*. These requirements and where they can be found in this Plan, are listed in Table 2.

Table 2
Contents of a Plan of Management for community land

Requirement of the Local Government Act	How this plan satisfies the Act
A description of the condition of the land, and of any buildings or other improvements on the land as at the date of adoption of the Plan of Management	Section 2
A description of the use of the land and any such buildings or improvements as at the date of adoption of the Plan of Management.	Section 2
Categorisation of community land	Section 3
Core objectives for management of the land	Section 4
The purposes for which the land, and any such buildings or improvements, will be permitted to be used.	Section 5
The purposes for which any further development of the land will be permitted, whether under lease or licence or otherwise.	Section 5
A description of the scale and intensity of any permitted use or development.	Section 5
Authorisation of leases, licences or other estates over community land.	Section 5
Objectives and performance targets.	Section 6
Means by which the plan's objectives and performance targets will be achieved.	Section 6
Means for assessing achievement of objectives and performance targets.	Section 6

2. Description of the Site

Locational context

The Site forms part of Refuge Cove, a narrow linear foreshore bushland area of 1.01 hectares between the eastern shoreline of the Pittwater estuary and residential properties along Hudson Parade on the southern side of Refuge Cove. With the exception of the Site, this bushland area is a public reserve known as 'Refuge Cove Reserve'.

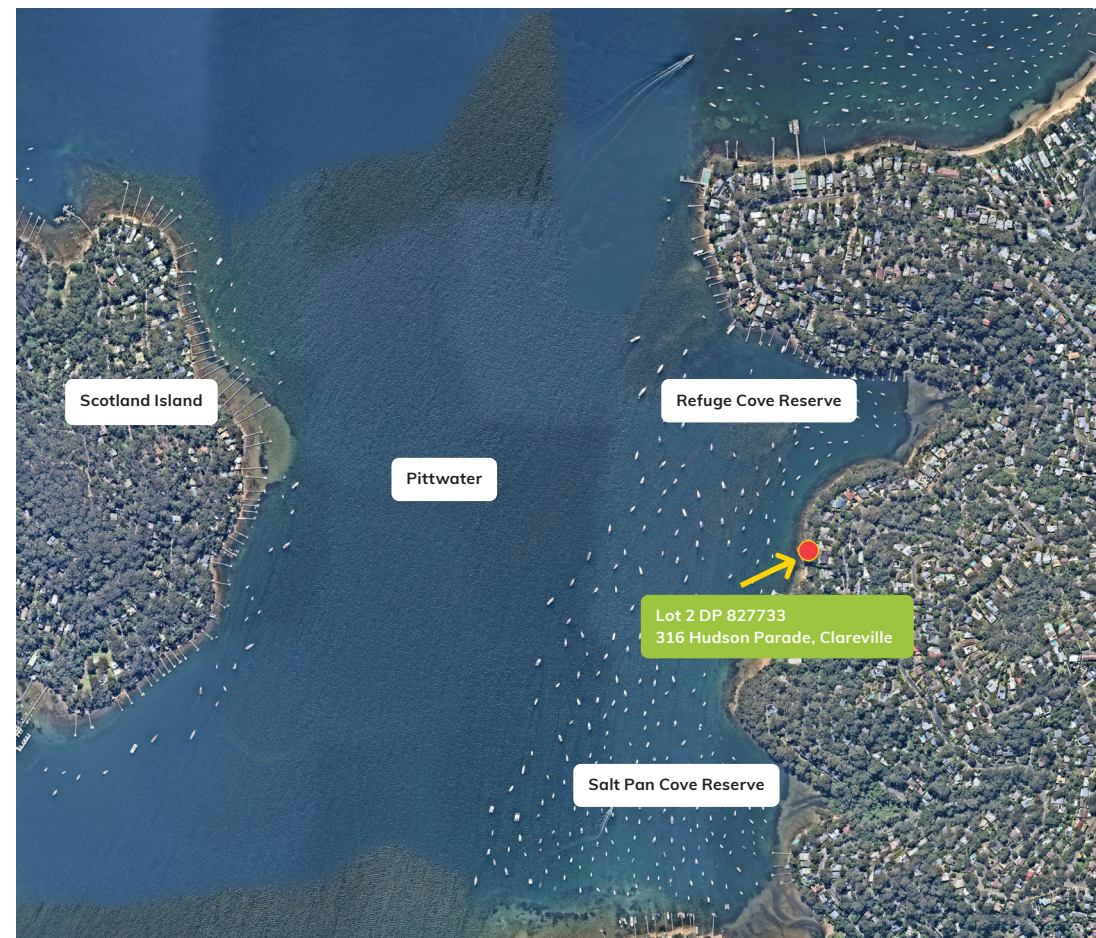
Figure 4 shows residential development and Refuge Cove Reserve are situated to the east of the Site, the Pittwater waterway to the west, rock platforms and a sandy foreshore area to the south, and an area of sandy beach and rock boulders to the north. A boatshed is situated 80 metres to the south of the Site.

The Site shares a western boundary with Crown land to the west, extending to the Mean High Water Mark. The owner of Lot 1 DP 827733 holds a licence from the NSW Department of Planning and Environment – Crown Lands which grants them permission to use their proposed waterfront facilities below the mean high water mark.

The Site has an irregular shape, accommodating access stairs connecting the foreshore with the residential dwelling situated at 316 Hudson Parade. The remainder of the Site contains a level area of land on which a former boatshed sat and includes the surrounding curtilage associated with the former boat shed.

Figure 3

Locational context of the Site



History and heritage

The Aboriginal Heritage Office (AHO) advised that this area is likely part of Garigal clan territory and would have been an important coastal resource zone for the last few thousand years. Shell middens and shelters remind us that people have been coming together to share meals here for many generations. Elsewhere in the peninsula rock art sites and rock engravings show how culturally important this area has been to Aboriginal people. Unfortunately, due to impacts of invasion and colonisation from 1788 onwards much traditional knowledge has been lost. Local Aboriginal people today are building knowledge and carrying on the

practice of caring for Country. While we enjoy this place, it is useful to think how we can all contribute to the long-term protection of this place for ourselves and future generations.

The Site and its surrounding foreshore area is rated as High for areas of potential Aboriginal sites, with nearby middens, shelter middens, shelter art and engravings.

The Site has been used for a boatshed and associated maritime structures since 1947 until the boat shed was demolished in 2018. See images of former boatshed at Figure 5.

Figure 4

The Site and surrounds including mean high water mark

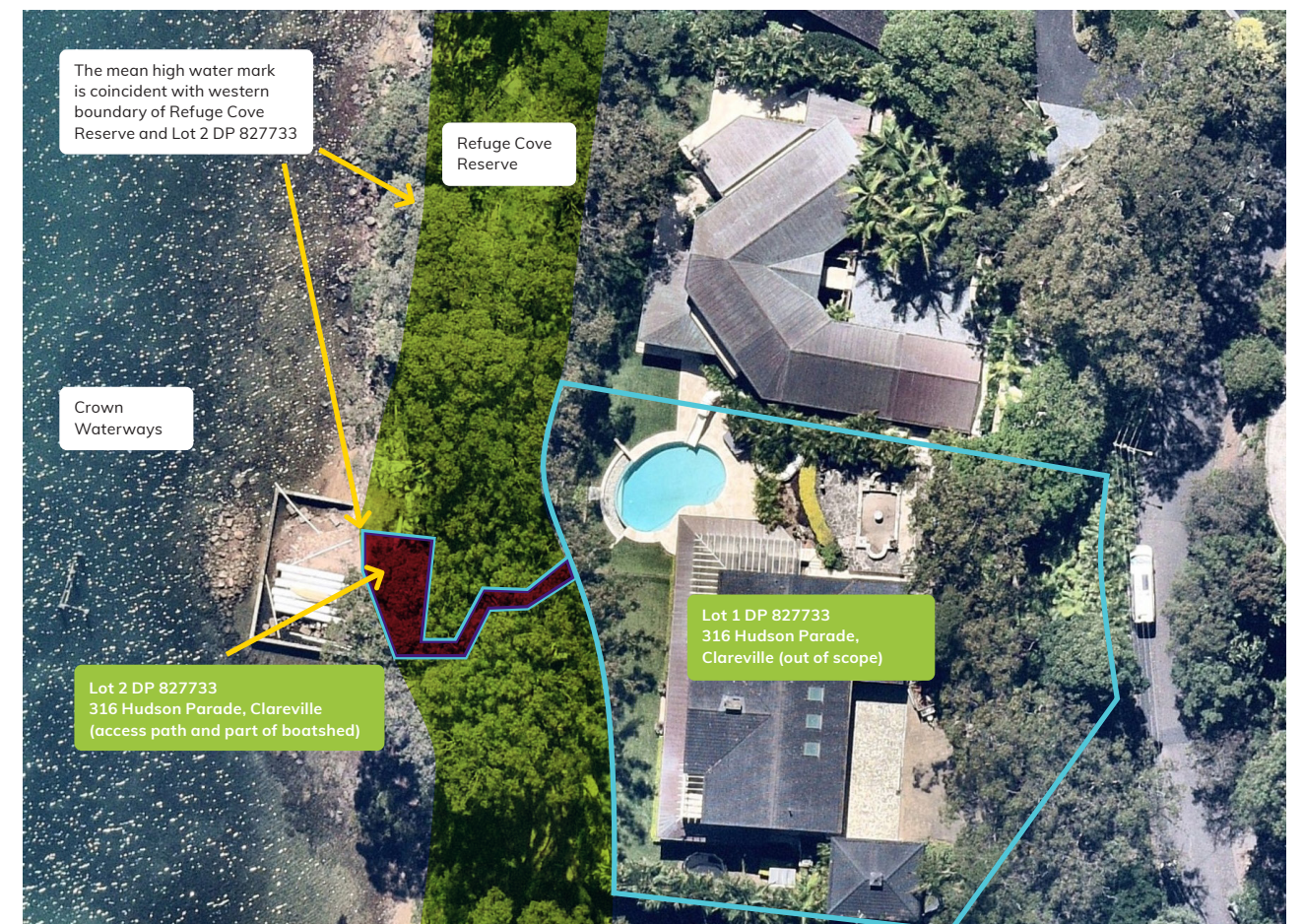


Figure 5
Images of former boatshed on the Site in January 2016



North aspect

South aspect

The Site is not a heritage item or heritage site, in the vicinity of a heritage item, or in a conservation area under the Pittwater Local Environmental Plan 2014.

Property details

The land tenure and property information for the Site are in Table 3

Table 3
Property information for the Site

	Details
Land parcels	Lot 2 DP 827733
Area (ha)	Approximately 58 m²
Owner	Northern Beaches Council
Manager	Northern Beaches Council
Classification	Community land
Categorisation	General Community Use
Zoning	C2 Environmental Conservation (Pittwater Local Environmental Plan 2014)

Physical characteristics

Geology, soils and topography

Refuge Cove Reserve, including the Site, is underlain by shales and sandstones relating to the Newport formation of the Narrabeen Group rock platforms, displaced upslope sandstone floaters and exposed shale stratum.

Soils of Refuge Cove Reserve vary from shallow to moderately deep brown, red and gleyed podzols characteristic of the Watagan soil landscape.

The Pittwater Acid Sulfate Soils Map shows Class 5 acid sulfate soils, the lowest possible rating.

A short, steep foreshore slope against which the access stairs are located gives way to the rocky and sandy foreshore. Rock boulders and sand comprise the foreshore immediately to the north of the Site, with a small sandy beach at low tide adjoining the Site to the south.

The Site comprises a natural sandstone wall platform partially covered by pebbles, and fine sand and silt to the south of the foundation walls. Fill that has been in place since at least 1947 is enclosed by a recently constructed dintel wall to contain the fill.

The Site is zoned Geotechnical Hazard H1 on the Pittwater Geotechnical Hazard Map, which requires a geotechnical assessment to be carried out in accordance with the Pittwater DCP 2014 for any development work. The geotechnical assessment undertaken for the DA (JK Geotechnics Pty Ltd, 2020) found bedrock exposed across the Site, and geotechnical hazards on the Site, below the Site, above the Site and beside the Site. The steep landform and soil clay content contribute to the potential for mass movement and a severe soil erosion hazard if disturbed.

The Coastal and Marine Damages Assessment Report (Royal Haskoning DHV, 2019) concluded that impacts of the proposed boat shed and associated structures on the beach to the south of the boat shed would be minimised by the proposed construction of an unbonded stepped sandstone block wall to allow for wave energy dissipation and provide habitat for aquatic species, and the dintel walls will be demolished.

Hydrology and drainage

No natural watercourses or drains influence the Site.

The Site is mapped on Northern Beaches Council's Flood Risk Precincts layer as adjacent to a high/medium risk flood precinct, and it is flood affected.

Ecology

Terrestrial flora and fauna

Limited vegetation currently exists on the disturbed area that was formerly occupied by the boat shed. Small patches of exotic groundcovers and grasses dominate, with native species such as *Tetragonia tetragonoides* rare.

The short, steep foreshore slope and the adjoining Refuge Cove Reserve consists of vegetation that is part of the endangered ecological community Pittwater and Wagstaffe Spotted Gum Forest in the Sydney Basin Bioregion. The Site and most of Refuge Cove Reserve is mapped on the NSW Biodiversity Values Map which identifies land with high biodiversity value which is particularly sensitive to impacts from development and clearing.

The tree canopy of Pittwater Spotted Gum Forest consists of Spotted Gum (*Corymbia maculata*) and associated species including Broad Leaved White Mahogany (*Eucalyptus umbra*), Grey Gum (*E. punctata*) and Grey Ironbark (*E. paniculata*) on exposed slopes. Small trees in the locality include *Allocasuarina*, *Persoonia* and *Acacia* species. Understorey and ground layer species include Burrawang (*Macrozamia communis*) and Kangaroo Grass (*Themeda australis*). Exotic species and landscape plantings are also present on the foreshore slopes, including *Lantana camara*, *Agapanthus* sp., *Agave* sp., *Asparagus aethiopicus*, and several non-local Palm tree species.

Refuge Cove Reserve, in combination with trees and vegetation within private properties, would act as a wildlife corridor for bird and mammal species along the Pittwater peninsula, and also provide fauna links to other bushland areas such as Stapleton and Angophora Reserves. Threatened fauna species previously recorded within the locality include Powerful Owl (*Ninox strenua*), Grey-headed Flying-fox (*Pteropus poliocephalus*) and several microbat species.

The Site is not classified as Bush Fire Prone Land.

Marine ecology

Bio-Analysis Pty Ltd (2021) found in its marine habitat survey for 316 Hudson Parade, Clareville that the seagrass *Zostera capricorni* grows seaward of the partially demolished ramp in front of the western foundation wall, and the Sydney Rock Oyster (*Saccostrea glomerata*), various gastropods and macroalgae (mainly *Hormosira banksii*) colonise the sandstone platform and boulders.

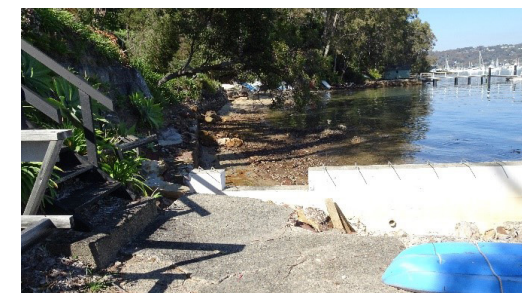
Grey Mangrove (*Avicennia marina*) occurs along the tidal foreshore in Refuge Cove Reserve. Tongue Orchid (*Dendrobium linguiforme*) clings to the large sandstone floaters on the water's edge.

Visual quality

The Site, in particular its lower portion, has poor visual amenity following demolition of the former boatshed (See Figure 6). Construction works to the former boatshed were ceased by the service of a Stop Work Order under the *Environmental Planning and Assessment Act 1979*. Partially completed structures remain on the site.

Figure 6

Views from the northern side of the Site showing the boatshed location



Access and circulation

Public access down the steep hill from Hudson Parade to the beach and rocks of Refuge Cove Reserve is available via stairs on the public reserve between nos. 310 and 312 Hudson Parade, and from south of 320 Hudson Parade.

The Site is accessible via the timber stairs from 316 Hudson Parade (owners' access) and from the beach (at low tide) and rocks of the Refuge Cove foreshore.

Poor and narrow public access is available from the beach across the rocks and up the dintel support wall and across the Site. Somewhat level pedestrian access to the Site is possible from the north. However, there are no steps from the south to the Site, making access to the platform of the Site potentially unsafe. Cracked concrete slabs and pipes and exposed metal on the Site add to the risk of pedestrian access to and across the Site. See images of access through the Site at Figure 7.

Figure 7

Access through the Site



Obstructed access from the south



Access from the north

Condition of the land and structures

Most of the Site contains the footprint of the former boatshed that was demolished in 2018. Some incomplete dintel retaining walls remain, along with concrete slabs, pipes, rubble and other building waste (See Figure 8). The condition of the former boatshed footprint is poor and poses a potential safety risk to the public.

Figure 8

Condition of the boatshed site



Dintel retaining wall on southern side



View across the site from the south

The condition of the timber stairs extending down the slope from Lot 1 DP 827733 to the area of the former boatshed were constructed in the late 20th century, and appear to be in good condition (See Figure 9).

Figure 9

Condition of stairs



Uses of the Site

Current uses of the Site are for public pedestrian access, and for storage of watercraft.

No leases, licences or other estates apply to the Site permitting the use or occupation of the Site. An objective of this Plan of Management is to facilitate a licence being granted over the Site to the owner of Lot 1 DP 827733.

Management and maintenance

Management and oversight of the Site is undertaken by Northern Beaches Council.

Under the proposed licence agreement the owner of Lot 1 DP 827733 would be responsible for capital improvements, maintenance of the Site and structures, ensuring public access through and around the Site, and to pay Northern Beaches Council a licence fee based on the Site area and the annual fees and charges for use of public land set by Council.

3. Planning context

Introduction

This section describes the wider legislative and policy framework which applies to the Site.

The legislation referred to below is on the websites for NSW Legislation (www.legislation.nsw.gov.au) and Australasian

Legal Information Institute (www.austlii.edu.au) and on the Northern Beaches Council website (www.northernbeaches.nsw.gov.au).

Table 4 outlines the state, regional and local planning context which influences the use, development and management of the Site.

Table 4
Planning context of the Site

Land use planning and management	Public open space, recreation	Natural environment
NSW		
Local Government Act 1993	Draft NSW Public Spaces Charter	Biodiversity Conservation Act 2016
Local Government (General) Regulation 2021	Greener Places Policy	Biosecurity Act 2015
Environmental Planning and Assessment Act 1979	Draft Greener Places Design Guide	
Coastal Management Act 2016	Companion Animals Act 1998 and Regulation 2008	
State Environmental Planning Policy (Resilience and Hazards) 2021		
Sydney		
A Metropolis of Three Cities: Greater Sydney Region Plan	Draft 50-Year Vision for Greater Sydney's Open Space and Parklands	Greater Sydney Regional Strategic Weed Management Plan 2017-2022
	Greater Sydney Green Grid	
	Greater Sydney Local Land Services	
Regional		
North District Plan	Sydney Green Grid – North District	
Northern Beaches LGA / Former Pittwater LGA		
Towards 2040: Local Strategic Planning Statement	Let's Play! Northern Beaches Open Space and Outdoor Recreation Strategy and Action Plan	Northern Beaches Environment and Climate Change Strategy 2040
Northern Beaches Community Strategic Plan 2040	Northern Beaches Public Space Vision and Design Guidelines – Guide for Planning and Design of Open Space	Northern Beaches Tree Canopy Plan 2023
Delivery Program		Northern Beaches Bushland and Biodiversity Policy
Operational Plan	Northern Beaches Asset Management Policy 2018	
Pittwater Local Environmental Plan 2014	Northern Beaches Asset Management Strategy 2018-2028	
Pittwater 21 Development Control Plan 2014	Infrastructure Asset Management Plans	

Local Government Act 1993

Classification

The Site is owned by Northern Beaches Council and is classified as community land under the *Local Government Act 1993*. Council owned land which is classified as community land must be managed and kept for the purposes of the community. Community land must be managed according to the provisions of the *Local Government Act 1993* and the *Local Government (General) Regulation 2021*.

Council has no power to sell, exchange or otherwise dispose of community land, except for the purpose of enabling that land to become, or be added to, a Crown Reserve or land reserved or dedicated under the *National Parks and Wildlife Act 1974*.

Categorisation

Community land must be categorised in accordance with the *Local Government Act 1993* as either Park, Sportsground, Area of Cultural Significance, Natural Area, or General Community Use. A category assigned to community land, using the guidelines for categorisation in the *Local Government (General) Regulation 2021*, reflects Council's intentions for future management and use of the land.

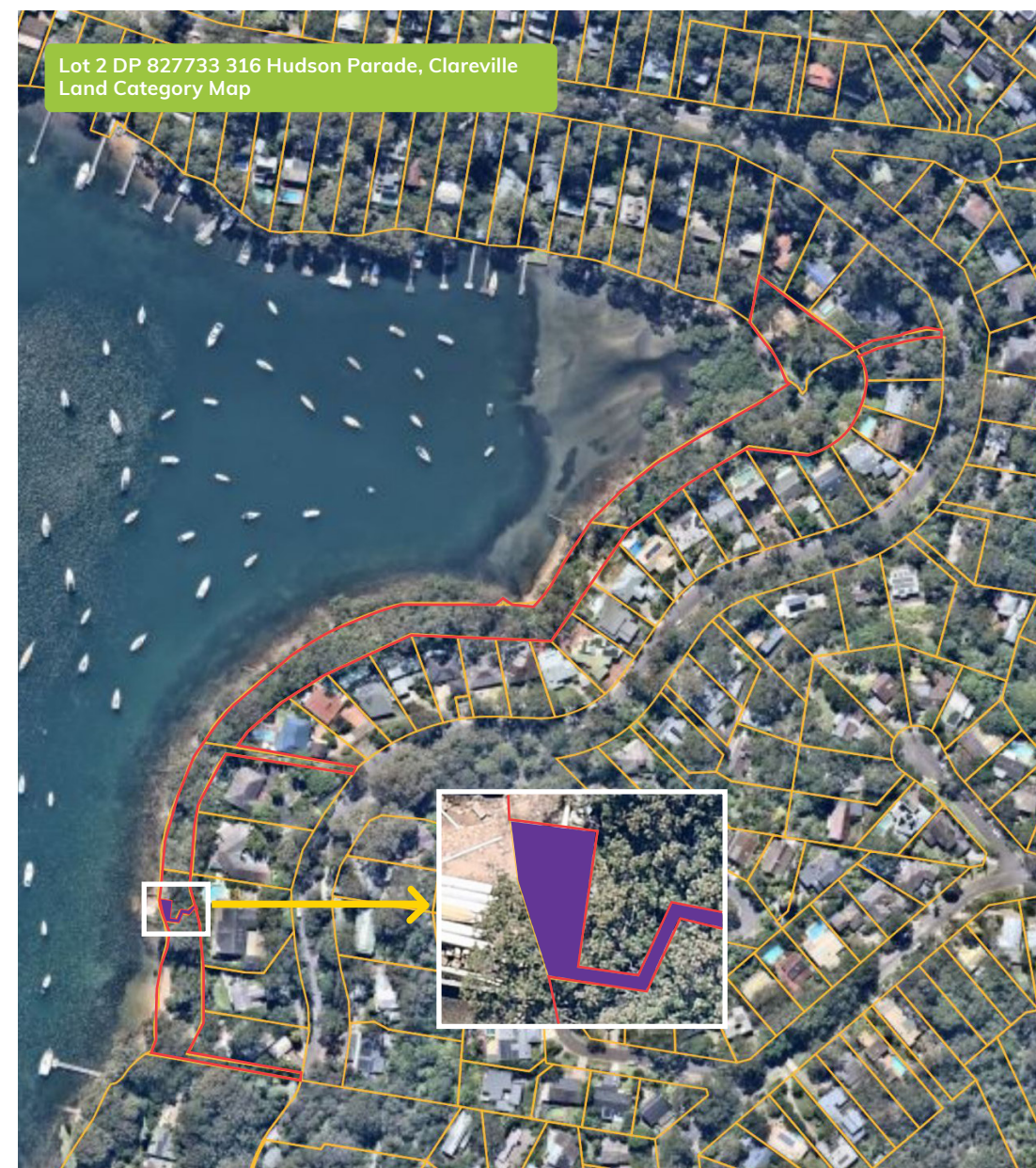
Prior to 2016 the Site was categorised as Natural Area consistent with the categorisation of Refuge Cove Reserve in the Urban Bushland Inventory and Action Plan – Refuge Cove Reserve, Taylors Point (1997). After a public hearing (refer to Parkland Planners, 2016) Council resolved on 7 March 2016 to recategorise the Site from Natural Area to General Community Use. The category map in the Urban Bushland Inventory and Action Plan – Refuge Cove Reserve, Taylors Point (1997) was updated accordingly.

The Site is categorised as General Community Use (as shown in Figure 10) consistent with the guidelines for categorisation in the *Local Government (General Regulation) 2021*:

'Land that may be made available for use for any purpose for which community land may be used, whether by the public at large or by specific sections of the public.'

Permissible uses and developments, and requirements for leases licences and other estates under the *Local Government Act 1993* and the *Local Government (General) Regulation 2021* are in Section 5.

Figure 10
Categorisation of the Site



Legend

- General community use
- Refuge Cove Reserve
- Cadastre

Environmental Planning and Assessment Act 1979

The *Environmental Planning and Assessment Act 1979* (EPA Act) establishes the statutory planning framework for environmental and land use planning in NSW through:

- State Environmental Planning Policies (SEPPs).
- Local Environmental Plans (LEPs).
The Pittwater Local Environmental Plan 2014 applies to the Site.

Coastal Management Act 2016

The Site is located within the coastal zone of NSW and is subject to the provisions of the *Coastal Management Act 2016* and Chapter 2 of the *State Environmental Planning Policy (SEPP) (Resilience and Hazards) 2021*. The Site is mapped within the Coastal Environment and Coastal Use areas under the SEPP (Resilience and Hazards).

Development within coastal environment areas and coastal use areas must be assessed against the considerations contained in Sections 2.10 and 2.11 of the SEPP (Resilience and Hazards)

Biodiversity Conservation Act 2016

The Site is mapped as having Biodiversity Values.

Green Grid

The Site is mapped as part of Refuge Cove Reserve which is part of the Green Grid Existing Green Assets (Sydney).

Zoning

The Site is landward of the mean high water mark and is zoned C2 Environmental Conservation in the Pittwater Local Environmental Plan 2014 (refer to Figure 11).

Objectives of the C2 Environmental Conservation zone are in Section 4. Permissible uses in the C2 Environmental Conservation zone are in Section 5.

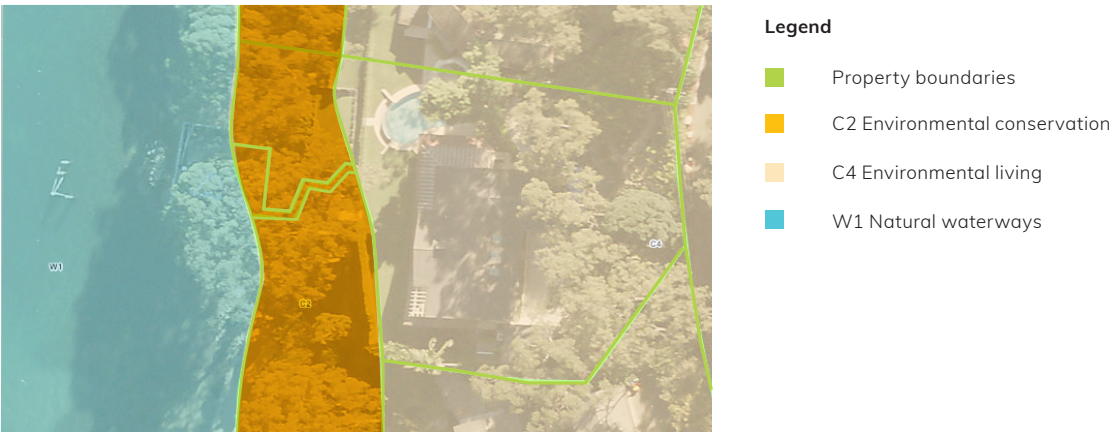
The adjoining land seaward of the mean high water mark is zoned W1 Natural Waterways.

Other considerations in Pittwater Local Environmental Plan 2014

The Site is identified on the following maps in the Pittwater Local Environmental Plan 2014:

- Acid sulfate soils – Class 5
 - Foreshore building line - a small section of the proposed works is within the Pittwater Foreshore Building Line
 - Geotechnical Hazard – H1.
- Clauses of the Pittwater Local Environmental Plan 2014 which apply to the Site are:
- 4.3 Height of buildings
 - 7.1 Acid sulfate soils
 - 7.5 Coastal Risk Planning
 - 7.6 Biodiversity Protection
 - 7.7 Geotechnical hazards
 - 7.8 Limited development on foreshore area.

Figure 11
Zoning of the Site - C2 Environmental Conservation



Pittwater Development Control Plan 2014

The Site is located on the Estuarine Hazard Map of the Pittwater Development Control Plan 2014 as being subject to wave action and tidal inundation.

Relevant clauses in the Pittwater Development Control Plan 2014 are:

- A4.3 Bilgola Locality
- B1.3 Heritage Conservation – General
- B1.4 Aboriginal Heritage Significance
- B3.1 Landslip Hazard
- B3.6 Contaminated Land and Potentially Contaminated Land
- B3.9 Estuarine Hazard
- B3.12 Climate Change (Sea Level Rise and Increased Rainfall)
- B4.7 Pittwater Spotted Gum Forest – Endangered Ecological Community
- B4.16 Seagrass Conservation
- B4.19 Estuarine Habitat
- B4.22 Preservation of Trees and Bushland Vegetation
- B5.13 Development on Waterfront Land
- B8.1 Construction and Demolition – Excavation and Landfill
- B8.3 Construction and Demolition – Waste Minimisation
- B8.4 Construction and Demolition – Site Fencing and Security
- B8.5 Construction and Demolition – Works in the Public Domain

- C1.1 Landscaping
- C1.2 Safety and Security
- C1.3 View Sharing
- C1.4 Solar Access
- C1.5 Visual Privacy
- C1.6 Acoustic Privacy
- C1.12 Waste and Recycling Facilities
- C1.13 Pollution Control
- D3 Bilgola Locality
- D3.1 Character as viewed from a public place
- D3.2 Scenic Protection – General
- D3.3 Building Colours and Materials
- D3.11 Landscaped Area – Environmentally Sensitive Land
- D15.11 Waterfront Lighting
- D15.12 Development seaward of mean high water mark
- D15.13 Lateral limits to development seaward of mean high water mark
- D15.14 Minimum frontage for waterfront development
- D15.15 Waterfront Development
- D15.18 Seawalls

Other relevant plans and policies

Other plans and policies relevant to the Site include:

- Geotechnical Risk Management Policy for Pittwater 2009

4. Basis for management

Northern Beaches Council takes a values-based approach to the planning, use and management of community land including the Site. Values may be described as what is important or special about a place. Values of the Site include:

- public land, community land, public asset
- safe public access to the foreshore for walking and enjoying the foreshore
- contribution to the scenic and natural quality of the foreshore
- natural environment – sea life, birds
- intertidal habitat and ecology
- iconic Pittwater boat sheds.

This Plan of Management aims to protect and enhance the values of the Site.

The Site will be managed according to the objectives set out below.

NSW Government objectives

Core objectives for community land

The core objectives for community land categorised as General Community Use under the Local Government Act 1993 are to:

- promote, encourage and provide for the use of the land, and to provide facilities on the land, to meet the current and future needs of the local community and of the wider public in relation to:
 - public recreation and the physical, cultural, social and intellectual welfare or development of individual members of the public.
 - purposes for which a lease, licence or other estate may be granted in respect of the land (other than the provision of public utilities and works associated with or ancillary to public utilities).

Coastal environment area

Section 8 of the Coastal Management Act 2016 lists the objectives for the coastal environment area to:

- protect and enhance the coastal environmental values and natural processes of coastal waters, estuaries, coastal lakes and coastal lagoons, and enhance natural character, scenic value, biological diversity and ecosystem integrity
- reduce threats to and improve the resilience of coastal waters, estuaries, coastal lakes and coastal lagoons, including in response to climate change
- maintain and improve water quality and estuary health
- support the social and cultural values of coastal waters, estuaries, coastal lakes and coastal lagoons
- maintain the presence of beaches, dunes and the natural features of foreshores, taking into account the beach system operating at the relevant place
- maintain and, where practicable, improve public access, amenity and use of beaches, foreshores, headlands and rock platforms.

Coastal use area

Section 9 of the Coastal Management Act 2016 lists the objectives for the coastal environment area are to:

- protect and enhance the scenic, social and cultural values of the coast by ensuring that:
 - the type, bulk, scale and size of development is appropriate for the location and natural scenic quality of the coast
 - adverse impacts of development on cultural and built environment heritage are avoided or mitigated
 - urban design, including water sensitive urban design, is supported and incorporated into development activities
 - adequate public open space is provided, including for recreational activities and associated infrastructure
 - the use of the surf zone is considered
- accommodate both urbanised and natural stretches of coastline

Local objectives

The objectives of the C2 Environmental Conservation zone in the former Pittwater LGA are to:

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

The desired outcomes for the D15.15 Waterways Locality in the Pittwater 21 Development Control Plan 2014 are that:

- waterfront development does not have an adverse impact on the water quality and estuarine habitat of Pittwater
- public access along the foreshore is not restricted
- waterfront development does not encroach on navigation channels or adversely affect the use of ferries and service vessels or use of the waterway by adjoining landowners
- structures blend with the natural environment
- structures are not detrimental to the visual quality, water quality or estuarine habitat of the Pittwater Waterway
- a mix of commercial waterfront development for the accommodation of boats, their repair and maintenance, and for organised waterfront development is promoted.

The Site will be managed consistent with relevant Council plans and policies, including those listed in Section 3.3.

Site objectives

Site-specific objectives are to:

- remediate and restore the Site following the demolition of the former boatshed
- enter into an appropriate use agreement for use of the Site for access and a boatshed
- construct the proposed boatshed, seawall, steps and associated structures on the Site in accordance with the *Environmental Planning and Assessment Act 1979*
- ensure safe public access across and around the Site at all times
- minimise the impacts of development and use of the Site on Refuge Cove Reserve and the Pittwater waterway.

5. Future uses and developments

Introduction

Section 36 of the Local Government Act 1993 requires a site specific Plan of Management to specify:

- the purpose for which the land, and any such buildings or improvements, will be permitted to be used
- the purpose for which any further development on the land will be permitted whether under lease of license or otherwise.

Section 46 of the Local Government Act 1993 permits the issue of a licence only if the licence is expressly authorised by a Plan of Management.

It is a purpose of this Plan of Management to expressly authorise the granting of a licence to the owner of the adjoining residential property to the Site, being Lot 1 DP 827733.

Legislation controlling the use of land

The use and development of the Site is controlled by the following legislation:

- guidelines for and core objectives of the relevant categories of community land under the Local Government Act 1993 and the Local Government (General) Regulation 2021
- uses for which leases, licences and other estates may be granted on community land under the Local Government Act 1993
- any development of public open space owned by Council must be consistent with a Plan of Management for that land prepared in accordance with the Local Government Act 1993
- Part 4 of the Environmental Planning and Assessment Act 1979, which requires consideration of environmental planning instruments including but not limited to:

- State Environmental Planning Policy (Resilience and Hazards) 2021. Under this instrument the Site is identified as a coastal environment area and a coastal use area. Divisions 3 and 4 of the SEPP establish criteria governing the assessment of development within such areas
- Pittwater Local Environmental Plan 2014, and the land use table associated with the C2 Environmental Conservation zone
- Future environmental planning instruments
- Part 5 of the Environmental Planning and Assessment Act 1979.

Permitted uses and future development
Permitted uses under this Plan of Management

The Site is permitted to be used for the purposes of:

- public access to the foreshore
- private access to the foreshore by the owner of Lot 1 DP 827733
- wharf or boating facilities, which is relevantly defined by Pittwater Local Environmental Plan 2014 as:
 - a wharf or any of the following facilities associated with a wharf or boating that are not port facilities
 - a. facilities for the embarkation or disembarkation of passengers onto or from any vessels, including public ferry wharves
 - d. refuelling, launching, berthing, mooring, storage or maintenance facilities for any vessel
 - e. sea walls or training walls

- uses permitted with or without consent under environmental planning instruments
- demolition of structures and rehabilitation of the site consistent with the character of Refuge Cove and any approvals and relevant legislation.

Future development of the land – wharf or boating facilities

The private access and 'wharf or boating facilities' is to be used by the owner of Lot 1 DP 827733 under a licence agreement, which is expressly authorised by this Plan of Management.

To carry out future development for the purpose of a wharf or boating facilities, development consent under Part 4 of the Environmental Planning and Assessment Act 1979 is required. Notwithstanding that such development is prohibited in the C2 Environmental Conservation zone, Council is satisfied that development for the purpose of a 'boatshed' and associated access stairs is an "existing use" on the Site, which is defined by s.4.65 of the Environmental Planning and Assessment Act 1979 as:

- a. the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for this Division, have the effect of prohibiting that use, and
- b. the use of a building, work or land-
 - i. for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and

- ii. that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.

Under the Environmental Planning and Assessment Regulation 2021 an existing use may be enlarged, expanded, intensified, altered, extended or rebuilt.

This Plan of Management does not permit the use of the Site as a wharf or boating facility if such a use is abandoned within the meaning of the Environmental Planning and Assessment Act 1979.

Development Consents applying to the Site

On 6 April 2022 development consent No. 2020/1762 was granted to "Demolition works and construction of boatshed, ramp, slipway, jetty and steps" (the Development Consent). The Development Consent applies to the Site and to the adjoining Crown Land. The works approved over the Site include:

- demolition of the remaining structures associated with the boatshed which once stood on the land and foreshore area (partly on the Site)
- construction of a boatshed and associated concrete platform/ curtilage (partly on the Site)
- construction of a sandstone seawall around the perimeter of the boatshed (partly on the Site).

Conditions imposed by the Development Consent include:

- applying for a Working and Access on Reserves Permit prior to commencement of construction for public safety and protection of Council infrastructure
- constructing a sea wall in accordance with the Environmentally Friendly Seawalls Guide (Office of Environment and Heritage, 2009)
- complying with the Estuarine Hazard Design Requirements, particularly demonstrating safe pedestrian access to a ‘safe haven’ above the Estuarine Planning Level
- complying with the Estuarine Risk Management Report (Royal Haskoning DHV, 2021) over the 60 year life of the development
- providing and maintaining public access along the foreshore. The approved plans show public thoroughfare along the foreshore and through Refuge Cove Reserve will continue via:
 - a 1.36 metre wide public accessway between the rear perimeter of the boatshed and the stairs
 - construction of stairs at the southern edge of the structure where there is a level change between the platform and the beach
 - access across the front of the boat shed.

Prohibited uses

Prohibited uses in the C2 Environmental Conservation zone are listed in the Pittwater Local Environmental Plan 2014.

Although not expressly listed in the zoning table in the Pittwater Local Environmental Plan 2014 , use of the boatshed for private uses other than for watercraft storage, such as for a home office or occupation, social gatherings, or for camping or accommodation, are prohibited.

Scale and intensity of permitted development and permitted uses

In accordance with the *Local Government Act 1993* a Plan of Management must detail the scale and intensity of development and uses permitted by the Plan of Management.

The scale and intensity of future uses and developments on the Site is constrained by its small footprint, difficult access, and foreshore/waterway on three sides. The Site is also mapped as having biodiversity values. The scale of future development is constrained further by Clause 4.4 of the Pittwater Local Environmental Plan 2014 which applies a maximum height of buildings of 8.5 metres above the existing ground level. Clause 4.4 is a development standard that may be varied pursuant to Clause 4.6 of the Pittwater Local Environmental Plan 2014 providing that all mandatory matters within that clause are addressed.

The Development Consent for DA 2020/1762 approved a boatshed having a height of 5.35 metres and an external footprint of 6.2 metres wide and 9.2 metres long. This structure will service a single dwelling house.

Introduction

Under the *Local Government Act 1993* a lease, licence, other estate or easement (also known as use agreements) may be granted over all or part of community land.

Use agreements are a way of allowing for the specific use of community land for a specific purpose. They may be held by groups such as sporting clubs and schools, or by private/ commercial organisations or people providing facilities and/or services for public use.

Community land is intended to be managed for community benefit. Section 47D(1) of the *Local Government Act 1993* prohibits the exclusive occupation and use of community land unless in accordance with a lease, licence or estate.

A lease will be typically required where exclusive use or control of all or part of community land may be desirable for effective management. A lease may also be required due to the scale of investment in facilities, the necessity for security measures, or where the relationship between a major user and facilities on community land justifies such security of tenure.

Licences allow multiple and non-exclusive use of an area. A licence may be required where intermittent or short-term use or control of all or part of community land is proposed.

A number of licences for different users can apply to the same area at the same time, provided there is no conflict of interest.

Under Section 46 of the Act, a lease, licence

or other estate may only be granted over community land if it is for a purpose specified in that section. The licence purpose has to be consistent with the core objectives of the categorisation of the community land.

The maximum period for leases and licences on community land allowable under the *Local Government Act 1993* is 30 years (with the consent of the Minister for a period over 21 years).

Community land may only be leased or licensed for period of more than 5 years if public notice is given according to the requirements of Sections 47 and 47A of the *Local Government Act 1993*.

Authorisation of current use agreements

No use agreements (leases, licences or other estates) currently apply to the Site.

Authorisation of future leases, licences and other estates

This Plan of Management expressly authorises the grant of a licence as set out in Table 5.

The purpose of the licence is to allow:

- the owners of Lot 1 DP 827733:
 - the ability to restore and remediate the land following on from the removal of the former boatshed
 - the ability to construct new boating storage facilities
 - the right to access and to the exclusive use of the stairs and the new boating storage facilities
- the public continued access to the restored foreshore area.

Table 5
Express authorisation of a licence over the Site

Subject land/premises	Lot 2 DP 827733 (58 m2)
Land owner	Northern Beaches Council
	Land classified as community land under <i>Local Government Act 1993</i>
Licensor	Northern Beaches Council
Licensee	Owner of Lot 1 DP 827733
Permitted uses of the land	Boatshed to store watercraft, and access stairs/structures
Tenure	The licensee will have the non-exclusive licence and privilege to use and occupy the premises for the permitted use only. Any structure to be erected on the land would require submission of a Development Application which would be required to address impacts on aquatic ecology, coastal hazards and public access.
Term	20 years from the date of commencement of the licence agreement
Option for renewal	12 month holdover period, or as required by Council
Licence fee	An amount per annum or as required by Council, in accordance with Council's adopted Fees and Charges for use of public land per square metre or as determined by Council
Subleasing	Not permitted to any party for any other purpose

The licence purposes set out above are consistent with Section 46 of the *Local Government Act 1993* as they provide facilities and allow activities which meet the current and future needs of the local community and the wider public for public recreation and the physical, cultural, social and intellectual welfare and development of persons. This will be achieved via the removal of the unsafe structures resulting from the demolition of the former boatshed, the restoration and remediation of the coastal area, the construction of a new boatshed of a modern standard

on the Site, and the provision of public access to the restored foreshore area.

These actions will be consistent with, and will further the core objectives for the management of community land categorised as General Community Use set out in Section 36I of the *Local Government Act 1993*.

Objectives, performance targets, means of achievement of the objectives and performance targets, and means for assessing achievement of the objectives and performance targets are listed in Table 6.

Table 6
Action Plan

Issue	Objectives, performance targets	Action	Priority	Responsibility	Means of assessing achievement
Use agreement	Ensure that the licence applicant has complied with the <i>Local Government Act 1993</i> to have authorised tenure over Council land	Enter into a licence agreement between Council and owner of Lot 1 DP 827733 for use of the Site for a boatshed and access stairs/structures.	High	Council, owner of Lot 1 DP 827733	Execution of licence agreement under the <i>Local Government Act 1993</i> , Office of Local Government approval
Site remediation and restoration	Ensure that the Site is remediated and restored	Remediate and restore the Site following the demolition of the former boatshed	High	Owner of Lot 1 DP 827733	Site inspection
Construction of approved structures	Ensure that the proposed structures are constructed according to approvals	Issue Construction Certificate	As per approval process	Council	Construction certificate issued
		Construct approved structures on the land according to the Development Application		Owner of Lot 1 DP 827733	Occupation certificate issued by private certifier

6. Implementation

Governance

The Site will remain under the ownership and management of Northern Beaches Council. The Council will oversee the license agreement for site development and activities.

Monitoring

Implementation of actions in this Plan of Management will be monitored through Council's annual performance reports, budgets, and capital works programs. It is important to acknowledge that the commencement and completion of recommended actions depend on available resources, funding, and Council's annual priorities. Action priorities will be reviewed annually to ensure their relevance.

Funding

The Licensee will be responsible for covering all costs related to the management and maintenance of the Site including any associated structures.

Reporting

Achievement of actions listed in this Plan of Management will be reported using Council's Integrated Planning and Reporting Framework.

Income, expenditure and achieved actions regarding the Site will be reported to Council in each financial year.

Review of this Plan of Management

This Plan of Management is intended to be reviewed and updated as required. It should be updated to reflect changing community and Council priorities and issues, to take into account changes in funding, legislation or government directions, and to recognise completed actions. Review of this Plan of Management should also take into account the outcomes of periodic reviews of Council's strategic and operational plans.

The Action Plan table has a shorter life and therefore requires more frequent review and updating. The Action Plan table should be reviewed and revised when required in accordance with Council's budgets, Capital Works Program and changing priorities.

References

Bio-Analysis Pty Ltd (2021) *Marine Habitat Survey: 316 Hudson Parade, Clareville.*

El Australia (2022) *Acid Sulfate Soils Management Plan: 316 Hudson Parade, Clareville.*

Greater Sydney Commission (2017) *Our Greater Sydney 2056: A Metropolis of Three Cities – connecting people.*

Greater Sydney Commission (2017) *North District Plan.*

Northern Beaches Council (2018) *Northern Beaches Community Strategic Plan 2040.*

Northern Beaches Council (2019) *Northern Beaches Environment and Climate Change Strategy 2040.*

Northern Beaches Council (2020) *Towards 2040: Local Strategic Planning Statement.*

Parkland Planners (2016) *Refuge Cove Reserve (Part) Recategorisation Public Hearing Report.* Prepared for Pittwater Council.

Pittwater Council (1998) *Urban Bushland Plan of Management – Volume 1.*

Pittwater Council (1998) *Urban Bushland Inventory and Action Plan - Volume 2: North Ward Reserves.*

Pittwater Council (2009) *Pittwater Natural Areas Plan of Management.*

Royal Haskoning DHV (2019) *316 Hudson Parade, Clareville: Upgraded Boatshed Works – Coastal and Marine Damages Assessment.*

Royal Haskoning DHV (2021) *Estuarine Risk Management Report.*

Former Pittwater Council

- Meeting 7 March 2016 – Meeting Minutes - Council resolution Item C10.1 – 316 Hudson Parade – Renewal of Expired Lease.

Northern Beaches Council

- Ordinary Council Meeting 26 October 2021 – Meeting Minutes – Council resolution - item 13.1 - Consideration of licence request for Council community land Lot 2 DP 827733 (within Refuge Cove Reserve) and adjoining 316 Hudson Parade, Clareville.
- Ordinary Council Meeting 19 December 2023 - Meeting Minutes - Council resolution - item 13.5 - Public Exhibition - Draft Plan of Management for Lot 2 DP 827733, 316 Hudson Parade, Clareville.
- Ordinary Council Meeting - 30 April 2024 - Outcome of Public Exhibition - Draft Plan of Management for Lot 2 DP 827733, 316 Hudson Parade, Clareville

Northern Beaches Local Planning Panel

Northern Beaches Local Planning Panel Assessment Report

Northern Beaches Local Planning Panel Meetings and Minutes:

- 2 March 2022
- 28 March 2022
- 4 April 2022 – Meeting Minutes – Determination of Development Application – Item 4.1 - DA2020/1762 – 316 Hudson Parade, Clareville – Demolition works and construction of a boatshed, ramp, slipway, jetty and steps.



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