The Illawarra Local Aboriginal Land Council has requested Council’s assistance to remove structures, except the Pod, from the Sandon Point Tent Embassy site at McCauley’s Beach. At a meeting on 6 February 2018, this request was considered by the Sandon Point Aboriginal Place Joint Management Agreement Partner organisations, the majority of whom resolved to seek Council’s assistance to remove all structures.

It is recommended that Council support the request and provide assistance to the Joint Management Agreement partners to remove all structures, in consultation with NSW Police and the Office of Environment and Heritage.

RECOMMENDATION

1. Council reaffirm its acknowledgement of the cultural significance of the Sandon Point – McCauley’s Beach Aboriginal Place.

2. Council acknowledge the resolution of the majority of the Sandon Point Aboriginal Place Joint Management Agreement Partner organisations, for Council to assist with the removal of all structures at the McCauley’s Beach Site.

3. In accordance with the request, the General Manager be delegated authority to utilise Council resources to assist with the removal of all structures at McCauley’s Beach.

4. The structures be removed in consultation with representatives of the Sandon Point Aboriginal Place Joint Management Agreement Partner organisations, the Office of Environment and Heritage (OEH), and NSW Police.

5. The following organisations / persons be advised of Council’s resolution:
   - Illawarra Local Aboriginal Land Council (ILALC)
   - Sandon Point Aboriginal Tent Embassy (SPATE)
   - Korewal Elouera Jerrungarah Tribal Elders Aboriginal Corporation (KEJ)
   - Wadi Wadi Coomaditchi Aboriginal Corporation
   - Wodi Wodi Elders Council
   - Northern Illawarra Residents Action Group (NIRAG)
   - Sandon Point Surf Club
   - Sandon Point Residents Association
   - Sandon Point Aboriginal Place (SPAP)
   - The Member for Keira

6. Council continue to keep the area clear of any structures which do not have the approval of Council and the Sandon Place Aboriginal Place Joint Management Agreement Partner organisations.

REPORT AUTHORISATIONS

Report of: David Green, Manager Environmental Strategy and Planning (Acting)
Authorised by: Andrew Carfield, Director Planning and Environment - Future City and Neighbourhoods

ATTACHMENTS

1. Sandon Point Plan of Management Area and Aboriginal Place Map
BACKGROUND

The Sandon Point and McCauley’s Beach precinct is an iconic coastal location that contains significant Aboriginal culture and heritage, including burial sites (and re-burials), ceremonial sites, middens and artefacts.

The majority of the coastal area is owned and managed by Council. In 2014 Council owned some 31 lots which have an area of 17 hectares (Attachment 1). The landholding is a result of Council acquiring land and land being transferred by developers. The Tramway Creek corridor is currently in the process of being transferred to Council, which is approximately 3.2 hectares.

The land is zoned RE1 Public Recreation under the Wollongong Local Environmental Plan 2009.

Pre 1788

In the pre-1788 era, the Sandon Point area was an important ceremonial site, burial site and meeting place for Aboriginal people. The southern point, known as the Sandon Point, is recognised as a traditional chief's meeting place. The wider area beyond Sandon Point is recognised as a more general meeting place where trade would be conducted between groups and stories would be shared. The abundant food resources of the area supported gatherings of Aboriginal groups.

Evidence of past Aboriginal occupation of the Sandon Point area comprises shell middens and stone artefact scatters. A burial associated with a shell midden near McCauley's Beach, dated to over 6,000 years old, was uncovered after a series of storms exposed remains in 1998. The ancestral remains have been reburied and are protected by the vegetation cover.

Post 1788

In 1817, colonial settler occupation around Sandon Point began with the formation of an agricultural estate - the area was used for small-scale cultivation and grazing. By the late 1800s, the area was heavily cultivated and had several industrial operations, including a cokeworks, coal port and refactory. As land in the region was divided for settler use, Aboriginal people would often camp and fish to the north of Sandon Point.

The beaches and surf breaks also become popular with residents and visitors.

SPATE

The Sandon Point Aboriginal Tent Embassy (SPATE) was established in 2000 as a political protest to residential development at Sandon Point and to monitor and protect the significant heritage of the site. The Embassy has included a number of tents and other structures that have been built over the years, without formal approval under the Environmental Planning and Assessment Act 1979.

On two prior occasions Council resolved to take no action regarding the structures. On 25 November 2002, Council resolved (in part):

5 Council take no action against the Sandon Point Picket or the Sandon Point Aboriginal Tent Embassy until legal advice is received on this issue and reported to Council. (Minute 482)

On 28 June 2004, Council resolved (in part):

1 The status quo remain and Council take no action to remove the Aboriginal Tent Embassy and community picket at this time. (Minute 201)

Sandon Point Aboriginal Place

On 16 February 2007, the Minister for the Environment declared the area an Aboriginal Place under the National Parks and Wildlife Act 1975. The declaration of Aboriginal Places offers Aboriginal people opportunities to reconnect with their ancestors, community and culture. Aboriginal heritage is inseparable from the natural environment - from individual plants and animals to ecosystems. The land and waterways are associated with dreaming stories and cultural learning that links Aboriginal people with who they are and where they belong (source: NSW Office of Environment and Heritage website).
Sandon Point and McCauley’s Beach Plan of Management (PoM) and Joint Management Agreement

In 2011, Council commenced the preparation of the Sandon Point and McCauley’s Beach Plan of Management (PoM). The draft Plan was exhibited from 1 December 2010 to 15 March 2013 and the revised draft Plan exhibited from 30 July 2014 to 10 October 2014.

On 23 February 2015, Council endorsed the Sandon Point and McCauley’s Beach Plan of Management (PoM) and Aboriginal Place Management Plan to guide the management of the area. The Plan of Management includes an Aboriginal Place Management Plan and is supported by a Vegetation Management Plan. Attachment 1 is a map of the PoM area.

The PoM guides future Council activities on the land including the erection of signage, improving access to the beach, improvements to the shareway and vegetation management. A number of these activities involve ground disturbance and therefore require an Aboriginal Heritage Impact Permit (AHIP) to be issued by the Office of Environment and Heritage (OEH). Council has been working through the AHIP process for a couple of years, and this process must be completed before any proposed works can commence.

In terms of the Sandon Point Aboriginal Tent Embassy, the PoM acknowledges its importance and indicates that its future is a matter for the Aboriginal community to determine.

On 23 February 2015 Council also resolved to establish a Joint Management Agreement with five Aboriginal community organisations:

- Illawarra Local Aboriginal Land Council (ILALC),
- Korewal Elouera Jerrungarah Tribal Elders Aboriginal Corporation (KEJ),
- Sandon Point Aboriginal Tent Embassy (SPATE),
- Wadi Wadi Commaditchi Aboriginal Corporation
- Wodi Wodi Elders Council

A signing ceremony and celebration was held at Sandon Point on 16 November 2016.

These Aboriginal Community Organisations were the organisations that were listed in the schedule C of the National Parks and Wildlife Act 1974 Section 90 Permit number 2130. This permit 2130 was obtained by Stocklands which related to residential development at Sandon Point approved by the NSW Land and Environment Court. Council resolved to invite these organisations into negotiations to create a Joint Management Agreement on 23 June 2014 and 23 February 2015. Through this Agreement, Council meets with nominated representatives of the above organisations to protect the Sandon Point Aboriginal Place and to manage the Aboriginal cultural and heritage values within the Sandon Point and McCauley’s Beach Plan of Management area.

The Joint Management Agreement provides for Aboriginal Community Organisations Partners to make determinations on whether or not an Aboriginal Cultural Use or Development is supportive or not supportive of the values of the Sandon Point Aboriginal Place. The values of the Place relate to the area’s significance to the Aboriginal community and are detailed in the Joint Management Agreement.

PROPOSAL

On 25 January 2018, the ILALC advised Council that it would support and recommend the removal of all structures on the McCauley’s Beach-Sandon Point Aboriginal Place with the exception of "The Pod". Additionally this action needs to be taken with and in conjunction with the explicit order for persons that are currently maintaining a presence at the location to move on.
The request was considered at a Joint Management Committee meeting on 8 February 2018, wherein the Committee resolved (in summary) “We want to thank the Sandon Point Tent Embassy for their care of the site. The Joint Management Agreement Aboriginal Community Organisation Partners have resolved to remove all structures with Council’s assistance. If police assistance is required Council is to request it. The Joint Management Partners will be notified before Council takes action to remove the structures.”

A full version of the resolution is detailed later in this report.

The request and resolution is the culmination of a series of events that have occurred over the last 5 months. A chronology of which is provided below.

On 2 October 2017, a Thirroul resident reported that their family was assaulted by a person at the SPATE site. The matter was reported to NSW Police who charged the individual and the matter is before the Courts.

On 4 October 2017, the ILALC and SPATE advised Council that the person was not affiliated with their organisations and they did not authorise the occupation.

On 18 October 2017, the ILALC and SPATE advised Council that their attempts to move on the individual had been unsuccessful and they wanted Council assistance. In some of the attempts, the NSW Police had been called by the occupant and they had requested the Aboriginal elders to leave the site.

On 2 November 2017, a Joint Management Committee meeting was held, attended by 4 of the 5 partner organisations (representatives of KEJ were apologies). The meeting discussed the recent incidents and resolved that “all structures be removed because they had passed their use by date and the recent incidents”

On 12 January 2018, the ILALC advised Council and the Office of Environment and Heritage (OEH) that building works had commenced without approval and were concerned that the structure was causing harm to the Aboriginal Place and requested that the works be stopped.

On 17 January 2018, officers of OEH and Council inspected the site and verbally issued a stop work order.

On 24 January 2018, ILALC advised OEH and Council that further work appeared to be occurring.

On 25 January 2018, the OEH advised Council and the ILALC that OEH officers have investigated the alleged harm to the Aboriginal Place resulting from the commencement of the construction of a building. We cannot take regulatory action as there is no clear cut evidence of significant harm to the Aboriginal Place.

OEH advised that it will issue advisory letters to two individuals regarding the recent construction impacts at Sandon Point and the appropriate assessment process outlined in the National Parks and Wildlife Act.

OEH advised that the unauthorised construction is a matter that needs to be considered by Wollongong City Council under the Environmental Planning and Assessment Act 1979.

OEH further advised that we understand that the Illawarra Local Aboriginal Land Council (ILALC) is seeking to remove some of the existing structures, and that the ILALC may seek Council assistance. Provided that no harm to the Aboriginal Place occurs, we do not see that OEH has a role in the removal of structures. Obviously, appropriate controls will need to be in place to make sure harm to the Aboriginal Place does not occur.

If Council is considering assisting with the removal of structures, we suggest that the following measures may help limit the potential for inadvertent harm:

- Vehicles and machines accessing the Aboriginal Place should be fitted with rubber tyres to limit ground disturbance.
- Structures should be removed by hand rather than machine wherever possible.
- Where required, backfilling should be with clean sand or other clean fill.
- If Aboriginal objects are found all work must stop and OEH must be contacted by calling Environment Line on 131 555.

On 25 January 2018, the ILALC advised Council that it would support and recommend the **removal of all structures** on the McCauley’s Beach-Sandon Point Aboriginal Place with the exception of “The Pod”.

**Additionally this action needs to be taken with and in conjunction with the explicit order for persons that are currently maintaining a presence at the location to move on.** This order needs to be enforced unless a change is recommended from the Sandon Point Aboriginal Tent Embassy (S.P.A.T.E) as the recognised and documented entity with oversight of the structures.

On 8 February, 2018 a Joint Management Committee meeting was held with representatives of four of the five groups present. The Wadi Wadi Coomaditchi Aboriginal Corporation was an apology to the meeting. The meeting resolved that:

“We want to thank the Sandon Point Tent Embassy for their care of the site. The Joint Management Agreement Aboriginal Community Organisation Partners have resolved to remove all structures with Council’s assistance. If police assistance is required Council is to request it. The Joint Management Partners will be notified before Council takes action to remove the structures.”

Aboriginal Community Partner Organisations who voted in support of the resolution without qualification:
- Wodi Wodi Elders
- KEJ

Aboriginal Community Partner Organisations who voted in support of the resolution with a qualification:
- Illawarra Local Aboriginal Land Council

Please Note: The ILALC voted to support the resolution because the persons there are being harmful to the values of the Sandon Point Aboriginal Place.

Those who voted to oppose the resolution with a qualification:
- Sandon Point Aboriginal Tent Embassy (SPATE)

Please Note: SPATE wants the pod to remain on site and the right to place structures on site in the future that are supportive of the values of the Place and with the support of the Joint Management Agreement Partners.

Explanatory Note: The Pod is not a residential structure. The Pod is only one structure out of a number of Tent Embassy structures present on site.

Accordingly, as there was a meeting quorum (3 organisations) and the resolution was supported by a majority of the organisations present, it is adopted under the terms of the Sandon Point Aboriginal Place Joint Management Agreement.

**CONSULTATION AND COMMUNICATION**

As noted, the request for Council assistance was considered on 6 February 2018 by the Sandon Point Aboriginal Place Joint Management Agreement partner organisations. The Office of Environment and Heritage was also present at the meeting, and has been involved in the recent events.
PLANNING AND POLICY IMPACT

This report contributes to the delivery of Wollongong 2022 goal "We Value and protect our natural environment". It specifically delivers on the following:

<table>
<thead>
<tr>
<th>Strategy</th>
<th>Delivery Program 2012-2017</th>
<th>Annual Plan 2017-18</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.4.2 Our Aboriginal community is actively engaged in the management of indigenous heritage</td>
<td>1.4.2.1 Work with the local Aboriginal community in the management of Indigenous heritage</td>
<td>Support the Sandon Point Joint Management Agreement</td>
</tr>
</tbody>
</table>

RISK ASSESSMENT

Council’s assistance in removing the structures has some people and reputation risks. The risks have been reduced by the request coming from the ILALC and being supported by the majority of the Joint Management Agreement Partners. The assistance will also be coordinated with NSW Police to provide support, and the OEH to ensure the values of the Aboriginal Place are not harmed and are protected.

FINANCIAL IMPLICATIONS

Council’s assistance to remove the structures will involve resources, staff or contractors, plant equipment and waste disposal charges. These costs will be managed within existing budget allocations.

CONCLUSION

It is recommended that Council support the request from the Illawarra Local Aboriginal Land Council and supported by the majority of the Sandon Point Aboriginal Place Joint Management Partner organisations, to provide assistance in removing all structures at McCauley’s Beach.
Ordinary Meeting of Council
Item 1 – Attachment 1 - Sandon Point Plan of Management Area and Aboriginal Place Map

19 February 2018