

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0514
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Responsible Officer:	Anne-Marie Young
Land to be developed (Address):	Lot 2699 DP 752038, 1 B Bolingbroke Parade FAIRLIGHT NSW 2094
Proposed Development:	Alterations and additions to the Manly Boat Shed (Marina)
Zoning:	Manly LEP2013 - Land zoned RE1 Public Recreation
Development Permissible:	No
Existing Use Rights:	Yes
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Manly Boatshed Pty Ltd
Applicant:	Manly Boatshed Pty Ltd

Application Lodged:	20/05/2020
Integrated Development:	Yes
Designated Development:	No
State Reporting Category:	Other
Notified:	30/09/2020 to 30/10/2020
Advertised:	30/09/2020
Submissions Received:	187
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 1,934,631.00
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EXECUTIVE SUMMARY

Northern Beaches Council is in receipt of development application DA2020/0514 for alterations and additions to the Manly Boatshed at 1B Bolingbroke Parade, Fairlight. The application seeks consent for an extension to the boatshed with an ancillary kiosk at ground floor and the continued use of the residential dwelling on the level 1 which relies on existing use rights. A new deck, passive storage shed, tender office and pontoon are also proposed. The proposal was amended to reduce the size of the kiosk to 55sqm and reduce the amount of seating and hours of operation.

The application is being referred to the NBLPP as a total of 187 submissions have been received (123 in support and 64 in objection). The issues raised in the submissions primarily relate to concerns about the intensification of use, existing use rights, parking, operational issues especially noise associated with the kiosk and environmental impacts. The comments raised in support refer to the

demand / need for passive craft storage, improved safe public access to the foreshore, improved community facilities including the kiosk, the appropriate coastal design, environmental benefits and a well run family business.

The proposal is not designated development as the proposed works do not significantly increase the environmental impacts of the total development (that is the development together with the additions or alterations) compared with the existing or approved development. It is noted that the Department of Fisheries and Council's Biodiversity, Water Management and Coastal Management Units have no objections to the proposal subject to conditions.

The bulk and scale of the built form does not represent over-development and operational issues have been addressed with a reduction in the size of the kiosk and conditions which require compliance with the recommendations of the acoustic report which includes a restriction in the use of the outdoor seating associated with the kiosk to between 7.00am and 6.00pm Monday to Saturday and 8.00am to 6.00pm on Sundays.

The additional 23 passive craft storage facilities and the ancillary kiosk are unlikely to result in unreasonable impacts on parking in the vicinity of the site. Additional operational data has been submitted to justify this and Council's Transport Unit have no objections to the proposal subject to additional conditions requiring the submission, approval and implementation of a Green Travel Plan and an updated POM which will include details of traffic management measures.

Sufficient evidence has been lodged to support the continued use of the upper floor of the boatshed as a residential dwelling based on existing use rights. The evidence includes copies of a building approval for the alterations to the dwelling in 1966.

In summary, the Panel can be satisfied that the proposal generally complies with the relevant controls contained within the Sydney Regional Environmental Plan Sydney Harbour Catchment 2005 and Manly Local Environmental Plan 2013, and is generally consistent with the provisions of the Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005 and Manly Development Control Plan 2013. No objections have been raised from external or internal experts subject to conditions. On balance, the proposal is recommended for approval having considered the relevant issues as part of the assessment of the plans submitted.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for alterations and additions as follows:

Boatshed

Alteration to the existing structure comprising a 4.5m extension to the south and the construction of a new pitched roof. In detail the boatshed will comprise:

Ground Floor

- 1 Passive craft / storage facility (74.8sqm) providing 54 passive craft spaces (an additional 23 spaces in total are proposed);
- 1 New toilet and shower facilities;
- 1 Workshop for boat repair and store;
- 1 Managers Office;
- 1 Kiosk (19sqm) with indoor seating (16.6sqm) and outdoor seating 19.4sqm;
- 1 Paddle / Boating Customer Area 24sqm comprising bench seating lockers;

- 1 New, cladding, windows and doors.
- 1 Kiosk (19sqm) with 16.6sqm indoor seating located within the southern end of the boatshed and 19.4sqm outdoor seating. The unlicensed kiosk will provide light refreshments including: coffee, cold drinks, and light refreshments pre-packaged food, pastries and baked goods. On the 25 November 2020 the applicant confirmed that the Plan of Management (POM), which was originally submitted for the kiosk, will be modified to include other operational and management measures.

First Floor (dwelling)

- 1 Three (3) bedrooms, the master bedroom has an ensuite;
- 1 Open plan living /dining and kitchen with adjoining 36.9sqm south facing veranda;
- 1 Rumpus room;
- 1 Bathroom;
- 1 Storage and
- 1 Walkway and new bridge access.

Deck and pylons

- 1 Demolition of the existing deck, jetty, ramps, pontoon, piers and slipways and construction of a new larger deck which will extend over the area which is currently occupied by the three (3) slipways. The installation of the deck will include the replacement of pylons, bearers and joists. The finished floor level of the deck is to be raised 300mm. Twelve (12) bicycle parking spaces are provided on the western deck.

Passive Craft and Tender Office

- 1 Passive craft storage shed (6.9m x 5.6m x 4m in height) constructed to the eastern side of the boatshed to accommodate the storage of up to 54 passive craft.
- 1 Tender office (2.25m x 2.5m x 2.5m in height) to be constructed to the eastern edge of the decking area which will replace the existing winch shed.

Pontoon

- 1 A new floating pontoon (21m x 3.3m) connected by a new gangway to the main decking area.

Hour of operation

- 1 General Boatshed/ marina - 6.00am - 10.00pm Monday to Saturday, 7.00am to 10.00pm Sundays and public holidays;
- 1 Workshop activities - 7.00am to 6.00pm Monday to Friday and 8.00am to 6.00pm Saturday, Sunday and Public holidays;
- 1 Kiosk - 6.00am to 10.00pm (internal area) Monday to Sunday and public holidays with the outdoor seating to be restricted to between 7.00am to 6.00pm Monday to Saturday and 8.00am to 6.00pm Sundays and Public Holidays.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- 1 An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- 1 A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- 1 Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- 1 A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- 1 A review and consideration of all documentation provided with the application (up to the time of determination);
- 1 A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Assessment - NSW Fisheries (SEPP (Primary Production and Rural Development) 2019 - cl. 29)
 Manly Local Environmental Plan 2013 - Zone RE1 Public Recreation
 Manly Local Environmental Plan 2013 - 5.4 Controls relating to miscellaneous permissible uses
 Manly Local Environmental Plan 2013 - 6.9 Foreshore scenic protection area
 Manly Local Environmental Plan 2013 - 6.10 Limited development on foreshore area
 Manly Development Control Plan - 3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)
 Manly Development Control Plan - 3.4.2 Privacy and Security
 Manly Development Control Plan - 5.4.1 Foreshore Scenic Protection Area
 Manly Development Control Plan - Schedule 3 - Part A1 - Parking Rates and Requirements for Vehicles
 Manly Development Control Plan - Schedule 3 - Part A2 - Parking Rates and Requirements for Bicycles

SITE DESCRIPTION

Property Description:	Lot 2699 DP 752038, 1 B Bolingbroke Parade FAIRLIGHT NSW 2094
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the western end of the Bolingbroke Parade on the northern side of North Harbour, within Jiling Cove. The property is irregular in shape, does not have a street frontage and has an average depth of 12m. The site occupies land both above and below the Mean High Water Mark (MHWM). The landward portion of the site has a legal description of Lot 2699 DP 752038, and a site area of approximately 305m². The property slopes approximately 4m from east to west.</p> <p>The site is located both the R1 (Public Recreational) zone in the Manly LEP and the W2 Environmental Protection zone in the SREP.</p>

The site accommodates a two (2) storey timber boatshed (located above and below MHW) and marina comprising timber wharf, boardwalk, jetty, ramp, floating pontoon and 39 swing moorings. The boatshed accommodates toilet and shower, a workshop / shipwright services and paint room, a tender service (to transport customers to their moored craft) and 85 passive craft (dinghy, Stand up Paddle Boards (SUPs) and kayak) storage spaces. A three (3) bedroom dwelling with two (2) balconies is located on the first floor. All structures are supported by pylons. To the east of the boatshed building are three (3) slipways and cradles on top of a concrete slab. Two of the slipways are redundant and deteriorated.

Access is provided to the site from Bolingbroke Parade via the adjoining Crown owned land, which is land managed by Northern Beaches Council. The access is on a gradient of approximately 13% down to the site and is heavily vegetated. Vehicular access is via a narrow pathway / driveway accessed across the grassed area, with a locked boom gate at the foot of Bolingbroke Parade. Pedestrian access is available from steps from Bolingbroke Parade which link to a public pathway and to the aforementioned driveway. At the end of the driveway is a concrete pathway which runs adjacent to the site and onto the public beach to the west of the site via a small step. No parking is provided on site.



Existing kayak storage



Existing boatshed looking east from beach



Existing slipways to the west of the Boatshed



Existing access to the Boatshed

Detailed Description of Adjoining/Surrounding Development

Being located at the waterfront the immediate surrounds of the site comprise the public beach to the west and the recreational area, Esplanade Park, located at a higher level through which passes the "Spit-to Manly" scenic walk.

Further to the north at a higher level area low to medium density residential properties including a four storey apartment block at No 1A Bolingbroke Parade and detached residential dwellings. To the east of the site are

predominately one, two and three storey residential dwellings.



Bolingbroke Parade looking south



Map:



SITE HISTORY

On 13 December 2016 Development Consent 276/2016 was granted for the repair of three (3) existing timber pylons.

On 20 September 2018, a Pre-lodgement Meeting reference PLM2018/0203 was held to discuss alterations and additions to the existing boatshed, dwelling and marina. The notes reference issues that require further information relating to owners consent, existing use rights and the ancillary uses to the marina. In addition, issues were raised in relation to access and car parking. The subject application is similar to the plans presented at the PLM with the exception of the reduction in the size of the kiosk as documented in the amended plans.

On 3 September 2020, the applicant was requested to address the following issues: parking, the size and operation of the kiosk and details on the current operation of the marina compared to the proposed upgraded facility.

On 24 September 2020, the applicant submitted amended plans which reduce the size of the kiosk and submitted the following additional information in support of the application: An additional traffic statement, aquatic ecology report, geotechnical acid sulfate response and a letters for support from Paddle Australia, Sydney Harbour Surf Club and Every Second Counts who all describe the need for additional passive water craft storage and the community and health benefits of the proposed facility.

On 25 November 2020, the applicant submitted an additional traffic report and a statement in relation to the Plan of Management which includes reference to operational measures including Green Travel Initiatives.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for Marina with ancillary residential use for an extended period of time. The proposed development seeks to retains the marina and ancillary residential use of the site. Council's Health Unit have confirmed that the the proposal will reduce the environmental issues relating to the boat slippage use, as such the proposal is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.

Section 4.15 Matters for Consideration'	Comments
<p>Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)</p>	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to the size and operation of the kiosk and parking.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
<p>Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

1 Does the existing use satisfy the definition of "existing use" under the *Environmental Planning and Assessment Act 1979* (the 'Act')?

Section 4.65 of the Act defines an existing use 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 Division 4A of Part 3 or Division 4 of this Part, 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."*

This necessarily requires the following questions to be answered:

1. ***Was the use of the building, work or land a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4A of Part 3 or Division 4 of this Part 4 of the Act, have the effect of prohibiting that use?***

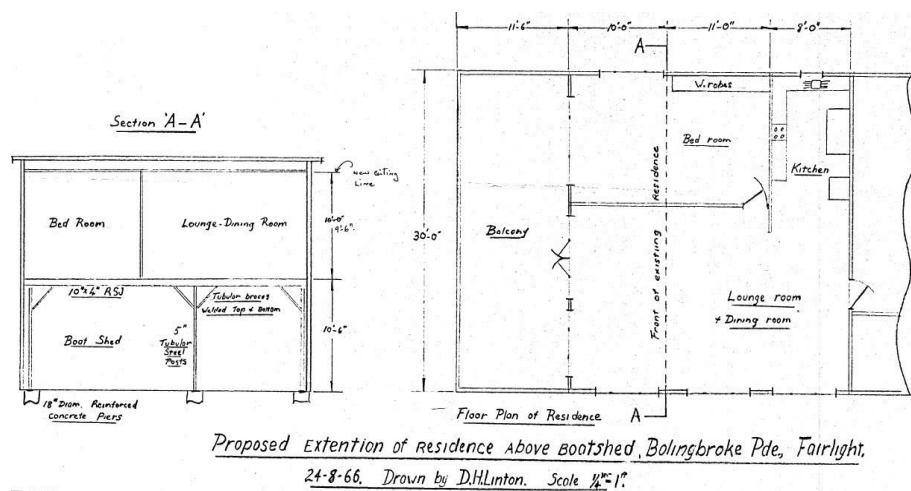
Comment:

Residential development is prohibited under both the Manly Local Environmental Plan 2013 and the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 which apply above MHWM and below MHWM respectively. As such, the proposed alterations and additions to the existing level 1 dwelling rely upon existing use rights.

The Applicant has provided evidence in the form of 39 historical records confirming that level 1 of the boatshed has been in continuous use as a residential dwelling since 1946. The evidence includes copies of leases dated back to 1946 which first assigned the Boatshed from Douglas to Treharne and permissions from the Maritime Services Board (MSB), Manly Council and Crown Lands. The first reference to a residential use on the site is provided in the 1965 Crown Land tenure which included plans showing the residence. A list of the key documents that reference the residential use are provided below:

- 1 1946 - Assignment of lease of Manly Boatshed from Douglas to Treharne;
- 1 19488 - Lease from 1948 for 3 years for Manly Boatshed.
- 1 1965 - A copy of the Crown Land tenure dated 1965 includes reference to the residence.
- 1 1966 - The RMS 1966 Special Lease (1966-1985) references the commercial boatshed and residence.
- 1 1967 - The 1967 Crown Lands permissible occupancy shows the residence in plan.
- 1 1966 - Copy of Building Application 267/66 approval dated 30 August 1966 issued by Manly Council for the extension of lounge and bedroom onto the deck of the premises.
- 1 1971 - MSB survey plan certified by Chief Surveyor showing the Boatshed and residence.
- 1 1996 - 20-year lease from Maritime Ministerial Holding Corporation to Manly Boatshed Pty Limited of commercial boatshed premises. (This lease was issued after July 1990, so it indicates existing use rights continued after Sydney and Middle Harbour SREP 23 of 1990).

The historical records submitted in support of the application combined with a search of Council records confirm that the use of the first floor of the boatshed, for residential purposes, commenced as a lawful purpose on 20 August 1966 with the grant of the Building Application ref 267/66 for an extension to the first floor residential dwelling, refer to approved plan below which accompanies BA0267/66 . This approval pre-dated the adoption of the current Manly Local Environmental Plan 2013 on 5 April 2013 and the Sydney Harbour Regional Environmental Plan 2005 on 28 September 2005.



Approved floor plan to BA0267/66 showing the residential use.

2. **Was the use of the building / land granted development consent before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use?**

Comment:

As noted above, the use of the first floor of the boatshed was lawfully approved as a residential use in 1966 with the consent for an extension of the existing residential use. This consent pre-dated the coming into force of Manly Local Environmental Plan 2013 on 5 April 2013 and the Sydney Harbour Regional Environmental Plan 2005 on 28 September 2005.

3. **Has the use of the building / land 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?**

Comment:

The Applicant has provided sufficient evidence in the form of historical records which reveals that the use of the first floor of the boatshed has been continuous since 1946 and within one year from the date on which the provision having the effect of prohibiting the use commenced. The evidence includes copies of leases, plans dating back to 1946 and Building Approval (267/66) for an extension of the residential dwelling on the first floor. The use has therefore been carried out in accordance with the terms of consent reference 267/66 and there is no evidence to suggest that the consent has lapsed.

- 1 What is “the land on which the existing use was carried out” for the purposes of cl 42(2) (b) of the Environmental Planning and Assessment Regulation 2000 (“the Regulation”)?**

Meagher JA in *Steedman v Baulkham Hills Shire Council [No. 1] (1991) 87 LGERA 26* stated (at 27) the rule to be applied as follows: “if the land is rightly regarded as a unit and it is found that part of its area was physically used for the purpose in question it follows that the land was used for that purpose”.

Comment:

Having regard to the above case law, it is noted that part of the area of the land was physically used for the purpose in question and therefore, it is considered that the land was used for that purpose and that existing use rights apply to the subject site.

- 1 What are the planning principles that should be adopted in dealing with an application to alter enlarge or rebuild and existing use?**

The judgement in *Fodor Investments v Hornsby Shire Council (2005) NSWLEC 71*, sets out the planning principles that should be applied in dealing with development applications seeking to carry out development on the basis of existing use rights.

The following four principles adopted by the NSW Land and Environment Court in this case will have general application in dealing with development applications that rely on existing use rights:

1. How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?

While planning controls, such as height, floor space ratio and setbacks do not apply to sites with existing use rights; they have relevance to the assessment of applications on such sites. This is because the controls apply to surrounding sites and indicate the kind of development that can be expected if and when surrounding sites are redeveloped. The relationship of new development to its existing and likely future context is a matter to be considered in all planning assessments.

Comment:

The subject application seeks consent to retain, refurbish and extend the residential dwelling located on level 1 of the existing boatshed. The extension involves a 4.5m projection to the south which will comprises an open verandah facing the harbour. A new pitched roof is proposed which will reduce the height of the existing structure to 6.5m (0.4m reduction). The upgraded boatshed sits well below the 8.5m height limit applicable to the adjoining R1 (General Residential) zone and E4 (Environmental Living) zone.

It is also noted that the subject waterfront site is located at a substantially lower level than the surrounding residential area and is largely screened with existing vegetation on the embankment, as such, there is a limited direct visual connection between the subject site and the adjoining residential area. In summary, the bulk and scale, (as expressed as height, density and setbacks to boundaries) relates to what is permissible on the adjoining R1 (General Residential) zone and E4 (Environmental Living) zone. The proposal therefore satisfies this principle.

2. What is the relevance of the building in which the existing use takes place?

Where the change of use is proposed within an existing building, the bulk and scale of that building are likely to be deemed acceptable, even if the building is out of scale with its surroundings, because it already exists. However, where the existing building is proposed for demolition, while its bulk is clearly an important consideration, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision.

Comment:

As discussed above, the boatshed is existing and the proposed development will result in a minor increase in the footprint but a decrease in the height when compared to the existing structure. In terms of the residential use the extension will allow for the re-configuration of the internal floor plan and the addition of a south facing verandha facing the waterfront.

The proposal has been sensitively designed to include articulation and appropriate materials including timber weatherboard cladding and metal sheet roofing. The design of the proposal will enhance the visual impact of the existing building when viewed in its waterfront setting. This will have a benefit on the visual amenity and character of the locality, with minimal variation in the bulk and scale of the existing structure. The proposal therefore satisfies this principle.

3. What are the impacts on adjoining land?

The impact on adjoining land should be assessed as it is assessed for all development. It is true that where, for example, a development control plan requires three hours of sunlight to be maintained in adjoining rear yards, the numerical control does not apply. However, the overshadowing impact on adjoining rear yards should be reasonable.

Comment:

The minor extension of the residential use (the south facing deck) will not result in unreasonable impacts on adjoining land in terms of overshadowing or loss of privacy. As noted above, due to the levels of the site the minor extension of the residential use will have negligible visual impacts from adjoining residential zone and from the public domain, including the Manly to Spit scenic walkway. The alterations are sympathetic to the waterfront setting with appropriate detailing and materials to ensure that the visual amenity of the site as viewed from the Harbour will be enhanced. The proposal therefore satisfies this principle.

4. What is the internal amenity?

Internal amenity must be assessed as it is assessed for all development. Again, numerical requirements for sunlight access or private open space do not apply, but these and other aspects must be judged acceptable as a matter of good planning and design. None of the legal principles discussed above suggests that development on sites with existing use rights may have lower amenity than development generally.

Comment:

The proposed internal alterations to the existing dwelling and the addition of the 36.9sqm deck will allow for improved functionality / internal amenity of the dwelling for the occupiers. The proposal therefore satisfies this principle.

Conclusion

The use has been approved under a previous environmental planning instrument and, therefore, is a lawful use. Subsequently, the use can be retained under the current environmental planning instruments the Manly LEP 2013 and the SREP 2005.

DESIGNATED DEVELOPMENT

Clause 4 of the Environmental Planning Assessment Regulations 2000 (EPA Regs) state that Designated Development is development described in Schedule 3 of the EPA Regs. "*Marinas or other related land and water shoreline facilities*" are listed in Part 1 of Schedule 3 and are defined as:

Marinas or other related land or water shoreline facilities that moor, park or store vessels (excluding rowing boats, dinghies or other small craft) at fixed or floating berths, at freestanding moorings, alongside jetties or pontoons, within dry storage stacks or on cradles on hardstand areas—

- (a) that have an intended capacity of 15 or more vessels having a length of 20 metres or more, or*
- (b) that have an intended capacity of 30 or more vessels of any length and—*
 - (i) are located in non-tidal waters, or within 100 metres of a wetland or aquatic reserve, or*
 - (ii) require the construction of a groyne or annual maintenance dredging, or*
 - (iii) the ratio of car park spaces to vessels is less than 0.5:1, or*
- (c) that have an intended capacity of 80 or more vessels of any size.*
- (2) Facilities that repair or maintain vessels out of the water (including slipways, hoists or other facilities) that have an intended capacity of—*
 - (a) one or more vessels having a length of 25 metres or more, or*
 - (b) 5 or more vessels of any length at any one time.*

Comment

The existing marina has the capacity to accommodate more than 30 vessels (with 39 swing moorings) and is located within 100 metres of a wetland (as identified by Wetlands Protection Area map (Sheet 16) of the SREP Sydney Harbour Catchment) the existing use therefore meets the definition of a marina. As the proposed development is for alterations and additions to the existing marina, reference must be made to Part 2 of Schedule 3 of the EP & A Regulation which addresses the question "*Are alterations or additions designated development?*"

Part 2 Clause 35 states:

35 Is there a significant increase in the environmental impacts of the total development?

Development involving alterations or additions to development (whether existing or approved) is not designated development if, in the opinion of the consent authority, the alterations or additions do not significantly increase the environmental impacts of the total development (that is the development together with the additions or alterations) compared with the existing or approved development.

The Regulation specifies, at Clause 36 of Part 3 Schedule 2, a number of factors to be taken into consideration by a consent authority in forming the opinion as to whether alterations and additions are

designated development. A response to the factors for consideration is detailed below:

36 Factors to be taken into consideration

In forming its opinion as to whether or not development is designated development, a consent authority is to consider—

(a) the impact of the existing development having regard to factors including—

(i) previous environmental management performance, including compliance with the conditions of any consents, licences, leases or authorisations by a public authority and compliance with any relevant codes of practice, and

Comment

The marina was constructed in 1930 and under the ownership and management of the present owner since 1945. A search of Council records confirm that there are no environmental management issues with the operation of the marina. The Applicant also notes that the marina operates in accordance with leases from RMS and Crown Lands. There is no evidence to dispute this claim.

(ii) rehabilitation or restoration of any disturbed land, and

Comment

The existing development does not result in the need for any rehabilitation or restoration work. The existing structures has negligible impact on land and there will be a reduction of environmental impacts with the removal of all industrial slipway facilities and operations.

(iii) the number and nature of all past changes and their cumulative effects, and

Comment:

The existing structures on the site have not been substantially changed since construction in 1930. Historic building application approvals dated 1966 and 1967 relate to minor alterations, including an extension of the first floor residence. The only recent development application has been for repair work to some support piles (reference development approval DA276/16).

(b) the likely impact of the proposed alterations or additions having regard to factors including—

(i) the scale, character or nature of the proposal in relation to the development, and

Comment:

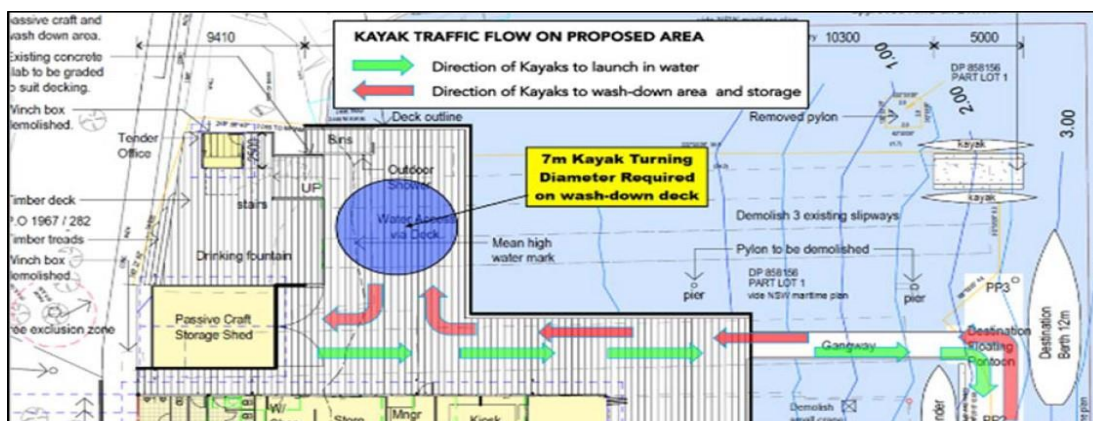
Significant concern has been expressed by the community regarding the scale and nature of the proposal and ability to meet this clause. Below is a comparison of the operation of the existing facility with the proposed altered facility:

Built form

The existing boatshed has a GFA of 341.9sqm (197.7sqm ground floor and 144.3sqm upper floor (excluding balconies)). The proposal seeks to extend the footprint of the boatshed with a 4.5m extension to the south (towards the Harbour). The proposal results in a 41.4sqm increase in the footprint of the existing boatshed resulting in a gross floor area of 446sqm (239.9sqm ground floor) 207sqm (upper floor including the infill east facing balcony but excluding the south facing balcony). The footprint of the boatshed increases by 20%. The proposal includes a reduction in the the height of the structure with the replacement of the existing flat roof with new pitched roof which is more sympathetic to the coastal setting. Ancillary structure include a shed (5.8m x 7.2m x 4m in height) a tender office

(2.5m x 2.3m x 2.5m in height) which are generally sited to replace existing structures such as the winch box shed. The bulk, scale and density of the alterations to the existing boatshed and the additional of the two small ancillary structures has been assessed as being of a comparable scale to the existing built structures on site.

While it is accepted that the amount of decking increases significantly compared to the existing decking the applicant's justification for the amount of decking required to improve access and safety to the upgraded marina, as well as providing a wash down area for kayaks, has merit. The applicant submits that the extent of the deck area is required for kayak traffic flow to access the water, and including a 7m kayak turning circle required on the wash-down deck as shown in diagram below. It is also noted that the passive water craft area (deck) to the east of the boatshed will replace the industrial slipway area with safe water access. A site inspection confirmed that the current slipway are generally deteriorated, unsafe and visually intrusive elements.



Plan showing deck area required for safe kayak flow (source Planning Ingenuity).

Similarly, a new larger pontoon is proposed to facilitate safe access to and from the marina via the harbour. This is also considered to be a non-obtrusive water base structure. While there may be some limited views of the deck and pontoon from the public walkway and some dwellings it is considered that these elements will not impact on the character of the development or waterway but will have a net benefit to the functionality of the marina. There is no change to the existing freestanding mooring or berths and overall, the proposal does not significantly alter the existing scale, character and nature of the marina.

Operation

The primary activities and operation are to provide boat storage / commercial moorings, dry passive craft storage, shipwright / boat repairs and amenities for boat and passive craft users and visitors to allow for recreational use of the Harbour.

The existing boatshed currently sells drinks and ice creams to customers and the general public. The size of the proposed kiosk has been reduced to 55sqm (internally and externally) so that it meets the definition of a kiosk as described in the Manly LEP. The size of the reduced kiosk represents 12% of the total indoor gross floor area and will be an ancillary use to the primary operations of the Boatshed. The kiosk does not include a commercial kitchen and will only provide snacks and refreshments to the users of the Boatshed and potentially foot traffic to members of the public as they pass along the public on the Manly to Spit scenic walk. Should consent be granted conditions are recommended to ensure the operation of the kiosk remains ancillary to the primary marina use and that impacts are minimised to address concerns residential amenity.

The proposal will result in an increase in passive craft storage spaces from 85 spaces to 108 (23

additional spaces). The extra 23 passive craft space is not deemed to be excessive and the proposal meets the demand for passive craft storage which the applicant and members of the public have demonstrated is in short supply in the Manly area.

(ii) the existing vegetation, air, noise and water quality, scenic character and special features of the land on which the development is or is to be carried out and the surrounding locality, and

Comment:

The proposal will have negligible impact on existing vegetation, biodiversity and water quality. An Aquatic Ecology Impact Assessment is submitted with the application which concludes that there will be no significant impact from the proposed development, and the net gain of aquatic habitat due to removal of the slipway facility will likely lead to a beneficial impact. It is also noted that the removal of the slipway would have the benefit of reduced navigation hazards arising from the proposal compared to the present usage and layout of the facility with the layout of the new pontoons in deeper water providing additional security against propeller and wash impacts on shallow water ecosystems. The Department of Fisheries and Council's Biodiversity and Water Management Units all concur with the report and offer no objections to the proposal subject to conditions.

The proposed upgrade of the marina has been designed to be reflect the scenic character of the foreshore area with an appropriate use of materials, colour and detailing. Council's Urban Designer and Heritage Officer have no objections to the design of the proposal in terms of its impacts on the surrounding locality.

In terms of the potential acoustic impacts specific concern has been raised regarding impacts associated with the use of the kiosk, including the size of the kiosk, patron capacity, outdoor seating and hours of operation. The application has since been amended to reduce the size of the kiosk to 55sqm (including indoor and outdoor seating area), patron capacity from fifty (50) patrons to thirty-two (32) and hours to 6.00am to 10.00pm Monday to Saturday. The reduction in the size of the kiosk will ensure that it will remain an ancillary use to the marina. In addition, an acoustic report has been submitted which make the following recommendations: The use of the outdoor seating area being restricted to between 7.00am and 6.00pm Monday to Saturday and 8.00am - 6.00pm Sundays and public Holidays and windows and doors to be closed between 6.00pm and 10.00pm daily except to allow patron ingress and egress. Council's Health Unit offer no objections to the proposal, as amended, subject to standard conditions and compliance with the acoustic report. In addition, a condition requires the Plan of Management for the kiosk to be amended to include operation details for the entire facility to ensure that there is no unreasonable acoustic impacts on the surrounding locality.

(iii) the degree to which the potential environmental impacts can be predicted with adequate certainty, and

Comment

The potential impacts can be reasonably predicted based on the current operation of the marina and the technical report that have been assessed by the Department of Fisheries and Council's Specialists as acceptable, subject to conditions.

(iv) the capacity of the receiving environment to accommodate changes in environmental impacts, and

Comment

Again, technical reports have been prepared in support of the application which confirm that the environment can accommodate the proposed changes with minimal environmental impacts. Refer to the comments from the Department of Fisheries and Council's Biodiversity, Water Management and Biodiversity Unit.

(c) any proposals—

(i) to mitigate the environmental impacts and manage any residual risk, and

Comment:

A discussion on the potential environmental impacts is provided within the referral commentary from External and Internal Specialist. Measures are included to mitigate environmental impacts as detailed in the specialist reports, in addition, conditions are included in the recommendation to ensure environmental impacts are mitigated.

(ii) to facilitate compliance with relevant standards, codes of practice or guidelines published by the Department or other public authorities. Clause 35.

Comment:

Measures include the preparation of a Construction Environment Management Plan (CEMP) to manage construction activities, and an Operational Plan of Management to manage ongoing operations of the upgraded marina.

In summary, the above assessment demonstrates that the proposed alterations and additions will not result in a significant increase in the environmental impacts of the total development by comparison to the existing development. Therefore, the proposed alterations and additions are not considered to be defined as “designated development”.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 30/09/2020 to 30/10/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 187 submission/s from:

Name:	Address:
Mrs Peri Ann Tobias	18 Parkes Street MANLY VALE NSW 2093
Mrs Marguerite Moore Morgan	2 / 13 Fairlight Crescent FAIRLIGHT NSW 2094
Ms Fiona Low Simpkin	2/59 Lauderdale Avenue FAIRLIGHT NSW 2094
Mr David Henry Lyall	54 Trappers Way AVALON BEACH NSW 2107
Dr Sarah Louise Thompson	1 / 7 Lauderdale Avenue FAIRLIGHT NSW 2094
Mr Andrew Simpkin	2 / 59 - 61 Lauderdale Avenue FAIRLIGHT NSW 2094
Ms Kylien Amanda Hitchman	3 Lauderdale Avenue FAIRLIGHT NSW 2094
Mr Robin Keussen	4 / 53 Lauderdale Avenue FAIRLIGHT NSW 2094

Name:	Address:
Mr Michael John Carr	1 / 59 - 61 Lauderdale Avenue FAIRLIGHT NSW 2094
Mrs Greer Anne Couston	25 Beatty Street BALGOWLAH HEIGHTS NSW 2093
Mr Karl Treacher	13 Blamey Street ALLAMBIE HEIGHTS NSW 2100
Mr Edwin Kean Darmanin	32 Beatty Street BALGOWLAH HEIGHTS NSW 2093
Mr Bevan Ralph McKavanagh	6 / 52 Fairlight Street FAIRLIGHT NSW 2094
Ms Margaret Patricia Bray	10 Bolingbroke Parade FAIRLIGHT NSW 2094
Mr Louis Francois Molines	8 Violet Street BALGOWLAH NSW 2093
Mr Richard Ian Lingard	11 Kareema Street BALGOWLAH NSW 2093
Guy Leech Fitness	13 Churchill Crescent ALLAMBIE HEIGHTS NSW 2100
Mrs Kathryn Jane Smith	2 / 29 White Street BALGOWLAH NSW 2093
Ms Sarah Lynn Hesse	10 / 62 West Street BALGOWLAH NSW 2093
Mr Justin O'Sullivan	9 Jellicoe Street BALGOWLAH HEIGHTS NSW 2093
Alex Francois	7/461-463 Willoughby Road WILLOUGHBY NSW 2068
Mr Iain Stronach Parkes Todd	2 Audrey Street BALGOWLAH NSW 2093
Mr Nicholas Sutherland Kennedy	Po Box 792 JINDABYNE NSW 2627
Mr Simon Robert Buttenshaw	5 / 14 Fairlight Crescent FAIRLIGHT NSW 2094
Mr Graeme Kenneth Bridges	24 Rosedale Avenue FAIRLIGHT NSW 2094
Mark Philip Powrie	18 Parkes Street MANLY VALE NSW 2093
Mark Victor Davis	Po Box 1359 MANLY NSW 1655
Mr Oliver David Campbell Rees	C/- Vaughan Milligan Development Consulting Pty Ltd PO Box 49 NEWPORT BEACH NSW 2106
Mr Bernard Andre Paul Desmidt	2 / 11 Clifford Avenue FAIRLIGHT NSW 2094
Mr Charles Edward Mott	7 / 15 Crescent Street FAIRLIGHT NSW 2094
Relle Mott	47 Upper Clifford Avenue FAIRLIGHT NSW 2094
Christian Bindel	33 / 51 The Crescent MANLY NSW 2095
Mr John Paul Gooley	141 A Balgowlah Road BALGOWLAH NSW 2093
Kylie Virtue	3 / 3 Oyama Avenue MANLY NSW 2095
Mrs Pamela Diana Scott	9 Bolingbroke Parade FAIRLIGHT NSW 2094
Peter Burns	54 / 1 Lauderdale Avenue FAIRLIGHT NSW 2094
Mark Burgess	11 / 55 The Crescent FAIRLIGHT NSW 2094
Ms Katherine Lane	5 / 12 Fairlight Crescent FAIRLIGHT NSW 2094
Mr Hamish Andrew Priddle	31 Beatty Street BALGOWLAH HEIGHTS NSW 2093
Mr Thomas Vincent Biasetto	5 / 10 Golf Parade MANLY NSW 2095
Mrs Colleen Ann Zurowski	16 William Street FAIRLIGHT NSW 2094
Mr Thomas Benedict Fyfe	C/- Crystal Pools Pty Ltd Po Box 271 PENNANT HILLS NSW 1715
Mr Matthew Mouldsdales	36 Pacific Parade MANLY NSW 2095
Mr Matthew Stuart Carlisle	18 Nenagh Street NORTH MANLY NSW 2100

Name:	Address:
Mr Stephen Peter Johnco	26 Barnes Road FRENCHS FOREST NSW 2086
Mr Patrick Matthew Langley	33 York Terrace BILGOLA PLATEAU NSW 2107
Mr Gregory John Economos	16 Woodland Street BALGOWLAH HEIGHTS NSW 2093
Ben Sim	2 / 2 Ashburner Street MANLY NSW 2095
Mrs Joanne Margaret Mulhearn	1065 Pittwater Road COLLAROY NSW 2097
Mrs Leslie Patricia D'Arcy	57 Agnes Street EAST MELBOURNE NSW 3002
Mr Christopher Geoffrey Lancaster	8 / 114 North Steyne MANLY NSW 2095
Mr Grant Bernard McMahon	Po Box 527 AVALON BEACH NSW 2107
Mrs Karina Hordern Holden	4 / 55 Lauderdale Avenue FAIRLIGHT NSW 2094
Mr Philip Alan Eadie	25 / 132 Bower Street MANLY NSW 2095
Ms Joanna Margaret Thompson	1 / 7 Lauderdale Avenue FAIRLIGHT NSW 2094
Mrs Dianne Margaret Taylor	Po Box 650 MANLY NSW 1655
Dr Zoe Annette Taylor	66 Bower Street MANLY NSW 2095
Rupert Thorne	1 Turner Street GAWLER NSW 5118
Mrs Judith Anne Lambert	179 Sydney Road FAIRLIGHT NSW 2094
Mr Grant Ian Cameron	4 / 66 Bower Street MANLY NSW 2095
Mrs Jennifer Elizabeth Hopwood	3 / 53 Lauderdale Avenue FAIRLIGHT NSW 2094
North Harbour Sailing Club	0 Gourlay Avenue BALGOWLAH NSW 2093
Damien Kelly	27 Carver Crescent BAULKHAM HILLS NSW 2153
Mr Rodney Bruce Childs	37 Rickard Street BALGOWLAH NSW 2093
Ms Antonia Henricks	109 Woodland Street BALGOWLAH NSW 2093
Ms Lisa Ann Gooch	45 Roosevelt Avenue ALLAMBIE HEIGHTS NSW 2100
Mr Steven Gavin Talbot Wilton	44 Malvern Avenue MANLY NSW 2095
Mr Andrew David Divola	47 Allambie Road ALLAMBIE HEIGHTS NSW 2100
Mr David Maurice Montgomery	2 / 2 William Street FAIRLIGHT NSW 2094
Margaret O'Donnell	38 Eileen Street NORTH BALGOWLAH NSW 2093
Chris De Jong	39 Thomas Avenue ROSEVILLE NSW 2069
Mr Daniel Hardwick	552 Pittwater Road NORTH MANLY NSW 2100
Lani Carol Sutherland	4 Taiyul Road NORTH NARRABEEN NSW 2101
Margo Patchett	2 / 5 Craig Avenue MANLY NSW 2095
Mr Mark William Rakicic	12 / 123 Sydney Road FAIRLIGHT NSW 2094
Mr Dean Charles Gardiner	32 James Wheeler Place WHEELER HEIGHTS NSW 2097
David Bell	6/624b New South Head Road ROSE BAY NSW 2029
Neil Patchett	53 Hume Street CROWS NEST NSW 2065
David Bradshaw Kellett	1102/1 Watson Street NEUTRAL BAY NSW 2089
Mr Neil Driscoll	37 Ernest Street BALGOWLAH HEIGHTS NSW 2093

Name:	Address:
Dale Brian Andrijin	9 A Bolingbroke Parade FAIRLIGHT NSW 2094
Colin Bransgrove	53 Hume Street CROWS NEST NSW 2065
Stuart Anthony Gilbert	4 / 2 Ashley Parade FAIRLIGHT NSW 2094
Ms Jennifer Ann Powell	2 / 22 The Crescent MANLY NSW 2095
Ms Diane Patricia Sharland	41 Fairlight Crescent FAIRLIGHT NSW 2094
Chuck Anderson	6/21 Fairlight Crescent FAIRLIGHT NSW 2094
Mr David Vincent Jurd	2 / 54 Lauderdale Avenue FAIRLIGHT NSW 2094
Isabel Menton	13 / 15 Osborne Road MANLY NSW 2095
Mrs Amanda Jane Lewis	63 Lauderdale Avenue FAIRLIGHT NSW 2094
Oliver Michael Hitchcock	13 / 128 Lawrence Street FRESHWATER NSW 2096
Ms Marie Susan Cozens	11 Acacia Road SEAFORTH NSW 2092
Mrs Alison Jean Duggan	20 / 7 South Steyne MANLY NSW 2095
Mr Peter Michael Edward Scarf	6 Nabilla Road PALM BEACH NSW 2108
Ms Amanda Lee Hansen	5 / 5 Osborne Road MANLY NSW 2095
Nathan Sanderson	15 / 63 Pacific Parade DEE WHY NSW 2099
Geoffrey Miles Rosamond	15 Old Sydney Road SEAFORTH NSW 2092
Mr Andrew Grant	30 / 23 Iluka Avenue MANLY NSW 2095
Mr Martin Stephen Hastings	124 Kenneth Road MANLY VALE NSW 2093
Lisa Anne Marie Callaghan	4 / 20 Koorala Street MANLY VALE NSW 2093
Mrs Jean Hay	2 / 57 Lauderdale Avenue FAIRLIGHT NSW 2094
Robert George Allan	15/55-59 The Crescent FAIRLIGHT NSW 2094
Mr James Colin Bolton	38 Whale Beach Road AVALON BEACH NSW 2107
Gillian Lee Stewart	C/- Stone Real Estate Seaforth Shop 3A/565 Sydney Road SEAFORTH NSW 2092
Mr Rodney Daniel Timm	3 / 1 A Bolingbroke Parade FAIRLIGHT NSW 2094
Mr Garry Louis Duncan	58 Raglan Street MANLY NSW 2095
Mr Glen William Parsons	C/- Vaughan Milligan Development Consulting Pty Ltd PO Box 49 NEWPORT BEACH NSW 2106
Stevan Premutico	1/6 Edward Street BONDI NSW 2010
Mr Robert Douglas Clarke	3 / 3 Oyama Avenue MANLY NSW 2095
Mr John Charles Patrick O'Connor	6 King Avenue BALGOWLAH NSW 2093
Mr Douglas Graham Sturrock	1 / 61 Upper Beach Street BALGOWLAH NSW 2093
Jed Elderkin	1 / 94 Lauderdale Avenue FAIRLIGHT NSW 2094
Christine Sutherland	62 Linden Way CASTLECRAG NSW 2068
Ms Fiona Jane Bruzzano	Dan Stubbs Chalet Homes /Action Concrete 170 Headland Road CURL CURL NSW 2096
Mr Russell Aubrey Stanford	9 Beatty Street BALGOWLAH HEIGHTS NSW 2093
John Sutherland	62 Linden Way CASTLEGRAG NSW 2068
Ms Deborah Louise Bailey	12 Bolingbroke Parade FAIRLIGHT NSW 2094

Name:	Address:
Mr Ewhen Hreszczuk	23 Lauderdale Avenue FAIRLIGHT NSW 2094
Ms Leishea Anne Grant	34 Hilltop Crescent FAIRLIGHT NSW 2094
Mr Gregory John Wilkins	1 / 24 Cove Avenue MANLY NSW 2095
Mr Paul Dudley Hannaford	3 / 59 - 61 Lauderdale Avenue FAIRLIGHT NSW 2094
Mrs Gillian Shearman	56 Wharf Road LONGUEVILLE NSW 2066
Susan Webb	207 / 15 Wentworth Street MANLY NSW 2095
Ms Hannah Webb	207 / 15 Wentworth Street MANLY NSW 2095
Jason Gribble	9 / 16 Princes Street NEWPORT NSW 2106
Ms Barbara Ellen Maxfield	1 / 59 - 61 Lauderdale Avenue FAIRLIGHT NSW 2094
Margaret Kay	1 Cooney Road ARTARMON NSW 2064
Nicholas Berriman	11 Wolseley Road MOSMAN NSW 2088
Mrs Jillian Fay Smith	16 Margaret Street FAIRLIGHT NSW 2094
Mr Peter Shearman	1 / 56 Bower Street MANLY NSW 2095
Shaun Berger	77 Coolawin Road NORTHBRIDGE NSW 2063
Matthew Tomaszewski	2/28 Bennett Street CREMORNE NSW 2090
Mr Timothy Guerin Bannigan	14 Bolingbroke Parade FAIRLIGHT NSW 2094
Paul Connor	10 Caroline Street BALMAIN NSW 2041
Josephine Hoskins	20/11-17 Watson Street NEUTRAL BAY NSW 2089
Mr Richard Neil Yabsley Mrs Jane Ann Yabsley	43 Fairlight Crescent FAIRLIGHT NSW 2094
Shaun Lane	30a Fairfax Road MOSMAN NSW 2088
Mrs Prue Adele Larcombe	25 Montpelier Place MANLY NSW 2095
Kelly Crawford	307/21 Grosvenor Street NEUTRAL BAY NSW 2089
Ms Katherine Gabrielle Rowe	5 / 30 Upper Clifford Avenue FAIRLIGHT NSW 2094
Mr Barry Charles Miflin	4 Reid Street SEAFORTH NSW 2092
Mr Ian Charles Major	34 The Avenue NEWPORT NSW 2106
Amy Yabsley	3/396 Mowbray Road West LANE COVE NORTH NSW 2066
Susan Major	34 The Avenue NEWPORT NSW 2106
Mr Bruce Edwin Vial	2 Cormack Street BALGOWLAH NSW 2093
Mrs Ruth Megan Clarkson	4 Griffin Road NORTH CURL CURL NSW 2099
Mr David William McCarthy	4/66 Wycombe Road NEUTRAL BAY NSW 2089
Mrs Kathleene Irene Smith	16 Pine Street MANLY NSW 2095
Mr Richard Thomas	2 / 2 - 10 Hawkesbury Avenue DEE WHY NSW 2099
Mrs Robyn Ann Ogborne	5 / 33 - 37 Ethel Street SEAFORTH NSW 2092
Mr Peter Joseph Willis	169 Condamine Street BALGOWLAH NSW 2093
Mr James Economides	47 Sydney Road MANLY NSW 2095
Mr Peter Gregory Richter	29 Crown Road QUEENSCLIFF NSW 2096
Mr Jordan Maddocks	36 Kenneth Road MANLY VALE NSW 2093
Melissa Hogan	34 Bancroft Avenue ROSEVILLE NSW 2069
Ms Roslyn Hills	44 Rickard Avenue MOSMAN NSW 2088
Mrs Sandra Jane Williams	30 Jackson Street BALGOWLAH NSW 2093

Name:	Address:
Mrs Hazel Catherine Burke	72 Alexander Street MANLY NSW 2095
Michael Wright	344 Sailors Bay Road NORTHBRIDGE NSW 2063
Ms Margaret Elizabeth Hellings	5 Lauderdale Avenue FAIRLIGHT NSW 2094
Mr Geoffrey Laurence Mulham	65 Lauderdale Avenue FAIRLIGHT NSW 2094
Mr Trevor Kennedy	1 / 43 Lauderdale Avenue FAIRLIGHT NSW 2094
Anthony Solomon	18 Stanton Road MOSMAN NSW 2088
Mr Jared Wineera	40 Coles Road FRESHWATER NSW 2096
Ms Rita Mann	12 / 123 Sydney Road FAIRLIGHT NSW 2094
Mr Terrance Keith Le Roux	3 / 6 Jackson Street BALGOWLAH NSW 2093
Susannah Mogg	20 Woonona Road NORTHBRIDGE NSW 2063
North Harbour Community Group	C/- 6/3 Jackson Street BALGOWLAH NSW 2093
Ms Victoria Robyn Cowan	45 Fairlight Crescent FAIRLIGHT NSW 2094
Matthew Hundleby	380 Victoria Place DRUMMOYNE NSW 2047
Mr Phillip James Brand	12 Bolingbroke Parade FAIRLIGHT NSW 2094
Ms Nicolle Elizabeth Tessier	24 Golf Parade MANLY NSW 2095
Mr John William Speirs	2 / 5 Bolingbroke Parade FAIRLIGHT NSW 2094
Steven Hedge	2 The Esplanade MOSMAN NSW 2088
Ms Carole Johanne Moss	8 Bolingbroke Parade FAIRLIGHT NSW 2094
Families For Manly	Address Unknown
Balmoral Boatshed	2c The Esplanade MOSMAN NSW 2088
Mr Stephen John Coleman	27 Bower Street MANLY NSW 2095
Mr Benjamin James Smith	29 White Street BALGOWLAH NSW 2093
Mrs Jennifer Karen Cronan	1 / 57 Lauderdale Avenue FAIRLIGHT NSW 2094
Matthew Sean McGregor	6 / 7 Francis Street DEE WHY NSW 2099
Mrs Maricela Barclay	7 / 15 Old Barrenjoey Road AVALON BEACH NSW 2107
McLaren Traffic Engineering	5 Jabiru Place WORONORA HEIGHTS NSW 2233
Shane Martins	Address Unknown
Mrs Pamela Sharon Smith	8 Camera Street MANLY NSW 2095
Sam McKnight	28 Abernethy Street SEAFORTH NSW 2092
Mrs Mary Eileen Fogarty	15 Margaret Street FAIRLIGHT NSW 2094
Mike Veysey Consulting	52 Albany Road STANMORE NSW 2048

The original application was notified on the 26 May 2020 for a period of 30 days. The application was advertised as Nominate Integrate Development – Department of Primary Industries (DIP) pursuant to S91 of the Water Management Act 2000). A total of 185 submissions have been received following the notification of the application (120 in support and 64 in objection). It is also noted that multiple submission have been received from the same property which are counted as one unique submission in accordance with the CPP.

The objections raised the following issues:

- 1 **Intensification / change of use / Designated Development**
- 1 **Zoning / permissibility / existing use right**
- 1 **Parking and road safety issues**
- 1 **Kiosk - size and operational issues**
- 1 **Trading hours**
- 1 **Acoustic Issues**
- 1 **Light spill**
- 1 **Waste collection**
- 1 **Visual impacts and view loss**
- 1 **Environmental and ecology impacts**
- 1 **Tree loss**
- 1 **Incomplete documentation**
- 1 **Lack of notification**

The matters raised in the submissions are addressed as follows:

Intensification - Over-development - Designated Development

The use of the site as a marina qualifies the as designated development, it has sufficient boating capacity and is located sufficiently close to wetlands to be designated development. Concern is expressed as to whether the applicant's description of the development as alterations and additions with no significant environmental impacts is valid.

Scale of the development - The proposal appears to represent a new built with complete demolition of the boatshed and an increase in the size of the dwelling from 197sqm to 322sqm (63%). In addition, new piles are proposed and extension of the deck area / footprint (360sqm to 921sqm (255% increase), the 21m pontoon, the construction of the tender house and boat shed and the increase in the size of the lease area are all areas of concern regarding the intensity of increased use.

The increase in passive storage spaces from 85 to 108 (an additional 23 spaces) with 24 hour trading 7 days a week.

Comment

The proposal does not constitute "Designated Development" as it will not significantly increase the environmental impacts of the total development when compared with the existing development. The Department of Fisheries and Council's Biodiversity and Water Management Units have confirmed subject to conditions issues the proposal will have no ecological impacts.

Issues relating to the scale of the development and an assessment of the proposal in accordance with Part 2 Schedule 3 of the EPA Regs 2000 is provided elsewhere in this report. In summary, the proposal does not seek consent for the complete demolition of the boatshed and it considered that the scale and density of the 4.5m extension of the boatshed to the south and the addition of two small ancillary structures are not considered to be excessive and do not represent over-development of the site.

In terms of the increase in the size of the deck the applicant has provided sufficient justification for the operational need for an extended deck and pontoon to provide safe access for customers especially those using kayaks and the need for a wash down area. Twenty three (23) additional passive craft storage spaces is also not considered to be excessive and sufficient evidence has been submitted to

support the argument that there is a demand for such storage which will in turn allow members of the public improved access to the harbour.

The extension of the lease area from Crown Land is not a matter for consideration under the subject development application and subject to a conditions the operational use of the marina will not result in an intensification of the existing use, refer to discussion under the heading "Designated Development".

Transport and parking issues:

Parking - There is no parking available on site. On street parking in Bolingbroke Parade is already utilised by residents and visitors and members of the public.

The proposal seeks to retain 33 parking permits. Under the new Manly Area Parking Scheme the Boatshed will not be entitled to these permits but a maximum of 3 permits.

The expansion imposes additional burdens on on-street parking. The proposal will attract additional customers with no available on site or on street parking.

There is limited public transport available.

The proposal will result in an increase in road safety issues due to limited visibility in and out of driveway.

Parking in the summer and at weekends is especially problematic. The applicants TIA is incorrect.

Comment

There is no change to the existing 39 mooring capacity therefore the additional parking demand that requires consideration relates to the 23 additional passive craft storage spaces and the ancillary kiosk.

The applicant has submitted additional traffic information that includes details of an on street traffic survey and a travel mode survey for kayak and SUP customers. The operational and survey data confirms that there is available parking in the surrounding streets and that the majority of kayak and SUP customers travel to the site using sustainable modes of travel. Based on the data submitted to Council it is agreed that the generic dry storage (boat) rates described in the RMS Guide do not strictly apply. The original TIA report identified a need for an additional two (2) parking spaces for the additional passive craft storage. It is also agreed that given the reduction in the size of the kiosk that this will be an ancillary facility which is likely to be used by the existing marina customers or those passing the site on the Manly to Spit scenic walk.

In respect of the loss of parking permits it is expected that this will have a public benefit as it will discourage mooring customers from parking within the 2P 8am to 10pm area that operates in the vicinity which will in turn free up in parking spaces as a shift to alternative modes of travel will be required. In order to facilitate this the applicant has agreed to prepare a Green Travel Plan and amend the POM to assist with the transition to alternative modes of travel.

Based on a review of the additional information submitted Council's Traffic Engineer Council's Traffic Engineer has no objections to the proposal subject to additional conditions requiring the submission, approval and implementation of a Green Travel Plan and an updated POM which will includes details of traffic management measures. Council's Traffic Engineer has not raised any issues with respect of road safety in servicing the site.

Kiosk - the kiosk measures approximately 150sqm (indoors and outdoors) and references seating for 70 customers trading between 5am to 10pm 7 days a week. The size of the kiosk exceeds 55sqm which is contrary to clause 5.4(6) of the MLEP. The scale of the food and drink venue, including the seating capacity and the hours of operation from 5.00am to 10.00pm, represents a use more comparable to a cafe / restaurant rather than an ancillary use to the marina.

Concern is also expressed about whether the kiosk will serve alcohol and whether it can be used as an entertainment venue. No drawings of the kitchen have been provided. Should consent be granted conditions are required to restrict alcohol, reduce the size to 55sqm, limit trading hours, prohibit table service, and restrict cooking and cold storage facilities.

Comment

The unlicensed kiosk has been reduced to a maximum of 55sqm (inclusive of indoor and outdoor seating areas) which is consistent with the definition of a kiosk under the MLEP. The amended plans reduced to the indoor and outdoor seating area from 70 seats to 16 seats inside and 16 seats outside. The size of the kiosk represents 12% of the total indoor area (290sq) and is an ancillary use the primary activities and operations of the Boatshed. There is no commercial kitchen and the applicant has confirmed that the kiosk will be used of the purpose of selling light refreshments including pre-packaged food (pastries and baked goods) coffee and cold drinks. The kiosk will not be licensed, it does not offer tabled service. Should consent be granted a condition are recommended to ensure that the kiosk remains an ancillary use to the marina and the operation of the kiosk is managed to minimise unreasonable impacts to neighbouring residential amenity.

Acoustic privacy - The extended trading hours, intensification of the use, in particular the kiosk operating late at night, noise from the kitchen and noise from patrons on the deck will generate unacceptable noise impacting neighbouring residents. The location of the outdoor seating for the kiosk extends beyond the alignment of the boatshed is of a concern and should be removed or reduced especially as there is no structure to shield the noise that travels up to the residential properties from the water. Noise from plant and cars arriving and leaving the area with more people using the site. Amplified noise from speaker. The new sheds will transfer watercraft noise from the western side to the boatshed to the east closer to residential properties. The acoustic report is inaccurate, it underestimates the affected receivers and has not considered the topography of the area. Conditions should also be included to ensure that windows and doors to the kiosk are closed.

Comment

As noted above, the size of the kiosk, patron capacity and hours of the use of the kiosk have been reduced. The outdoor seating area associated with the kiosk has been reduced and the outdoor seating area to the east of the boatshed has been deleted. As noted above, should consent be granted conditions are recommended to ensure the operation and management of the kiosk and the marina will protect residential amenity.

Council's Health Unit acknowledge that it is difficult to manage acoustic impacts out side the boundary of the site on the public street. However, should consent be granted it would be recommended that a condition be imposed requiring the POM to be amended to include measures to address the operational needs of the entire marina to ensure that there will be on unreasonable acoustic impacts on the adjoining residential area. Council's Health Unit have no objections to the proposal, as amended, subject to conditions including compliance with the acoustic report.

The rental and storage of watercraft is problematic due to lots of activity especially early in the

morning creating additional parking and acoustic issues.

Comment

The proposal seeks consent for an increase of 23 passive craft storage spaces. It is not anticipated that the activities associated with the additional storage space at the marina will result in unreasonable impacts on neighbouring amenity. A condition requires the submission of an amended POM that will provide details of the operational needs of the entire marina and measures to ensure neighbouring residential amenity is protected. Parking, traffic issues are address separately below.

The proposal changes the use from a working marina to recreational use with kiosk and an increase in watercraft storage spaces for SUPs and kayaks. The proposal changes the character of the area to commercial to the detriment of the community. One submission notes that there would be a loss of boat storage due to the kiosk.

Comment

The proposal retains the special purpose use (boat repair and commercial marina) as permitted under clause 34(2) of the SREP. The proposal will provide for an additional twenty three (23) passive craft storage spaces which is consistent with the permissible use of the site and consistent with the definition of a commercial marina which includes reference to boat storage. The proposal is consistent with the character of the area and allows for improved safe access to the waterway which is consistent with the objectives of the land use zone. Refer to detailed discussion under the heading SREP and Manly LEP zoning.

Non-compliance with SREP, LEP and DCP controls, including the Foreshore Scenic Protection principles.

Comment

Sufficient evidence has been submit to support the applicant's case which relies on existing use rights to allow for the continuation of the residential use of the upper floor of the boatshed which is prohibited in the RE1 zone in the MLEP and the W2 zone in the SREP. The proposal generally complies with the LEP, SREP and DCP controls. In terms of the provisions relating to the Foreshore Scenic Protection area the proposal will not result in unreasonable visual impacts to compliance with the objectives of the clause 6.9 of the MLEP, refer to discussion above.

A 63% increase in the new roof dimension means the roof will be visible from the Manly Scenic walkway and adjoining residents. Height poles are required in addition to a view loss assessment.

Comment

The new roof will extend over the existing first floor balcony located within the south-east corner of the first floor dwelling and the 4.5m southern extension. In addition, the new roof includes eaves which extend 1m to the east and west sides to provide for additional weather protection. While there will be an increase in the total area of roof, the pitched design roof is more in character with the coastal character of the waterfront site.

The existing boatshed varies in height from between 5.9m to 6.9m. The proposal will reduce the height of the boatshed to 6.5m (400mm lower, in part, than the existing maximum height). As such, it is unreasonable and un-necessary to request height poles. A site visit also confirms that due to the topography of the site and the extensive vegetation along the embankment that any limited views of the

new roof (or the development in general) will not result in unreasonable visual impacts from members of the public enjoying the scenic walkway. The applicant has also provided a detailed view loss assessment which is supported.

Visual impact of additional hard surfaces, deck and pontoon.

Comment

It is accepted that the deck and pontoon extend further south into the harbour than the existing deck and jetty, as such, there may be some increased views of these structures from the public walkway and residential properties. However, the extension of the deck and pontoon are necessary to facilitate the operational needs of the marina and ensure safe access to the waterway. The design of the deck and pontoon is not offensive and will not result in unreasonable visual impacts on the character of the surrounding area.

The decommissioned slipways will be graded with concert to accommodate the new deck and the impact on the existing natural beach area. The loss of the natural beach can not be supported.

Comment

The three (3) slipways are located to the east of the boatshed and present safety issues with respect of the use of this area and environmental issues, as detailed in the ecology report submitted in support of the application. While reference is made in the SEE regarding grading the decommissioned slipway area with concrete, as required, the area already has areas of concrete. The proposal will not result in the loss of the beach area which is located to the west of the boatshed. Furthermore, the removal of the deteriorated slipways has the potential to enhance the visual amenity of the area and improve safe access to the foreshore for the public.

Existing use rights - the applicant has not submitted sufficient information to support the residential use which is prohibited and there are issues regarding the expansion of the existing residential use. Should the residential use be approved it requires a condition requiring sole and exclusive use as part of the marina as on site management.

Comment

The applicant has provided sufficient information to support the existing use rights for the continued use of the residential dwelling. The 4.5m extension of the boatshed is not considered excessive and has no bearing on the existing use rights argument. It is agreed that should consent be granted that a condition should be imposed to ensure that the residential use is for the exclusive accommodation of an on site manager for the marina.

Is the approval mutually exclusive of approval for the extension of the water lease from 909sqm to 1450sqm. More details are required on how the Water Lease Entitlement is to be approved. Concern is expressed about the extension of private commercial gain over the public waterfront and harbour.

Comment

The extension of the water lease is a separate issue to the issue under consideration as part of the subject development application. Further information in relation to the Water Lease Entitlement should be obtained from the Crown Lands office. It is noted that Crown Lands and RMS owners consent has been given for the DA the correspondence from the NSW Department of Transport Office included

plans which referenced the extension of the lease area.

The 21m pontoon in the new water lease area will create navigation hazards.

Comment

The new pontoon is located in deeper water compared to the existing facility therefore providing additional security against propeller and wash impacts on shallow water ecosystems. It is not expected that the location of the pontoon will cause navigational hazards.

Trading hours - The trading hours of the kiosk should be restricted to between 9.00am to 8.00pm Monday to Sunday, trading hours for mooring customers and water craft as per current arrangements as opposed to 24/7 and waste collections and deliveries should be restricted to between Monday to Sunday 9.00am - 5.00pm.

Comment

Council Health Officer has no objections to the trading hours recommended in the acoustic report. Should consent be granted conditions are recommended to require compliance with the acoustic report and limit the trading hours including a restriction in the trading hours of the kiosk. The SEE notes that members of the Manly Boatshed have access to passive craft storage on a 24 hour basis, however, it is noted that the earliest typical arrival time is reported to be 5am. The recommended conditions will allow the use to commence the general operations at 6am.

Waste collection and service delivers for the marina will continue as existing by a private waste contractor. Manly Boatshed staff move the wheelie bins to the kerbside for collection by a private waste contractor.

The Plan of Management provides specific operational details for the kiosk including hours of trading which are unacceptable.

Comment

It is recommended that the Plan of management be amended to include all operational measures relating to the entire site including details of the kiosk.

Outdoor lighting - Conditions are required to ensure that there is no additional external lighting affecting neighbouring properties.

Comment

Should the application be approved conditions can be included to limit the external lighting to ensure that there will be no impact to residential properties or navigational movement within the Harbour. Flood lighting of marine facilities is not permitted.

Construction impacts - Strict conditions are required to manage impacts to the sensitive environment.

Comment

Should the application be approved conditions can be included to ensure construction impact will not result in unreasonable impacts on the environment, ecology and bio-diversity of the area.

Overlooking - Visual privacy. The use of the kiosk at night with passing foot traffic will impact on the visual privacy of neighbouring residents.

Comment

It is not expected that the use of the kiosk / marina will result in unreasonable impacts on visual privacy by way of overlooking by foot traffic. It is noted that the coastal walk attracts a lot of foot traffic passing residential properties.

Potential impacts on ecosystems and biological diversity, including seagrass beds and seahorses, little penguins, sooty oystercatchers. Environmental impacts on the sensitive foreshore.

Comment

The ecology report has been reviewed by the Fisheries Department Natural Resource Regulators and Council's Water Management and Biodiversity Unit and found to be acceptable. Should approval be granted the applicant will be required to comply with the recommendations of the ecology report and other specialist reports, the General Terms of Approval issued by the DIPN and conditions from Internal Units within Council's in order to ensure there will be no unreasonable environmental impacts.

Additional deliveries required to service the site.

Comment

Given the reduced size of the kiosk it is unlikely that there will be an excessive amount of additional deliveries generated. However, the Plan of Management should be amended to include details on the servicing arrangements for the site.

Waste management - Rubbish been blown into the harbour and catchment pollution. Increased waste and waste collection with a difficult access. A garbage management plan is required.

Comment

Council's Water Management Unit have advised that the applicant is required to install filter (nets) to capture litter, organic matter and coarse sediments from stormwater before it is discharged into the water below the development. In addition, should the application be approved a condition is recommended requiring the submission of an amended POM to ensure that it addresses all operational aspects of the development, including waste and catchment pollution.

Not notified.

Comment

The application was notified and advertised in accordance with the Community Participation Plan.

Insufficient documentation

Comment

The application has been supported with sufficient documentation.

Conditions are required to: 1. Create a footprint more aligned with the existing Boatshed with

less extensive decking, 2. Limit maximum patron numbers, 3. Ensure the area cannot be used as a function venue. 4. Ensure no licence for alcohol will be sought. 5. Remove evening trading hours. 6. Remove fixed seating. 7. Restrict the operation of a kiosk to be in line the Manly LEP (Clause 5.4(6) Manly LEP). 8. Reduce impacts on neighbours by relocating the new storage shed). 9. Limit delivery and rubbish removal times to daylight hours. 10. Prohibit table service. 11. Prohibit multiple cooking facilities or cold storage facilities. 12. Ensure the refusal any future DA to convert the kiosk to a café or to extend hours of operation.

Comment

Conditions relating to the operation of the kiosk are generally agreed too, however, the scale, height and density of the built form has been assessed as acceptable and condition to reduce these structures is not deemed to be necessary or reasonable.

Removal of tree

Comment

Council's Landscape Officer has no objections to the removal of one tree subject to the replacement planting of two native species. In addition, sufficient planting will be retained to reduce any perceived visual impacts of the built form on the public domain.

RE-NOTIFICATION

On the 28 September 2020, the application was re-notified as Integrated Development pursuant to S205 of the Fisheries Management Act 1994. The re-notification referenced amended plans and additional information having been received. The amended plans did not result in any new environmental or amenity impacts, as such these plans did not technically require re-notification under the Community Participation Plan. In response to the re-notification, an additional twenty seven (27) submission were received, twenty-four (24) of these submission were from persons that had previously lodged a submission therefore they are not included as a new unique submission. Two (2) of the new submissions were in support, one submission was from McLaren Traffic Engineers, submitted on behalf of neighbours, and the remainder of the submissions re-iterated issues that had been raised before with the exception of the following new issues:

Visual Privacy - windows overlooking habitable rooms and private open space.

Comment

Given the spatial separation of the boatshed to the nearest residential property there will be no loss of privacy by virtue of windows overlooking habitable rooms or private open space.

Shadow impact to residential properties.

Comment

Given the spatial separation of the boatshed to the nearest residential property there will be no loss of solar access.

Two slipways should be retained for boat repair.

Comment

The slipways are no longer in use and two slipways are extensively deteriorated.

The POM should include requirements for management of activities associated with the stored watercraft, waste and other operational issues. The new outdoor waiting area adjacent to the outdoor kiosk seating, which appears likely to be eventually used in conjunction with the kiosk.

Comment

As discussed above, should the application be approved it is agreed that the POM should be amended to include details of the management for the entire operation of the marina and not just the kiosk.

SUPPORT

As noted above one hundred and twenty (120) submissions have been recorded in support of the application, as originally submitted. An additional, four (4) letters of support were received following the re-notification of the application. A summary of the comments in support is provided below.

- 1 **Family business - Manly Boatshed has been in the Treherne family since 1946 and is part of the unique history and character of Manly waterfront.**
- 1 **Manly Boatshed provided public access to the foreshore as part of the boating destination marina program.**
- 1 **The proposal will upgrade and enhance the current facilities to provide safe access to the harbour and foreshore for pedestrians and marine visitors.**
- 1 **Removal of noisy and potentially contaminating boat repair service.**
- 1 **There is a need / demand for low impact recreational water activities/ launching facilities, passive craft storage facilities and access to the waterway.**
- 1 **Enhance shower and toilet facilities for users.**
- 1 **The kiosk is supported as a place for refreshments for walkers, locals and those using the marina. The majority of customers will be people waking or using the marina.**
- 1 **The floating pontoon will make for safer and more practical access to the marina from the harbour.**
- 1 **The design fits with the coastal character of the waterfront site.**
- 1 **The scale of development is consistent with the existing boatshed.**
- 1 **The removal of the slipway will enhance the environment.**
- 1 **Improved access to the water has community and health benefits.**
- 1 **The upgraded facility will be a community hub.**

Comment

Council generally concur with the comments made in support of the application.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Industrial)	<p>Revised Comment</p> <p>The applicant has responded extensively to comments and questions raised in the referral. Most issues are now clarified.</p> <p>The applicant has correctly pointed out Environmental Health's inability to control/regulate/enforce noise in the public street street ,as a result of increase business activity on the site , and matters such as</p>

Internal Referral Body	Comments
	<p>windblown litter from the now size reduced kiosk on the structure located over the water and we will allow the assessor to consider these issues. Therefore, on the basis of enforceable conditions Health have no objections</p> <p>Recommendation Approval with conditions</p> <p>Original Comments</p> <p><u>General</u> Proposed Hours:</p> <ul style="list-style-type: none"> 1 General boat shed/marina, including tender services - 6am to 10pm (Mon to Sat), 7am to 10pm (Sun and public holidays). 1 Access by customers (unsupervised) to passive craft storage and swing moorings not restricted (i.e. allowed 24 hours, 7 days a week). 1 Workshop and shipwright activities: 7am to 6pm (Mon to Fri), 8am to 6pm (Sat, Sun and public holidays). Doors and windows to workshop to be closed during noise-generating works. 1 Kiosk 5am to 10pm (Mon to Sun and public holidays). Doors and windows to kiosk and adjoining internal seating area to be closed (except to allow for patron ingress and egress) prior to 7am (Monday to Saturday), prior to 8am (Sunday and public holidays); and after 6pm (daily). Outdoor seating area to only be used 7am to 6pm Monday to Saturday and 8am to 6pm Sundays and public holidays. No more than 50 patrons shall be permitted in the outdoor seating area. <p><u>Noise</u> The acoustic assessment considers; " Noise sources Noise emission from the premises, as is assessable against the established noise goals, includes:</p> <ul style="list-style-type: none"> 1 Noise breakout from indoor kiosk area; 1 Patron noise associated with outdoor seated area; 1 Noise breakout from maintenance activities in the internal workshop area; 1 Motor noise generated during tender services; 1 Noise associated with tender patrons entering and exiting the site; 1 Hand tools used by boat owners at the end of the gangway." <p>It does not consider noise from motor vehicles parking in the restricted street adjacent to the development when patrons arrive/ vacate (5am to 10pm) and car doors slamming if hours of operation are extended into sleep time.</p>

Similarly any taxi/uber pick up. Likewise pack up/ cleaning and waste services are not included (but can be included in the Plan of Management).

The 24 access to mornings and the tender services are assessed as acceptable but does not include unsupervised offensive noise.

Also the report advises:

"Acoustic assessment of mechanical services equipment should be undertaken during the detailed design phase of the development to ensure that the cumulative noise of all equipment does not exceed the applicable noise criteria. Development Consent Conditions typically require detailed assessment of mechanical plant and equipment prior to issue of the Construction Certificate.

Noise control treatment can affect the operation of the mechanical services system. An acoustic engineer should be consulted during the initial design phase of mechanical services system to reduce potential redesign of the mechanical system.

Mechanical plant noise emission can be controlled by appropriate mechanical system design and implementation of common engineering methods, which may include:

- procurement of 'quiet' plant.
- strategic positioning of plant away from sensitive neighbouring premises to maximise intervening acoustic shielding between the plant and sensitive neighbouring premises.
- commercially available acoustic attenuators for air discharge and air intakes of plant.
- acoustically lined and lagged ductwork.
- acoustic barriers between plant and sensitive neighbouring premises.
- partial or complete acoustic enclosures over plant.

The specification and location of mechanical plant should be confirmed prior to installation on site, and

Fans shall be mounted on vibration isolators and balanced in accordance with Australian Standard 2625 'Rotating and Reciprocating Machinery - Mechanical Vibration "

Environmental Health accepts that plant and equipment can be assessed at design/construction stage and does not present any unsolvable issues.

"The outdoor kiosk area shall only operate 7:00am to 6:00pm Monday to Saturday and 8:00am to 6:00pm Sundays and public holidays. No more than 50 patrons shall be permitted in the outdoor seating area. The indoor kiosk area may operate outside these times provided the doors and windows of the premises remain closed."

The hours proposed for the external deck area are acceptable to Environmental Health. Hours for the internal operation need to be commented on further. Patrons entering and leaving the internal area can clearly allow offensive noise to leave the site and the permitted operational hours and Management Plan need to reflect this.

Likewise an airlock arrangement could solve this issue.

Internal Referral Body	Comments
	<p>Planning will also need to address whether the kiosk is a shop and or cafe/Restaurant and implication\’s for the latter use. Seating is approx 50 outside and some 20 inside total approx 70 - A kiosk is usually associated with items to takeaway from the premises.</p> <p>Kitchen design for a restaurant if proposed is more extensive than a kiosk, this matter will be dealt with in the Food Premises referral and other matters like provision of a grease trap will need to be taken into account. Kiosk fit-out detail is not supplied.</p> <p>Pollution The changes ,whilst reducing boat slippage use related environmental issues, raises some other matters. Paper serviettes , drinking straws, packaging from ice creams,sweets , litter generally and cigarettes and the like from structures located directly over water bodies raises the issue of wind action resulting in materials being blown into the water. Similarly the washing of the deck with detergents and cleaners is a potential issue .The paint room and particularly areas where painting and or defouling need addressing. No reference to removal of solid or liquid wastes from vessels is made.</p> <p>Sewer access may need upgrading e.g. if maceration equipment is needed to pump to sewer. Plans would need to be submitted to Sydney Water. Likewise if cooking and reusable crockery/cutlery and dishwasher is to be installed, a grease trap may be required by Sydney Water . Servicing of any grease trap without the risk of water pollution may need addressing.</p>

Internal Referral Body	Comments
	<p>Any new piles/piers may impact on acid sulfate soils and would require management. (Class 5 area) Conditions can be possibly included in any approval but the above issues need to be addressed now.</p> <p><i>Recommendation</i></p> <p>Additional information be requested from the applicant. In summary Environmental Health would like to clarify the following:</p> <ul style="list-style-type: none"> 1 Type of food (including drink/alcohol) and service to be provided from the" kiosk" (which appears to be potentially more of a cafe/restaurant type operation) any cooking and/or table service. Confirm total customer seating to be provided as it appears for approximately 70 at a minimum. 1 Management of windblown ; litter, serviettes, cigarettes, packaging and the like on any part of the structure located directly over the water.(seating 50) 1 Method of cleaning the deck area without use of detergent or other chemicals that may fall into the waterway. 1 Is any grease trap, macerator or other equipment to be installed to pump to sewer or is a gravity access point available. 1 Is disposal of solid and or liquid waste from boats moored or docked proposed 1 How is noise from customers parking in neighbouring residential streets as a result of this development and increased patronage and 5am opening hours is to be addressed. 1 Exactly what services are to be provided from 5 am on site. 1 Frequency of waste services collection and hours proposed for collection from the whole site. 1 Details of the use of the "paint store" that is proposed and any operations in regard to protection of the environment from these activities eg scraping and removal of old paint from boats. 1 Comment on any impact of new or replacement piers/piles on designated Class 5 Acid Sulfate Soil area.

Internal Referral Body	Comments
Environmental Health (Food Premises, Skin Pen.)	<p>Updated comments</p> <p>The applicant has responded to comments and questions which are more specifically related to the "industrial " referral. The kiosk has reduced hours, been reduced in size and has no cooking facilities only warming and no commercial kitchen although food standards require a "similar" standard of fit out for hygiene, cleaning and pest elimination purposes.</p> <p>Recommendation</p> <p>APPROVAL - subject to conditions</p>
Landscape Officer	<p>The proposal is for alterations and additions to an existing boat shed located at 1B Bolingbroke Parade, Fairlight. The proposed land adjoins West Esplanade Park that includes the public pathway as part of the Manly Scenic Walkway. Within West Esplanade Park public open space is located adjacent to the Manly Boatshed, and public access exists throughout the reserve and to the foreshore.</p> <p>Council's Landscape Referral has assessed the proposal against the landscape objectives of Zone RE1 Public Recreation, and clause 6.9 Foreshore scenic protection area of the Manly Local Environmental Plan, and the landscape controls of Manly DCP 2013, section 3: General Principles of Development, and section 4: Development Controls and Development Types.</p> <p>The proposed development is consistent with the existing landscape character with the retention of the existing reserve open space and access. Two existing trees are proposed for removal, with one being an Exempt Species that is undesirable in that it can be invasive into foreshore and bushland areas. The other existing tree proposed for removal, identified as Cheese Tree, shall be the subject of replacement with at least two (2) locally native canopy trees which at maturity will achieve a canopy height greater than 8.5 metres, as required by the Natural Environment Referral Response. All other existing trees shall preserved and shall be the subject of conditions of consent.</p>
NECC (Bushland and Biodiversity)	<p>The proposed development has been assessed against the objectives of Manly LEP Clause 6.5 (Terrestrial Biodiversity). It is assumed that aquatic ecological impacts - including potential impacts on seagrass and syngnathids - have been assessed by the appropriate referral body.</p> <p>The proposal will require removal of one protected tree (Tree 4 - Cheese Tree). This tree is to be replaced with at least two appropriate compensatory plantings of locally native canopy trees. This may be within the West Esplanade Reserve boundaries but must have land owner approval. Tree protection measures specified in the submitted arboricultural assessment (RainTree Consulting, 11 May 2020) are to be implemented at the appropriate stage of development.</p>

Internal Referral Body	Comments
	<p>It is noted that the application includes provisions which, if fully implemented, would be likely to result in a significant intensification of use at the site. This includes extended hours of operation, a refreshments stand which may be more consistent with the definition of a cafe than of a kiosk, and a notable increase in outdoor seating. It is recommended that the planner consider applying conditions of consent (e.g. restrictions on operational hours) to address potential intensification of use impacts on neighbours and the surrounding environment such as increased noise, lighting and traffic.</p> <p><u>Planners comment</u></p> <p>The intensity of the use has been reduced with the amended proposal which reduced the size of the kiosk to 55sqm in accordance with the definition of a kiosk in the Standard Instrument and the Manly LEP. Likewise, the patron capacity, outdoor seating area and hours of operation have been reduced. Subject to conditions, the proposal will not result in unreasonable impacts on the surrounding neighbours.</p>
NECC (Coast and Catchments)	<p>The application has been assessed in consideration of the <i>Coastal Management Act 2016</i>, State Environmental Planning Policy (Coastal Management) 2018, Sydney Harbour Catchment Regional Environment Plan, 2005 and Sydney Harbour Foreshores and Waterways Area Development Control Plan, 2005. It has also been assessed against requirements of the Manly LEP and DCP.</p> <p>The application has also been assessed using Northern Beaches SREP assessment template.</p> <p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development.</p> <p>The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p>State Environmental Planning Policy (Coastal Management) 2018 As the subject site has been identified as being within the coastal zone and therefore SEPP (Coastal Management) 2018 is also applicable to the proposed development.</p> <p>The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps but not been included on the Coastal Vulnerability Area Map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Clauses 13</p>

Internal Referral Body	Comments
	<p>(coastal environment area) and 14 (coastal use area) do not apply as the site is also located within the SREP area. Hence, only Clause 15 of the CM SEPP apply for this DA.</p> <p>Comment:</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Planning Ingenuity dated 13 May 2020, the DA satisfies requirements under Clause 15 of the CM SEPP.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>Sydney Regional Environment Plan (Sydney Harbour Catchment), 2005</p> <p>Harbour Foreshores & Waterways Area</p> <p>The subject site is located within the Sydney Harbour Catchment and is identified as being within the Foreshores and Waterways Area. Hence Part 2, Clause 14 and Part 3, Division 2 apply in assessing this DA.</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Planning Ingenuity dated 13 May 2020, it is determined that the Planning Principles and Matters for Consideration of the Area have been met.</p> <p>The subject site is located within/adjacent to the W2 (Environmental Protection) Zone..</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Planning Ingenuity dated 13 May 2020, it is determined that the objectives and assessment criteria of the zone have been met.</p>

Internal Referral Body	Comments
	<p>Sydney Harbour Foreshores and Waterways Area Development Control Plan, 2005</p> <p>-</p> <p>The subject site is located within a foreshore area identified on the map and therefore the DCP applies to the proposed development.</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Planning Ingenuity dated 13 May 2020, it is determined that the proposed development satisfies the requirements of the DCP.</p> <p>Manly LEP 2013 and Manly DCP</p> <p>Foreshores Scenic Protection Area Management</p> <p>The subject site is also shown to be as “Manly Foreshores Scenic Protection Area” on Council’s Foreshores Scenic Protection Area in Manly LEP 2013. As such, Clause 6.9 (Foreshores Scenic Protection Area) of the Manly LEP 2013 and Part 5, section 5.4.1 Foreshores Scenic Protection Area of the Manly DCP 2013 will apply to proposed development on the site.</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Planning Ingenuity dated 13 May 2020, the DA satisfies requirements under Clause 6.9 (Foreshores Scenic Protection Area) of the Manly LEP 2013 and Part 5, section 5.4.1 Foreshores Scenic Protection Area of the Manly DCP 2013.</p> <p>Limited Development on Foreshore Area</p> <p>The subject site is also shown to be as “Manly Foreshores Area” on Manly LEP 2013. As such, Clause 6.10 (Limited Development on Foreshores Area) of the Manly LEP 2013 will apply to proposed development on the site.</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Planning Ingenuity dated 13 May 2020,, the DA satisfies the objectives and requirements of Clause 6.10 (Limited Development on Foreshores Area) of the Manly LEP 2013.</p>

Internal Referral Body	Comments
NECC (Development Engineering)	Development Engineering has no objection to the application.
NECC (Riparian Lands and Creeks)	<p>This application, for alterations and modifications to Manly Boatshed, has been assessed against relevant legislation for the protection of waterways and the environment. All contractor inductions are to include the below information relating to the surrounding aquatic ecosystem and the need for protection of these habitats.</p> <p>Beds of <i>Zostera</i> and <i>Posidonia</i> seagrass are located within the vicinity of the proposal therefore all care must be taken not to damage these beds. Contractors must be notified of the location of these seagrass beds. The invasive green alga <i>Caulerpa taxifolia</i> has previously been noted in 2013, although it was not noted at the time of the November 2018 survey the applicant must ensure staff are equipped to identify and manage <i>Caulerpa taxifolia</i> should it occur onsite during works in accordance with the CEMP.</p> <p>Although not located during the November 2018 survey, the endangered White's seahorse (<i>Hippocampus whitei</i>) has previously been found amongst kelp on several of the piles which have been noted for removal. If White's seahorse are discovered prior to construction works the applicant must apply for approval from DPI fisheries before relocating to suitable adjacent habitat.</p> <p>With adherence to the applied conditions it is unlikely that this development will have an adverse impact on the integrity and resilience of the biophysical, ecological and hydrological environment. It is therefore recommended for approval subject to these conditions.</p>
NECC (Water Management)	<p>Water treatment is required on this development to satisfy the requirements of the SEPP Coastal Management 2018 and the Sydney Regional Environment Plan (Sydney Harbour), which both aim to protect the water quality of Sydney Harbour.</p> <p>The applicant is required to install filter (nets) to capture litter, organic matter and coarse sediments from stormwater before it is discharged into the water below the development. The filters should be accessible for cleaning eg. via a hinged section of decking. The use of the slotted pipe to disperse flows is accepted.</p> <p>A sediment and erosion control plan was not provided. A silt curtain is required during construction to ensure that any debris during the demolition and construction process do not enter the waterway. Protections should also be provided around the shore to prevent transport of sediment to the waterway from the vehicle access and waste stockpile areas.</p>
Parks, reserves, beaches, foreshore	The proposal is for alterations and additions to an existing boat shed located at 1B Bolingbroke Parade, Fairlight. The proposed land adjoins West Esplanade Park that includes the public pathway as part

Internal Referral Body	Comments
	<p>of the Manly to Spit walk. Within West Esplanade Park public open space is located adjacent to the Manly Boatshed, and public access exists throughout the reserve and to the foreshore.</p> <p>This Parks Referral responds to the assessment of impact or otherwise upon the public land owned and/or managed by Council. It is considered that public access and views to and through the reserve and to the foreshore is not impacted by the development, and this satisfies the objectives of Zone RE1 Public Recreation of the Manly Local Environmental Plan, and clause 6.9 Foreshore scenic protection area. Additionally, the recreational use of the proposal improves water based activities for the benefit of the public.</p>
Property Management and Commercial	<p>The proposal is for alterations and additions to an existing boat shed located at 1B Bolingbroke Pde, Fairlight.</p> <p>Should any encroachments into the public reserve be identified during the development assessment process, Property should be advised so as to start the process of regularising the situation.</p>
Road Reserve	The development does not impact on existing road assets.
Strategic and Place Planning (Heritage Officer)	<p>HERITAGE COMMENTS</p> <p>Discussion of reason for referral</p> <p>The proposal has been referred to Heritage as the subject site sits over a heritage item and adjoins a heritage item on three sites.</p> <p>11 Harbour Foreshores - Runs along the foreshore of Sydney Harbour</p> <p>149 Esplanade Park and Fairlight Pool - Adjoins the site.</p> <p>Details of heritage items affected</p> <p>Details of the items as contained within the Manly inventory is as follows:</p> <p>Harbour Foreshores <u>Statement of significance:</u> Natural landscape type - Aesthetic.</p> <p><u>Physical description:</u> Length of foreshore including natural and built elements of the landscape. Rocky sandstone ledgers, beaches, mud flats and sandstone retaining walls and timber structures.</p> <p>Esplanade Park and Fairlight Pool <u>Statement of significance:</u> Part of driveway setting leading up to 'Fairlight House' in the 1850's. Part of Manly's foreshore open space system. Aesthetic.</p>

Internal Referral Body	Comments		
	Other relevant heritage listings		
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	Yes	Fairlight Pool is listed under this SREP, but it is located approximately 400m away from the subject site and thus not impacted by the proposal.
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
	National Trust of Aust (NSW) Register	No	
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	N/A	
	Consideration of Application		
	<p>The proposal seeks consent for alterations and additions to the existing Manly Boatshed. The boatshed sits mostly below the mean high water mark but it does include a section on land at 1B Bolingbroke Parade. The surrounding land is heritage listed as part of Esplanade Park. The foreshore heritage listing runs along the boundary between 1B Bolingbroke and the water.</p> <p>Heritage considers that there are some very minor impacts to both heritage items from the proposed works, but they are tolerable. This include some ancillary works in the park and building over the foreshore listing but the proposed construction method leaves the vast majority of this item in situ.</p> <p>Therefore Heritage raises no objections and requires no conditions.</p> <p>Consider against the provisions of CL5.10 of MLEP.</p> <p>Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? No</p>		
	DATE: 2 June 2020		
Strategic and Place Planning (Urban Design)	The proposal will result in a new and longer (about 4.5m) built form towards the water edge in a similar scale to the existing building. The existing pedestrian bridge (located outside the site boundaries) accessing the upper level of the boat shed will also be renewed. There will also be a new office shed (2.5x2.5m approx) and a new storage shed (6x6m approx) for passive craft located to the eastern side of the new boatshed. The proposed enlarged decking and		

Internal Referral Body	Comments
	<p>pontoon will improve the facilities and amenities in a non-obtrusive manner. There are no changes proposed to the existing freestanding moorings or berths. Overall, the proposed changes to the scale of the new built form and character of the marina is acceptable.</p>
<p>Traffic Engineer</p>	<p>Revised Comments following the submission of additional Information received from the applicant 27 November 2020</p> <p>The amended plans received and reduction in the area of the kiosk to ensure the use remains ancillary to the boat shed business and an updated Plan of management for the site as discussed in the letter of intent provided on the 26 November 2020 by Planning Ingenuity on behalf of the applicant.</p> <p>Council's concerns regarding the impact on the parking has been addressed in the amended plan of management including a green travel plan for the site, inclusion of active transport options, and user priority given to those who live within 3km of the site.</p> <p>The revised proposal is supported subject to conditions.</p> <p>Review of initial referral and supplementary information received 24 September 2020</p> <p><u>Proposal:</u> The development for which approval is now sought is for alterations and additions to the existing development, comprising the following:</p> <ul style="list-style-type: none"> - No changes to the existing parking (onsite parking is not currently provided) and servicing arrangements; - Passive craft storage shed to be built adjacent to the main building with storage capacity for an additional 45 'boats'. - Retention of the existing 39 commercial moorings; - A kiosk which is ancillary to the proposed development that is indicative size shown as 55m² with an additional area used as seating of 17m² that could service the kiosk area as well. - Three (3) existing slipways are to be decommissioned and replaced by decking; - Upgrade of small shed adjacent to existing slipways; - New decking area adjacent to existing driveway; - Upgrades to existing toilets and shower facilities; - Construction of a new floating pontoon and gangway; and - Minor renovations to the existing three (3) bedroom residence. <p><u>Parking:</u> The current proposal is assuming that the existing Residential Parking Permit allocation under the previous Manly RPS will continue to be issued under the new Manly Residential Parking Permit Scheme Framework.</p> <p>Historically the site was issued 33 permits with up to 60 issued under the previous Manly Council administration.</p>

Internal Referral Body	Comments
	<p>Under the Adopted Framework the site if actually included in the scheme area may be eligible for:</p> <ul style="list-style-type: none"> 1 1 Business permit for the Commercial component of the site (Subject to meeting the criteria for a Business permit) in the Tower Hill Scheme Area. 1 2 Residential and 1 Multi-use permits for the Residential component of the site (Subject to meeting the criteria for a residential application) in the Tower Hill Scheme Area. <p>Under the RMS guide to Traffic Generating Development the following parking requirements could be deemed required to meet the needs of the development (subject to definitions of each usage):</p> <ul style="list-style-type: none"> 1 Swing Moorings $39 \times 0.2 = 7.8$ parking spaces - Not supplied under current usage -8 1 Kiosk usage based on the amended plan showing $55\text{m}^2 = 55/100 \times 15 = 8.25$ parking spaces (say 8) -8 1 Passive water craft storage 108 (combined maximum) classified as dry storage $108 \times 0.2 = 21.6$ (say 22) not supplied under current or proposed usage -22 1 Residential Component = 2 car parking spaces -2 1 Additional to this is staff parking for the commercial component of the development with all submitted documentation silent on this issue however the minimum staffing of 4 would require 2 additional spaces -2 <p>Based on this assessment the development is deficient in parking to the potential of 42 car spaces. Taking in to account the applicant has identified the following usage rate of the passive water craft storage component for parking generation requiring an average of 4 spaces - with 4 assumed as you can't have a half space on a daily basis so allowing rounding up to 7 in the proposed number of 108 - 3.5 per day / 63 kayaks Based on the above, the increase to 108 kayaks would suggest: - $3.5/63 \times 108 = 6.1 \sim 7$ parking spaces.</p> <p>The applicant has not demonstrated adequate parking provisions are available on-street to accommodate the increase other than stating the reliance on the permits which have been issued historically and are no longer available under the adopted framework.</p> <p>No information has been provided to address the kiosk usage parking requirement, or how the staff parking will be accommodated, especially taking into account the site does not have the capability to provide off street parking in the current design.</p> <p><u>Traffic:</u> The generation methodology is questioned given the TIA and</p>

Internal Referral Body	Comments
	<p>supplement suggest the average usage is 3.5 per day and 75% would arrive by car and that indicates the trips in and out would be 2.6 (rounded up to in each direction). There is no mention of generation in the kiosk usage again, with the RMS guide to Trip Generation stating that a restaurant has a generation of 60 trips per 100m² and even with a suitable discount provided based on kiosk operation vs restaurant operation it would be fair to assume that trip generation would be some where between 15 and 33 per day additional just on the kiosk usage alone.</p> <p>This additional traffic generation of the site might deemed minor and negligible on the wider road network, however the local impact in Bolingbroke Parade will be of concern to the adjoining local residents.</p> <p><u>Conclusion:</u> The application is not supported by the Transport Team based on the parking matter raised and the lack of quantifiable trip generation information. Further the reliance on historically issued parking permits will not be acceptable under the current application.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	Ausgrid has no objection to this development application, however the design submission must comply with relevant Ausgrid Network Standards and Safe Work NSW Codes of Practice for construction works near existing electrical assets. The “as constructed” minimum clearances to Ausgrid’s infrastructure must not be encroached by the building development. It also remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite. A condition requires compliance with the recommendations of Ausgrid.
Foreshore and Waterways Planning and Development Advisory Committee	The application was referred the Foreshore and Waterways Planning and Development Advisory Committee on 9 September 2020. At this time of writing this report no response was received and it is therefore assumed that the Committee have no issues with the proposal.
Nominated Integrated Development – Natural Resources Access Regulator - Water Management Act 2000 (s91 Controlled Activity Approval for works within 40m of watercourse)	<p>The Natural Resources Access Regulator (NRAR) has reviewed documents for the above development application and considers that, for the purposes of the Water Management Act 2000 (WM Act), the proposed works are exempt from the need to obtain a controlled activity approval and no further assessment by this agency is necessary.</p> <p>Exemption Water Management Act (General) Regulation Schedule 4, 36 - Activities within exempt waterfront land maps for estuaries and lakes eg. NRAR Port Hacking Map</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential / commercial marina purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the continuation of the residential / commercial land use.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The subject property has a split zone with the portion below MWHM located within the Foreshores and Waterways Area. The provisions of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP) therefore apply to this development. This Plan requires the consent of the relevant Local Authority for all land and land-water base developments. The consent authority in this instance is Council.

The principle objective of this SREP is to establish a framework for the coordinated planning, development and management of the waterways and foreshores of Sydney and Middle Harbours. A development control plan has also been prepared to complement the REP. It includes detailed design guidelines and criteria for natural resource protection for the area identified as Foreshores and Waterways areas. This is defined as the Harbour and its tributaries as well as land within the immediate foreshore area.

The Policy sets out its general and specific aims in Part 1, and Clause 14 in Part 2 of this SREP lists certain Planning Principles to be considered in a development proposal in the Foreshores and Waterways Area. The matters considered relevant to this proposal are: Clause 14 (nominated planning principles), Clause 22 (relating to public access to and use of foreshores and waterways), Clause 23 (relating to maintenance of a working harbour), Clause 24 (relating to interrelationship of waterway and foreshore uses), Clause 25 (relating to foreshore and waterways scenic quality), Clause 26 (relating to maintenance, protection and enhancement of views) and Clause 27 (relating to boat storage facilities) has been undertaken. The proposal is considered to be consistent with the above provisions of the SREP for the reasons discussed below:

Clause 2 Aims of the plan

The aims of the SREP are as follows:

(a) to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are

recognised, protected, enhanced and maintained—

- (i) as an outstanding natural asset, and*
- (ii) as a public asset of national and heritage significance, for existing and future generations,*
- (b) to ensure a healthy, sustainable environment on land and water,*
- (c) to achieve a high quality and ecologically sustainable urban environment,*
- (d) to ensure a prosperous working harbour and an effective transport corridor,*
- (e) to encourage a culturally rich and vibrant place for people,*
- (f) to ensure accessibility to and along Sydney Harbour and its foreshores,*
- (g) to ensure the protection, maintenance and rehabilitation of watercourses, wetlands, riparian lands, remnant vegetation and ecological connectivity,*
- (h) to provide a consolidated, simplified and updated legislative framework for future planning.*

(2) For the purpose of enabling these aims to be achieved in relation to the Foreshores and Waterways Area, this plan adopts the following principles—

- (a) Sydney Harbour is to be recognised as a public resource, owned by the public, to be protected for the public good,*
- (b) the public good has precedence over the private good whenever and whatever change is proposed for Sydney Harbour or its foreshores,*
- (c) protection of the natural assets of Sydney Harbour has precedence over all other interests.*

Comment

The proposal meets the general aims of the SREP in that the foreshore will be protected, enhanced and maintained. The proposal has been designed to minimise environmental impacts, it will retain a working harbour function while providing enhanced safe access to the foreshore and Harbour for the public. The proposal complies with the aims of the SREP as discussed in more detail below.

Clause 14 Foreshores and Waterways Area

The planning principles for land within the Foreshores and Waterways Area are as follows—

- (a) development should protect, maintain and enhance the natural assets and unique environmental qualities of Sydney Harbour and its islands and foreshores,*
- (b) public access to and along the foreshore should be increased, maintained and improved, while minimising its impact on watercourses, wetlands, riparian lands and remnant vegetation,*
- (c) access to and from the waterways should be increased, maintained and improved for public recreational purposes (such as swimming, fishing and boating), while minimising its impact on watercourses, wetlands, riparian lands and remnant vegetation,*
- (d) development along the foreshore and waterways should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands and foreshores,*
- (e) adequate provision should be made for the retention of foreshore land to meet existing and future demand for working harbour uses,*
- (f) public access along foreshore land should be provided on land used for industrial or commercial maritime purposes where such access does not interfere with the use of the land for those purposes,*
- (g) the use of foreshore land adjacent to land used for industrial or commercial maritime purposes should be compatible with those purposes,*
- (h) water-based public transport (such as ferries) should be encouraged to link with land-based public transport (such as buses and trains) at appropriate public spaces along the waterfront,*
- (i) the provision and use of public boating facilities along the waterfront should be encouraged.*

Comment

The proposed alterations and additions to the existing marina will not result in unreasonable impact on the natural assets and environmental qualities of the Harbour, subject to conditions. The recommendations of specialist reports are included as conditions to ensure that there will be minimal impact on the ecology of the area. The proposal retained the historic working harbour use with the workshop offering services for boat repair. Public access to and from the waterway is protected, enhanced with improved with the modern facilities offering a safe environment for recreational purposes, including boating. The proposed alteration to the existing boatshed retain the coastal character of the area to ensure that the unique visual qualities of the foreshore are maintained. The modified boatshed and ancillary structures are relatively low scale when viewed from the Harbour and against the backdrop of the surrounding topography. The proposal maintains the character of built form on the site in the foreshore setting.

In summary, the proposal is considered to be satisfactory when assessed against each of the relevant principles planning for land within the Sydney Harbour Catchment.

Clause 17 Zoning objectives

The portion of the site below the MHWS is zoned W2 (Environmental Protection). The objectives of the W2 Environmental Protection zone are as follow:

- (a) to protect the natural and cultural values of waters in this zone,*
- (b) to prevent damage or the possibility of longer term detrimental impacts to the natural and cultural values of waters in this zone and adjoining foreshores,*
- (c) to give preference to enhancing and rehabilitating the natural and cultural values of waters in this zone and adjoining foreshores,*
- (d) to provide for the long-term management of the natural and cultural values of waters in this zone and adjoining foreshores.*

Comment:

The proposal provides for the upgrade and refurbishment of the existing marina and boatshed. Sufficient information has been submitted to demonstrate that the proposed development will not result in unreasonable impacts on the natural and cultural values of waters in this zone. The proposal allows for the long term management of the site and the cultural values of the area are enhanced with the upgrade of the existing facility with enhanced access to the Harbour for recreational purposes. Conditions are recommended to ensure that the long-term management of the natural and cultural values of the site and adjoining foreshore are protected. In summary, the proposed development is consistent with the zone objectives.

Clause 18(1) Development control in waterways

Clause 18(1) sets out details of development that is permitted with development consent and development that is prohibited. The following uses are prohibited in the W2 Zone: Boat repair facilities, boat sheds (private), commercial marinas, mooring pens, residential development, water based restaurants and entertainment facilities. The proposed development relies on Clause 34 of the SREP which allows for development for the purposes of a commercial marina in the W2 zone for certain sites identified on the Special Purposes (Boat Repair Facilities and Commercial Marinas) Map. Manly Boatshed is identified on Sheet 2 for this special purpose., refer to extract from SREP below.



Manly Boatshed shown on the Special Purposes Map (Source SREP)

A commercial marina is defined in the SREP Sydney Harbour Catchment as follows:

- commercial marina means a permanent boat storage facility (whether located wholly on land,*
- (a) any facility for the construction, repair, maintenance, storage, sale or hire of boats, and*
 - (b) any facility for providing fuelling, sewage pump-out or other services for boats, and*
 - (c) any facility for launching or landing boats, such as slipways or hoists, and*
 - (d) any associated car parking, commercial, tourist or recreational or club facility that is ancilla*
 - (e) any associated single mooring,*
- but does not include a boat repair facility or a private marina.*

Comment

In accordance with the above definition, the proposed development is for a commercial marina, including ancillary facilities (the kiosk) and services, and is permissible under the SREP Sydney Harbour Catchment.

Residential development is prohibited in the W2 Environment Protection zone. As discussed above, the proposal relies on existing use rights for the proposed refurbishment of the existing residential dwelling to Level 1 of the boatshed building.

Clause 34 Boat repair and commercial marina in Zone W2

The objectives of this clause are:

(1) The objects of this clause are as follows—

- (a) to maintain the working harbour character and functions of certain existing boat repair facilities by retaining the sites of those facilities for maritime purposes.*
- (b) to ensure that any development carried out on those sites, including any alteration or extension of those facilities, does not substantially increase the scale of those facilities or the intensity of their use.*

Comment:

The proposal will maintain the commercial marina and includes a workshop which allows for the continuation of a boat repair service. As such, the proposal maintains the working harbour character and function in compliance with objective 1.

Sufficient information has been submitted to satisfy Council that the alterations to the existing boatshed, as amended, do not substantially increase the scale of the facilities or the intensity of their use. Conditions are recommended relating to hours of use and the need for an amended plan of Management to insure that the operation of the upgraded marina will not substantially increase the intensity the existing use. Refer to detailed discussion under the heading Designated Development.

Division 2 Matters of consideration

The following matters are to be taken into consideration in by consent authorities before granting consent to development under Part 4 of the Act.

Clause 21 Biodiversity, ecology and environmental protection

The matters to be taken into consideration in relation to biodiversity, ecology and environment protection are as follows—

- (a) development should have a neutral or beneficial effect on the quality of water entering the waterways,*
- (b) development should protect and enhance terrestrial and aquatic species, populations and ecological communities and, in particular, should avoid physical damage and shading of aquatic vegetation (such as seagrass, saltmarsh and algal and mangrove communities),*
- (c) development should promote ecological connectivity between neighbouring areas of aquatic vegetation (such as seagrass, saltmarsh and algal and mangrove communities),*
- (d) development should avoid indirect impacts on aquatic vegetation (such as changes to flow, current and wave action and changes to water quality) as a result of increased access,*
- (e) development should protect and reinstate natural intertidal foreshore areas, natural landforms and native vegetation,*
- (f) development should retain, rehabilitate and restore riparian land,*
- (g) development on land adjoining wetlands should maintain and enhance the ecological integrity of the wetlands and, where possible, should provide a vegetative buffer to protect the wetlands,*
- (h) the cumulative environmental impact of development,*
- (i) whether sediments in the waterway adjacent to the development are contaminated, and what means will minimise their disturbance.*

Comment

An Aquatic Ecology Impact Assessment has been submitted with the application which concludes that there will be no significant ecological impact from the proposed development. The report notes that there will be a net gain of aquatic habitat due to removal of the slipway facility which is likely to lead to a beneficial impact. It is also anticipated that there would also be less navigation hazards arising from the proposal compared to the present usage and layout of the facility with the layout of the new pontoons in deeper water providing additional security against propeller and wash impacts on shallow water ecosystems. The ecology report has been reviewed by the Fisheries Department and Council's Biodiversity Unit and Coastal Management Unit who support the proposal subject to conditions.

Clause 22 Public access to, and use of, foreshores and waterways

The matters to be taken into consideration in relation to public access to, and use of, the foreshores and waterways are as follows—

- (a) development should maintain and improve public access to and along the foreshore, without

- adversely impacting on watercourses, wetlands, riparian lands or remnant vegetation,
- (b) development should maintain and improve public access to and from the waterways for recreational purposes (such as swimming, fishing and boating), without adversely impacting on watercourses, wetlands, riparian lands or remnant vegetation,
 - (c) if foreshore land made available for public access is not in public ownership, development should provide appropriate tenure and management mechanisms to safeguard public access to, and public use of, that land,
 - (d) the undesirability of boardwalks as a means of access across or along land below the mean high water mark if adequate alternative public access can otherwise be provided,
 - (e) the need to minimise disturbance of contaminated sediments.

Comment

The proposed development allows for improved safe public access to the foreshore and waterway for recreational facilities without impacting on the watercourse, wetlands, riparian lands and remnant vegetation.

Clause 23 Maintenance of a working harbour

The matters to be taken into consideration in relation to the maintenance of a working harbour are as follows—

- (a) foreshore sites should be retained so as to preserve the character and functions of a working harbour, in relation to both current and future demand,*
- (b) consideration should be given to integrating facilities for maritime activities in any development,*
- (c) in the case of development on land that adjoins land used for industrial and commercial maritime purposes, development should be compatible with the use of the adjoining land for those purposes,*
- (d) in the case of development for industrial and commercial maritime purposes, development should provide and maintain public access to and along the foreshore where such access does not interfere with the use of the land for those purposes.*

Comment

The proposed development continues the existing use of the site as a commercial marina and provides for improved public access to the foreshore and waterway. The proposal includes the retention of shipwright services which ensures the continuation of a working harbour.

Clause 24 Interrelationship of waterway and foreshore uses

The matters to be taken into consideration in relation to the interrelationship of waterway and foreshore uses are as follows—

- (a) development should promote equitable use of the waterway, including use by passive recreation craft,*
- (b) development on foreshore land should minimise any adverse impact on the use of the waterway, including the use of the waterway for commercial and recreational uses,*
- (c) development on foreshore land should minimise excessive congestion of traffic in the waterways or along the foreshore,*
- (d) water-dependent land uses should have priority over other uses,*
- (e) development should avoid conflict between the various uses in the waterways and along the foreshores.*

Comment

The proposed development promotes access of passive recreation craft to the Harbour and is unlikely

to result in any conflict with existing use of the waterway and foreshore.

Clause 25 Foreshore and waterways scenic quality

The matters to be taken into consideration in relation to the maintenance, protection and enhancement of the scenic quality of foreshores and waterways are as follows—

- (a) the scale, form, design and siting of any building should be based on an analysis of—*
 - (i) the land on which it is to be erected, and*
 - (ii) the adjoining land, and*
 - (iii) the likely future character of the locality,*
- (b) development should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands, foreshores and tributaries,*
- (c) the cumulative impact of water-based development should not detract from the character of the waterways and adjoining foreshores.*

Comment

The proposed development is compatible with the character of its foreshore / waterway location. The scale, form, design and siting of buildings is consistent with that of the adjoining land and will not result in unreasonable impacts on the future character of the locality.

Due to the topography of the site and the extensive vegetation along the embankment there will be minimal visual impacts of the development on the adjoining residential area. The site as viewed from the Harbour maintains the unique visual quality of the foreshore area with the use of appropriate materials and design details. Subject to conditions the cumulative impact of the development can be managed to ensure that character of the waterway and foreshore is protected.

Clause 26 Maintenance, protection and enhancement of views

The matters to be taken into consideration in relation to the maintenance, protection and enhancement of views are as follows—

- (a) development should maintain, protect and enhance views (including night views) to and from Sydney Harbour,*
- (b) development should minimise any adverse impacts on views and vistas to and from public places, landmarks and heritage items,*
- (c) the cumulative impact of development on views should be minimised.*

Comment

The proposed alterations will not result in unreasonable impacts on views to and from Harbour. Conditions are included in the recommended to ensure that lighting will not result in visual impacts at night. Due to the topography of the site and the extensive landscape screening along the embankment views from public place, including the Manly to Spit walkway are limited.

Clause 27 Boat storage facilities

The matters to be taken into consideration in relation to boating facilities are as follows—

- (a) development should increase the number of public boat storage facilities and encourage the use of such facilities,*
- (b) development should avoid the proliferation of boat sheds and other related buildings and structures below the mean high water mark,*
- (c) development should provide for the shared use of private boat storage facilities,*
- (d) development should avoid the proliferation of private boat storage facilities in and over the*

waterways by ensuring that all such facilities satisfy a demonstrated demand,
(e) boat storage facilities should be as visually unobtrusive as possible,
(f) in the case of permanent boat storage, the safety and utility of the development should not be adversely affected by the wave environment, and the development should avoid adverse impacts on safe navigation and single moorings.

Comment

The proposal increases the number of public boat storage facilities and encourages the use of such facilities which are noted to be in high demand within the Manly area. The scale, siting and design of the ancillary passive craft boat shed is visually unobtrusive. The deck is enlarged and the slipways removed to allow safe access to the boat storage facilities for members of the public.

Clause 27B Mooring pens

The matters to be taken into consideration in relation to mooring pens are as follows—
(a) mooring pens should not impact adversely on safe navigation,
(b) mooring pens should not reduce or adversely affect public access to and along the foreshore in the vicinity of the development,
(c) mooring pens should be compatible with the character of the locality,
(d) mooring pens should be as visually unobtrusive as possible,
(e) mooring pens for the permanent berthing of a vessel should be in a location that is suitable for that purpose, having regard to water depth (without the need for dredging) and wave action,
(f) construction, installation and use of mooring pens must not impact adversely on seagrass.

Comment

The application was referred to the Department for Fisheries who have no objections to the proposal in terms of habitat protection, including seagrass, and have issued GTA's. No issues have been raised from Council's Specialists in relation to the mooring pens.

The dedicated facilities for passive recreation craft to safely access the water separate to other water craft minimising congestion in the waterway and thereby reduces use conflicts. The location of the mooring pens in deeper water is unlikely to result in adverse impacts on navigation and will help improve safe public access to and from the foreshore. The scale and design of the mooring pens is compatible with the character of the area and not visually obtrusive. It is noted that the water depth at the location allows for the pontoon, with a minimum seabed clearance of more than 600mm, without the need for dredging. Conditions are recommended to ensure that the construction of the mooring pens will not impact on seagrass.

Division 3 Foreshores and Waterways Planning and Development Advisory Committee **Clause 29 Consultation required for certain development applications**

Pursuant to Clause 29 of the SREP the application was referred to the Committee on 9 September 2020 as the proposal development includes the following purposes which are listed as development requiring a referral in Schedule 2 of the SREP: boat repair facilities, boat sheds, commercial marinas and residential use of land below or partly below mean high water mark (MHWM).

Clause 29 (1)(1) requires the consent authority to "*take into consideration any submission received from the Advisory Committee within 30 days after the date on which the application was forwarded to the Committee.*" Northern Beaches Council, as the consent authority, has satisfied its statutory obligation as required under the SREP. No response was received within the 30 day period and therefore it is assumed that concurrence is granted. (It is noted that a reminder was sent to the

Committee on 10 November 2020).

Sydney Harbour Foreshore and Waterways Area Development Control Plan (DCP) 2005.

Part 2 -Ecological Communities

The subject site is mapped as Ecological Communities Terrestrial Ecological Communities: Open Forest type A (Medium Conservation Value) and B (High Conservation Value) . The Aquatic Ecological Communities are mapped as Mixed Rocky Intertidal and Sand.

Clause 2.4 requires:

Site specific investigations by appropriately qualified people should be undertaken to confirm actual conditions on a proposed development site.

These investigations should assess:

- the habitat values of development sites (and adjoining lands) for threatened species, populations and endangered ecological communities, and whether critical habitat is likely to be affected by the proposal;
- if these attributes are present then the conservation status of the land should be considered to be high, as a precautionary measure, and the relevant performance criteria applied in addition to any necessary 8 part tests required under s.5A of the EP&A Act; and
- it should note that if the proposal is on land that is critical habitat, then a species impact statement is automatically required and concurrence of the DEC will be necessary before development consent may be granted

Comment:

As noted above, an ecology report has been submitted which is assessed as acceptable.

Part 3 - Landscape Character

The subject site is mapped as Landscape Character Type 6 in Part 3 of the DCP. Clause 3.4 (Performance Criteria) requires:

Any development within this landscape is to satisfy the following criteria:

- *headlands, points and shorelines are retained in their current, generally undeveloped, state;*
- *it is sited and designed to maintain the visual character of shorelines and to maximise retention of existing vegetation;*
- *visual continuity of elements such as beaches is not lost or broken by development;*
- *the scale of the built form of development is consistent with predominantly low density residential;*
- *it is sited so that it follows the topography and minimises cut and fill of slopes; and*
- *overall colours should match native vegetation as closely as possible with trim colours drawn from natural elements such as tree trunks and stone.*

Comment

The proposed development is consistent with the performance criteria of this landscape character type, providing a low scale development, with neutral colours and which has no direct impact on the land or vegetation of the foreshore area being located on piles above the water. For the reasons discussed elsewhere in this report the scale of the built form is consistent with the adjoining low density residential area.

Part 4 Design Guideline for Water - Based and Land / Water Interface Development

Part 4 Clause 4.2 sets out the following design guidelines for water based and land water interface development:

- 1 *public access to waterways and public land is maintained and enhanced;*
- 1 *congestion of the waterway and foreshore is minimised;*
- 1 *conflicts on the waterway and foreshore are avoided;*
- 1 *the development warrants a foreshore location;*
- 1 *the development does not interfere with navigation, swimming or other recreational activities;*
- 1 *the demand for the development has been established;*
- 1 *the structure does not obstruct or affect the natural flow of tides and currents;*
- 1 *development does not dominate its landscape setting;*
- 1 *the extent of development is kept to the absolute minimum necessary to provide access to the waterway;*
- 1 *shared usage of facilities is encouraged to minimise the number of structures and their cumulative impact on the environment of the Harbour and its tributaries, and*
- 1 *development is setback at least 2.5 metres from the division of the waterway as established by the NSW Maritime Authority and illustrated in Figure 4 (not relevant) .*

Comment

For the reasons discussed elsewhere in this report, the proposed development is consistent with these requirements. The proposal provides for improved public access to the Harbour, allowing for dedicated facilities for passive recreation craft to safely access the water separate to other water craft (thus minimising congestion and reducing use conflicts), providing shared usage of the facilities, without obstructing the natural flow of tides/currents and which is in a suitable form and scale to its landscape setting.

Clause 4.3 foreshore access requires:

Foreshore access to me encouraged and promoted.

Comment

The proposal maintains, enhances, encourages and promotes foreshore access.

Clause 4.4 sets out criteria for the siting of building and structures back from the foreshore building line. This clause does not apply as the existing development is set forward of the foreshore building line.

Comment

Clause 4.5 (Built Form) sets out the following guidelines:

- 1 *where buildings would be of a contrasting scale or design to existing buildings, care will be needed to ensure that this contrast would enhance the setting;*
- 1 *while no shapes are intrinsically unacceptable, rectangular boxy shapes with flat or skillion roofs usually do not harmonise with their surroundings. It is preferable to break up facades and roof lines into smaller elements and to use pitched roofs;*
- 1 *bright lighting and especially floodlighting which reflects on the water, can cause problems with night navigation and should be avoided. External lights should be directed downward, away*

- 1 *from the water. Australian Standards (AS4282–1997) Guidelines for Outdoor Lighting and Pedestrian Area (Category P) Lighting (AS/NZ 1158.3 – 1999) should be observed;*
- 1 *except where otherwise required for navigation purposes, all lights on structures shall be shielded seawards and positioned to avoid disturbance to neighbouring properties;*
- 1 *use of reflective materials is minimised and the relevant provisions of the Building Code of Australia are satisfied;*
- 1 *colours should be sympathetic with their surrounds and consistent with the colour criteria, where specified, for particular landscape character types in Part 3;*
- 1 *the cumulative visual impact of a number of built elements on a single lot should be mitigated through bands of vegetation and by articulating walls and using smaller elements; and*
- 1 *the cumulative impact of development along the shoreline is considered having regard to preserving views of special natural features, landmarks or heritage items.*

Comment

The existing / amended boatshed and all other ancillary structures are low scale and sit well below the 8.5m height of building standard that applies to residential development in the adjoining area. The detailed design is in keeping with its context in the foreshore / waterway setting. The roof of the existing boatshed is modified to provide a pitched roof which represents an improvement over the existing multiple roof forms including flat roof sections. The proposed pitched roof appropriately identifies the development as a boatshed. Materials and finishes are suitable for the marine context and use a neutral colour palette. A condition is recommended to ensure that the lighting will meet the requirements of this provision.

Clause 4.7 (Marinas) where marinas are permissible the following objectives and guiding principles (design and layout) must be considered:

- 1 *Buildings and other facilities are to be designed and sited so that natural or other attractive features are not obscured (see also Section 4.5 of this DCP);*
- 1 *buildings are to be designed so that their dimensions are not excessive and can reasonably meet the functional requirements of the proposed uses;*
- 1 *marinas are to enhance public access to and along the shore and, where relevant, the inter tidal zone;*
- 1 *Secure storage is to be provided in a controlled environment;*
- 1 *the extent of development over water including waterside structures, berths, fairways and access channels is to be minimised and result in minimal alienation of the waterway;*
- 1 *marinas are to be in the form of a series of interlinked pontoons which shall be restrained and held in position by a minimum number of piles or mooring lines to anchor points in the seabed;*
- 1 *design of marina restraints shall take into account the flexibility and performance of the pontoon systems under environmental loads;*
- 1 *the colours, appearance and form of any associated buildings shall be compatible with the surrounding environment;*
- 1 *shiny or reflective materials are not to be used;*
- 1 *the depth and width of berths and fairways of commercial marinas shall accommodate either a yacht or motor vessel. Restricted berths are to be nominated only where this will lead to an optimal environmental outcome;*
- 1 *commercial marinas are to provide a point of access to boats for disabled people where possible;*
- 1 *marinas are to be designed to minimise the impact of vessels when in use on the environment including on air and water quality, marine habitat and bank stability; and*
- 1 *marina layouts are to be designed in accordance with the following publications: Department of Environment and Conservation (NSW) "Environmental Information for Marinas, Boatsheds and*

Slipways" (November 1998).

Comment

The boatshed and other ancillary structures are low scale and in keeping with the sites context in the foreshore / waterway setting. Materials and finishes are suitable for the marine context and use a neutral colour palette. Access to the foreshore is maintained and improved access to the Harbour is provided. The proposal will also allow for improved amenities, toilets, showers, lockers indoor and outdoor seating and a kiosk, providing improved facilities for marina users and the general public. The proposed development provides for safe storage of passive recreation craft and promotes recreational use of the Harbour. The minimum number of piles are used for the development.

Clause 4.7 (Visual Impact) requires consideration of the following:

- *the visual contrast (derived from an analysis of form, line, colour and texture) between the marina and the existing or planned future character of its setting is to be minimised;*
- *the visual impact of the marina on people in the visual catchment (derived from an analysis of the potential number of viewers, their location within the landscape, distance from the marina, and duration of view) is to be minimised;*
- *any visual analysis shall consider the impact of the largest motor vessel(s) capable of being berthed at the marina;*
- *the largest vessels (motorised or otherwise) to be berthed at the marina are to be located as far from shore as possible;*
- *waterside structures and berthed vessels associated with marinas are not to block views from foreshore public open space or views to foreshore public open space from the waterway;*
- *the bulk and scale of buildings and other structures on land is to be minimised through appropriate mitigation measures including landscaping, articulated walls, detailing of surfaces and by using smaller elements (see also Section 4.5 of this DCP);*
- *the visual impact of car parking from the waterway is to be minimised; and*
- *all signage is to be located on dry land below the roofline (or parapet) of buildings. Advertising signs are not to detract from the visual quality or amenity of the foreshores and waterways when viewed from the waterways.*

Comment

The application is supported with a visual impact assessment which identifies that the proposed development is appropriate to its setting and has no undue adverse impacts. A site visit and view assessment was conducted from public vantage and it is agreed that due to the siting of the marina at a lower level than the surrounding residential area and public walkways there will be negligible visual impacts as a result of the development. A condition requires the submission of a separate development application for any future signage which is not exempt development.

Clause 4.7 Environmental Management requires:

Pollution and waste:

- potential pollutant sources from the site must be controlled and meet established performance standards;
- appropriate controls are to be in place and managed to prevent any pollutants entering the environment;
- marinas for nine or more vessels are to provide adequate and readily accessible facilities for the collection and disposal of wastes from vessels;
- facilities for pumping out sewage holding tanks are to be provided onshore; and
- any waste that cannot be recycled is to be disposed of at an appropriate facility.

Comment:

The existing marina has controls in place to manage pollution and water, these controls will continue to be adhered to. In addition, the application is supported with specialist report that provide recommendation to ensure that environmental impacts are minimised. Additional conditions have been included from Council's Specialist to ensure that the appropriate controls are in place to manage any potential pollution.

Traffic and Parking:

- *land-based impacts including traffic volumes and parking demand meet established performance standards;*
- *adequate car and trailer parking (based on the number and type of berths, associated activities and number of employees) is to be available onsite. Off-site parking is acceptable only where it will not reduce community amenity or generate adverse traffic impacts; and*
- *the adverse impacts of traffic and parking generated by boat storage facilities in terms of congestion, safety, air quality and noise are to be minimised.*

Comment

Additional operational and on street parking data has been submitted which demonstrates that subject to conditions requiring a Green Travel Plan and an updated Plan of Management that the proposed upgrade of the marina can be supported without resulting in unreasonable impacts on traffic and parking in the area. Refer to Transport comments and discussion under Schedule 3 of the Manly DCP.

Noise:

- *the adverse impacts of noise (considering hours of operation, existing background noise, expected departure/arrival times for vessels, noise level of marina patrons, noise level from repair and testing of vessels and motors) are to be minimised through appropriate design and management measures; and*
- *land-based impacts including noise emissions meet established performance standards.*

Comment

The application is supported with an acoustic report which concludes that the proposed development can comply with the relevant noise criteria, provided the recommended mitigation measures are implemented. A condition requires compliance with the recommendations of the acoustic report. In addition, the proposal has been amended to reduce the size of the kiosk to 55sqm (including internal and external seating) and the hours of trading. The kiosk will be ancillary to the main marina use and the reduced capacity and use of the kiosk will ensure that potential acoustic impacts from its operation will not result in unreasonable impacts on neighbouring residential amenity.

Lighting:

- *the adverse impacts of lighting on night navigation and neighbours are to be minimised through appropriate design and management measures.*

Comment

A condition is recommended to ensure that lighting is controls to avoid adverse impacts on night navigation and residential amenity.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps but not been included on the Coastal Vulnerability Area Map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Clauses 13 (coastal environment area) and 14 (coastal use area) do not apply as the site is also located within the SREP area. Hence, only Clause 15 of the Coastal Management SEPP apply for this DA.

15 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

Council's Coast and Catchment Officer has confirm that sufficient information has been submit to confirm that the proposed development, subject to conditions, is unlikely to cause an increase risk of coastal hazards on the subject site or other land.

Manly Local Environmental Plan 2013

Is the development permissible?	No (reliant on existing use rights)
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

There is no development standard under the MLEP that applies.

Compliance Assessment

Clause	Compliance with Requirements
5.4 Controls relating to miscellaneous permissible uses	Yes
5.5 Development within the coastal zone	Yes
5.7 Development below mean high water mark	Yes
5.10 Heritage conservation	Yes
6.2 Earthworks	Yes
6.5 Terrestrial biodiversity	Yes
6.9 Foreshore scenic protection area	Yes
6.10 Limited development on foreshore area	Yes
6.12 Essential services	Yes
Schedule 5 Environmental heritage	Yes

Detailed Assessment

Zone RE1 Public Recreation

The portion of the site located above the MHWS is mapped as being within zone RE1 (Public Recreation) under the Manly LEP.

Clause 2.3 sets out the following objectives for the RE1 zone:

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*
- *To protect, manage and restore areas visually exposed to the waters of Middle Harbour, North Harbour, Burnt Bridge Creek and the Pacific Ocean.*
- *To ensure that the height and bulk of any proposed buildings or structures have regard to existing vegetation, topography and surrounding land uses*

Comment

The proposal seeks consent for the continued use of the site as a marina with residential accommodation on the upper floor. The proposal also seeks consent for alteration and additions including a new ancillary kiosk.

Marinas are permitted within the RE1 and the proposal is consistent with the objectives of the zone as it enable land used for public recreational purposes, enhances access to the water for recreational purposes, provided measures to ensure the natural environment is protected and ensures that the height, bulk and scale of the built form is compatible with the surrounding area.

Residential uses are not permitted within the RE1 zone and the applicant relies on existing use rights for the continued residential use of the upper floor of the boatshed. Sufficient information has been lodged to support the existing use right claim as discussed in detail elsewhere within this report.

5.4 Controls relating to miscellaneous permissible uses

Given the split zoning of the subject site the unlicensed kiosk component of the development is noted to be located within land zoned E2 within the SREP. As such, the provisions relating to kiosks as detailed in the MLEP do not strictly apply. Despite this, the kiosk area has been reduced to a maximum area of 55sqm (internal area = 35.6sqm and external area =19.4sqm) in compliance with the definition of a kiosk as described in the MLEP.

Definition of kiosk MLEP 2013

means premises that are used for the purposes of selling food, light refreshments and other small convenience items such as newspapers, films and the like.

The kiosk does not include a commercial kitchen i.e there is no stove, deep fryer grease trap or extraction fan(s). The applicant has also confirmed that the kiosk will sell refreshments cold drinks and coffee and light pre-packed refreshments. As such, the kiosk also can be argued to be an ancillary use to the marina which is permitted under the SREP provisions, refer to discussion above. Should consent be granted a condition can be included to ensure that the kiosk meets the definition of the Standard Instrument Order 2006 and the Manly LEP 2013. In addition, conditions are recommended to ensure that the operation of the kiosk will not result in unreasonable impacts on neighbouring amenity.

6.9 Foreshore scenic protection area

Clause 6.9 requires:

(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority has considered the following matters:

- (a) impacts that are of detriment to the visual amenity of harbour or coastal foreshore, including overshadowing of the foreshore and any loss of views from a public place to the foreshore,*
- (b) measures to protect and improve scenic qualities of the coastline,*
- (c) suitability of development given its type, location and design and its relationship with and impact on the foreshore,*
- (d) measures to reduce the potential for conflict between land-based and water-based coastal activities.*

Comment

The proposal includes a 4.5m extension of the existing two storey Boatshed and the construction of a new roof, the addition of the ancillary passive craft storage shed, tender office and a replacement, enlarged deck. The proposed built form will not result in unreasonable impacts on the visual amenity of the harbour or coastal foreshore, including overshadowing or view loss.

The removal of the redundant slipways to be replaced with the extended timber deck will improve the scenic quality of the coastline, improve safe access to the waterway and reduce potential conflict between land based and water based coastal activities such as allowing passive recreational craft to safely access the water separate to other water craft.

6.10 Limited development on foreshore area

Clause 6.10 allows

- (a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area,*
- (b) the erection of a building in the foreshore area, if the levels, depth or other exceptional features of the site make it appropriate to do so,*
- (c) boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).*

(3) Development consent must not be granted under this clause unless the consent authority is satisfied that—

- (a) the development will contribute to achieving the objectives for the zone in which the land is located, and*
- (b) the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and*
- (c) the development will not cause environmental harm such as—*

- (i) pollution or siltation of the waterway, or*
- (ii) an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or*
- (iii) an adverse effect on drainage patterns, and*
- (d) the development will not cause congestion or generate conflict between people using open space areas or the waterway, and*
- (e) opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and*
- (f) any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance*

of the land on which the development is to be carried out and of surrounding land will be maintained, and
 (g) in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and
 (h) sea level rise or change of flooding patterns as a result of climate change

(4) In satisfying itself about a matter mentioned in subclause (3) (e), the consent authority must give consideration to the following—

- (a) continuous public access to and along the foreshore through or adjacent to the proposed development,
- (b) public access to link with existing or proposed open space,
- (c) public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,
- (d) public access to be located above mean high water mark,
- (e) reinforcing the foreshore character and respect for existing environmental conditions.

Comment:

The proposal seeks consent for an extension and alterations to the existing boatshed and the replacement and extension of the deck which is located wholly within the foreshore area. The proposal also seeks consent for the construction of a shed for the storage of passive craft and a small 2.5m x 2.5m tender office which will replace the winch box. The ancillary passive craft boat shed and tender office support the marina are assessed as acceptable ancillary structures within the foreshore area. As such, the proposal is permissible under clause 6.10 (a) of the MLEP.

For the reasons discussed elsewhere within this report the alterations and rebuilding will not result in unreasonable adverse impacts on the amenity or aesthetic appearance of the foreshore. The proposal improves public access to the foreshore and sufficient information to has been submitted to satisfy Council that subject to conditions the proposal will not result in unreasonable impacts on the natural environment or neighbouring residential amenity.

Manly Development Control Plan

Built Form Controls

The site has a mixed zoning of RE1 under Manly Local Environmental Plan 2013 (MLEP 2013) and W2 Environment Protection under Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP Sydney Harbour Catchment). AS such there are no built form controls that apply.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.2 Heritage Considerations	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.6 Accessibility	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
Schedule 3 - Parking and Access	No	Yes
Schedule 3 - Part A1 - Parking Rates and Requirements for Vehicles	N/A	N/A
Schedule 3 - Part A2 - Parking Rates and Requirements for Bicycles	Yes	Yes
Schedule 4 - Trees	Yes	Yes
Schedule 4 - Part A – Removal of Tree Tests	Yes	Yes

Detailed Assessment

3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)

Clause 3.4 (Views, Overshadowing Privacy, Noise) requires:

Designing for Amenity

a) Careful design consideration should be given to minimise loss of sunlight, privacy, views, noise and vibration impacts and other nuisance (odour, fumes etc.) for neighbouring properties and the development property. This is especially relevant in higher density areas, development adjacent to smaller developments and development types that may potentially impact on neighbour's amenity such as licensed premises.

Comment

The proposal increased the footprint of the boat shed with a 4.5m extension to the south (towards the harbour). However, the proposal reduces the height of the existing boatshed by 400mm with the change in the floor to ceiling and roof profile from a flat roof (in part) to a pitched roof. The proposal will not result in any unreasonable impacts on neighbouring amenity by virtue of loss of sunlight, privacy or views.

Concerns has been made regarding the potential acoustic impacts of the kiosk and the general

operation of the marina on neighbouring residential amenity.

The kiosk has been reduced in size to a total area of 55sqm in compliance with the Manly LEP definition. The nature of the kiosk complies with the definition of a kiosk in the MLEP in that it will have only sell light refreshments. Indoor and outdoor seating has also been reduced to allow a maximum of 16 customers seated inside the boatshed and 16 patrons seated outdoors. Subject to conditions, including compliance with the Acoustic Report, Council's Health Unit raise no issues with the ancillary kiosk and it has been assessed that the operation of the facility will not result in unreasonable impacts on residential amenity. In addition,

b) Development should not detract from the scenic amenity of the area. In particular, the apparent bulk and design of a development should be considered and assessed from surrounding public and private viewpoints.

Comment

Given the topography of the area the subject site sits approximately 4m lower than the public street and footpath. Furthermore, the embankment along the edge of the Foreshore is heavily vegetated which helps screens the site from public view. It is accepted that some views can be observed along the Manly to Spit walkway, however, the bulk and scale of the proposal will not detract from the scenic amenity of the area. Furthermore the proposal has been assessed as having a positive visual presentation from the Harbour given the design detail, use of materials and articulation of the built form.

c) The use of material and finishes is to protect amenity for neighbours in terms of reflectivity. The reflectivity of roofs and glass used on external walls will be minimal in accordance with industry standards. See also Council's Administrative Guidelines regards DA lodgement requirements for materials and finishes.

Comment

The proposal includes the use of metal roof sheeting, weatherboard cladding and aluminium doors and windows which are in keeping with the coastal character. A condition will ensure that the colour and finishes of the roof materials will not result in reflectivity impacts to neighbouring properties.

3.4.2 Privacy and Security

3.4.2.3 Acoustical Privacy (Noise Nuisance) requires:

a) Consideration must be given to the protection of acoustical privacy in the design and management of development.

b) Proposed development and activities likely to generate noise including certain outdoor living areas like communal areas in Boarding Houses, outdoor open space, driveways, plant equipment including pool pumps and the like should be located in a manner which considers the acoustical privacy of neighbours including neighbouring bedrooms and living areas.

c) Council may require a report to be prepared by a Noise Consultant that would assess likely noise and vibration impacts and may include noise and vibration mitigation strategies and measures. See particular requirements for noise control reports for licenced premises.

Comment

Subject to compliance with the recommendations of the acoustic report, and additional operational

conditions, the proposal has been assessed as meeting the objectives of the provision as discussed below.

Objective 1) To minimise loss of privacy to adjacent and nearby development by: appropriate design for privacy (both acoustical and visual) including screening between closely spaced buildings; mitigating direct viewing between windows and/or outdoor living areas of adjacent buildings.

Comment:

Given the topography of the site and the naturally screening of mature trees along the embankment the proposed upgrade of the marina will not result in unreasonable acoustic and visual privacy impacts. Conditions are recommended to ensure compliance with the acoustic report. In addition the trading hours of the kiosk will be restricted to 6.00pm Monday to Sunday. Subject to compliance with the acoustic report, and additional operational conditions the proposal satisfied objective 1.

Objective 2) To increase privacy without compromising access to light and air. To balance outlook and views from habitable rooms and private open space.

Comment:

The proposal includes the additional of new windows and doors and a new south facing balcony to the residential dwelling. The proposal will enhance the internal amenity of the dwelling without compromising the amenity of neighbouring dwelling. As such, the proposal satisfies objective 2.

Objective 3) To encourage awareness of neighbourhood security.

Comment

The proposal has the potential to increase neighbourhood security with an increase in passive surveillance.

5.4.1 Foreshore Scenic Protection Area

Clause 5.4.1 Foreshore Scenic Protection Area requires the following matters to be considered in addition to those listed under clause 6.9 of the LEP:

- i) minimise the contrast between the built environment and the natural environment;*
 - ii) maintain the visual dominance of the natural environment;*
 - iii) maximise the retention of existing vegetation including tree canopies, street trees, wildlife corridors and habitat;*
 - iv) not cause any change, visually, structurally or otherwise, to the existing natural rocky harbour foreshore areas;*
 - v) locate rooflines below the tree canopy;*
 - vi) consider any effect of the proposal when viewed from the harbour / ocean to ridgelines, tree lines and other natural features; and*
 - vii) use building materials of a non-reflective quality and be of colours and textures that blend with the prevailing natural environment in the locality.*
- b) Setbacks in the Foreshore Scenic Protection Area should be maximised to enable open space to dominate buildings, especially when viewed to and from Sydney Harbour, the Ocean and the foreshores in Manly.*

Merit assessment

The portion of the site above MHWS is identified as 'Foreshore scenic protection area' on the LEP mapping.

The proposed development is for continued use of the site as a marina and is identified as such in its built form and use of materials and finishes which are appropriate in the marine setting and include a neutral colour palette. No reflective materials will be used.

The low scale of the boatshed and other structures ensures that the marina is not visually dominant, and the roofline sits well below the tree canopy to the surrounding area which is located above the marina. The proposed development is appropriate to its setting and has no undue adverse visual impacts from the Harbour or the foreshore.

Schedule 3 - Part A1 - Parking Rates and Requirements for Vehicles

Schedule 3 of the Manly DCP provides parking rates different development types. Marinas are not listed in schedule 3 and as such the schedule suggest that parking shall be provided in accordance with the Roads and Maritime Services (RMS) Design Reference Documents.

The applicants original Traffic Impact Assessment (TIA) assumed that the existing Residential Parking Permit allocation under the previous Manly Residential Parking Scheme will continue to be issued under the new Manly Residential Parking Permit Scheme Framework. Historically the site was issued 33 permits (22 permits were allocated to mooring customers).

Under the Adopted Framework the site is eligible for:

One (1) Business permit for the Commercial component of the site (Subject to meeting the criteria for a Business permit) in the Tower Hill Scheme Area.

Two (2) Residential and 1 Multi-use permits for the Residential component of the site (Subject to meeting the criteria for a residential application) in the Tower Hill Scheme Area.

A submission / objection was prepared by McLaren Traffic Engineers on behalf of some residents which raised specific issues with regards to the parking permits, parking availability, parking rates, moorings, dry storage and the kiosk. In response to the McLaren submission the applicant's Traffic Engineer provide a further response which is summarised below:

Parking Permits

The applicant notes that the loss of the permits is an independent matter that will occur whether or not the proposal is approved. However, it is expected that the changes will deliver increased parking supply to local residents, which is clearly in the public interest. The implementation of this scheme is expected to impact the 20 mooring customers which currently benefit from the scheme, noting that mooring customers generally require more than 2-hours to undertake their activities on the water. It is likely that the new scheme will actively discourage mooring customers from using their craft or driving and parking within the '2P 8am-10pm AREA' that operates in the vicinity of the subject site. The applicant notes that a decrease in parking demand can be expected, with a commensurate shift to alternative modes of transport which will achieve Council's objectives. To further address these concerns, the applicant has agreed to implement the following initiatives to assist in the transition to the proposed parking scheme:

- 1 A Plan of Management to focus on an overall reduction of private vehicle usage for all customers and staff. The plan will outline the communications strategy between the Boatshed and customers and also outline the priority storage policy for customers that live within a 3km radius of the site, in the expectation that will bicycle/walk to the development instead of driving.
- 1 The preparation of a Green Travel Plan and associated Travel Access Guide (TAG).

- 1 Providing \$100 UBER credit to all existing mooring customers impacted by the permit scheme changes.

The applicants argument has merit and subject to conditions to ensure alternative modes of transport are endorsed Council's Transport Unit have no objections. In summary, subject to conditions, the proposed permit scheme may remove more parking than the parking demands associated by the proposed increase in kayak storage and ancillary kiosk.

Parking Availability

The McLaren submission notes that the TIA does not provide a parking survey. In order to address this concern the applicant commissioned an on-street parking surveys on Saturday 7 November 2020 and Tuesday 10 November 2020, between 6.00am and 1.00pm at 30-minute intervals. The applicant presents the following data from the survey:

- Bolingbroke Parade, between Lauderdale Avenue and Manly Boatshed - (47 spaces)
- Fairlight Crescent, between Bolingbroke Parade and Lauderdale Avenue - (62 spaces)
- Arlington Drive, between Fairlight Crescent and Lauderdale Avenue - (5 spaces) Total - 114 spaces

In summary, the applicants submission notes that the parking surveys indicate that there was spare parking capacity on both days and at all times other than in the early morning, prior to residents departing the area. It is agreed that the modest increase in demand generated by the development will not appreciably alter this situation, even setting aside the improved conditions that will arise from the Parking Permit changes.

Parking Rates

The McLaren submission notes that that the TIA refers to anecdotal patronage and parking rates which provides a flawed analysis. The applicant's response provides details of the travel mode interview surveys of kayak / stand up paddle board (SUP) customers carried out between 6 November to 15 November 2020 between 6.00am and sunset. The data presented from the survey confirmed that 60% of kayak and SUP customers travel using sustainable modes of travel. Based on the survey results it is considered that parking demand for an additional two (2) on-street parking spaces, as referred to in the original Traffic Impact Assessment, is a reasonable estimate of the anticipated parking demand.

Moorings

The McLaren submission notes that there has been no attempt to estimate the over-spill parking resulting from the change in permits. The applicant's response notes that they consider that it is Council's intention to improve parking conditions for residents, while requiring a change in travel behaviour associated with the Boatshed specifically to encourage alternate travel modes. The applicant also consider that displacement of parking is unlikely given the required walking distances that this would involve. This argument has merit and is supported.

Dry Storage

The applicant notes that kayak usage is a niche segment in the field of recreational water sports that should not be compared to the 'generic' dry storage (boat) rates described in the RMS Guide. Kayak users are typically on the water early in the morning (before winds), are typically alone, stay for no more than 2- hours and carry little personal belongings/gear. Boat users on the other hand, would likely spend multiple hours on the water and may require significant gear for their activity, whether it be for

fishing or a 'day on the water'.

The Applicant argues that the application of the RMS Guide or any other 'generic' parking guide should only be used in the absence of site-specific operational data which is considered to be a more accurate representation of parking demand applicable to the subject site. This approach is recognised in the RMS Guideline and is generally supported. Published 'generic' parking rates outlined in the RMS Guide account for a wider range of similar (not the same) sites and are only applicable where site specific data is not available, such as for a new development.

Kiosk

The applicant considers the kiosk as amended to 55sqm to be ancillary to the primary use of the subject development and is not expected to generate vehicle trips of its own accord. As such, the assertion by McLaren Traffic Engineering that it would justify RMS classification as a 'restaurant' with an associated demand for 18 parking spaces, is incorrect and misleading. It is agreed that the kiosk will be ancillary to the main use and as such will not generate a demand for 18 parking spaces. Conditions are recommended to ensure that the kiosk remains ancillary to the marina.

The applicant has also submitted a letter outlining the details of a revised Plan of Management (POM) Statement which will include measures to address travel management and active transport.

In summary, the additional travel information and POM statement have been reviewed by Council's Transport Unit who support the application subject to conditions including the submission, approval and implementation of a Green Travel Plan and a revised Plan of Management which includes measures to address travel management.

Schedule 3 - Part A2 - Parking Rates and Requirements for Bicycles

The proposal provides twelve (12) bike parking racks which will help encourage customers to cycle to the site.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$19,346 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,934,631.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation

submitted by the applicant and the provisions of:

- 1 Environmental Planning and Assessment Act 1979;
- 1 Environmental Planning and Assessment Regulation 2000;
- 1 All relevant and draft Environmental Planning Instruments;
- 1 Manly Local Environment Plan;
- 1 Manly Development Control Plan; and
- 1 Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- 1 Consistent with the objectives of the DCP
- 1 Consistent with the zone objectives of the LEP
- 1 Consistent with the aims of the LEP
- 1 Consistent with the objectives of the relevant EPIs
- 1 Consistent with the objects of the Environmental Planning and Assessment Act 1979

The proposal is not deemed to be designated development as the proposed works do not significantly increase the environmental impacts of the total development compared with the existing development.

The bulk and scale of the built form does not represent over-development and operational issues have been addressed with a reduction in the size of the kiosk and conditions which require compliance with the recommendations of the acoustic report which includes a restriction in the hours of use of the outdoor seating associated with the kiosk.

The upgraded facilities is not expected to generate unreasonable impacts on parking in the vicinity of the site. Additional operational data has been submitted to justify this and Council's Transport Unit have no objections to the proposal subject to additional conditions requiring the submission, approval and implementation of a Green Travel Plan and an updated POM which will include details of traffic management measures.

Sufficient evidence has been lodged to support the continued use of the upper floor of the boatshed as a residential dwelling based on existing use rights.

The issues raised in the submissions have been addressed with the amended plans and via operational conditions of consent.

It is considered that the proposal generally satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2020/0514 for Alterations and additions to the Manly Boat Shed (Marina) on land at Lot 2699 DP 752038, 1 B Bolingbroke Parade, FAIRLIGHT, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA01-01 H Location Plan	29 November 2019	Ken Down Architects
DA01 - 02 Site Plan	29 November 2019	Ken Down Architects
DA01-04- G Lease Area Plan Below MHWL - New	29 November 2019	Ken Down Architects
DA01-05 - F Lease Area Below MHWL - Existing and New	29 November 2019	Ken Down Architects
DA01-06- D Site Plan and Demolition Plan	29 November 2019	Ken Down Architects
DA01-07-F Existing and Proposed Crown Lease Land - Above MHWL	29 November 2019	Ken Down Architects
DA01-10-G Pile Layout	29 November 2019	Ken Down Architects
DA02-01-L Ground Floor Plan	29 November 2019 (received 25 September 2020)	Ken Down Architects
DA02-02-H First Floor Plan	29 November 2019	Ken Down Architects
DA02-04-C Roof Plans	29 November 2019	Ken Down Architects
DA02-11-C Tender Office / Deck Plan	29 November 2019	Ken Down Architects
DA04-02-L Proposed Elevations	29 November 2019	Ken Down Architects
DA04-04- C Proposed Elevations	29 November 2019	Ken Down Architects
DA05-01-C Sections	29 November 2019	Ken Down Architects

Reports / Documentation – All recommendations and requirements contained within:

Report No. / Page No. / Section No.	Dated	Prepared By
Acoustic Report Rev 3 Ref TK592-01F03 Section 6 Recommendations page 13-16	5 May 2020	Renzo Tonin and Associated
Arboricultural Report Ref RTC-2120 Section 2 conclusion and recommendations page 7-8	11 May 2020	Rain Tree Consulting
BCA Assessment Report Rev 3 Ref 180538	11 April 2020	Concise Certification
Aquatic Ecology Impact Assessment Section 3 Impact assessment and recommendations pages 22-37	December 2019	Marine Pollution Research Pty Ltd
Preliminary Geotechnical Investigation Rev B Ref-19-7405-B, Section 6 Recommendations page 9-15	13 November 2019	Envirotech
Landslip Risk Assessment rev B Ref-19- 7406-B, Section 5 Recommendation page 13	13 November 2019	Envirotech
Plan of Management RefM180463	12 May 2020	Planning Ingenuity
Plan of Management statement of intent for revision	26 November 2020	Planning Ingenuity
Traffic Impact Assessment Ref 18.555r01v07	6 June 2020	Traffix
Traffic letter outlining Green Travel Plan	26 November 2020	Traffix
Waste Management Report / Plan	5 May 2020	Robbie Treharne
Engineering Drawings		
C01 4 Rev 4 Note and Legends	12 May 2020	Greenview Consulting
C02 Rev 4 Ground Floor and Drainage Plan	12 May 2020	Greenview Consulting
C03 Rev 4 Roof Drainage Plan	12 May 2020	Greenview Consulting
C04 Rev 4 Site Stormwater Details Sheet 1	12 May 2020	Greenview Consulting

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

2. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Response Ausgrid Referral	1 September 2020
Department of Primary Industries Fisheries	General Terms of Approval	8 October 2020

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

3. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the

excavation, and

- (ii) where necessary, underpin the adjoining premises to prevent any such damage.
- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

4. General Requirements

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 1 7.00 am to 5.00 pm inclusive Monday to Friday,
- 1 8.00 am to 1.00 pm inclusive on Saturday,
- 1 No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 1 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation

area for any wastewater system and is separate from any onsite stormwater management system.

- (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

FEES / CHARGES / CONTRIBUTION

5. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$19,346 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.11 of the Environmental Planning and Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$1,934,631.00

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

PRIOR TO CONSTRUCTION CERTIFICATE

6. Erosion and Sediment Control Plan

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a minimum:

- Site Boundaries and contours.
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities).
- Existing and proposed drainage patterns with stormwater discharge points.
- Locations and methods of all erosion and sediment controls that must include in-water sediment curtains and on the land - sediment fences, stabilised site access, materials and waste stockpiles locations.

- North point and scale.

Booms and/or a sediment curtain must be installed around the full perimeter of the site in the water to prevent the dispersal of sediment and debris to the harbour.

Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: Protection of the receiving environment

7. Water Quality Management

The applicant must install a filtration device that captures litter, organic matter and coarse sediments prior to discharge of stormwater from the structure. All stormwater treatment measures must make provision for convenient and safe regular inspection, periodic cleaning, and maintenance.

Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: Protection of the receiving environment.

8. Working on and Access to Reserves Permit

Works (undertaken by principal contractors working without Council supervision) on Land owned or managed by Council require a "Working on Reserves" permit prior to commencement. Applications can be obtained from Council's website or the Parks and Recreation business unit.

Reason: Public safety and the protection of Council infrastructure.

9. Preparation of Environmental Management Checklist

A Construction Environmental Management Checklist is to be prepared and is to incorporate all measures for the protection of native vegetation, wildlife and habitats during the construction phase. Measures specified in the checklist must include all requirements of conditions of this consent addressing construction-related impacts on biodiversity.

The Checklist is to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To protect native vegetation, wildlife and habitats in accordance with relevant Natural Environment LEP/DCP controls.

10. Construction Environment Management Plan

A Construction Environmental Management Plan (CEMP) must be prepared in accordance with the environmental risks and mitigation methods identified in Aquatic Ecology Report.

The report identifies risks to seagrass and other aquatic biota and recommends mitigation measures to minimize these risks (see Chapter 3.1). These issues are to be addressed, as recommending in the report, by the preparation of a Construction Environment Management Plan (CEMP). The CEMP must consider the Aquatic Ecology report, address the risks and define the appropriate mitigation measures.

The CEMP must be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate and commencement of works.

Reason: To protect native vegetation, wildlife and habitats in accordance with relevant Natural Environment LEP/DCP controls.

11. Construction Environmental Management Checklist

A Construction Environmental Management Checklist is to be prepared and is to incorporate all

measures for the protection of native vegetation, wildlife and habitats during the construction phase. Measures specified in the checklist must include all requirements of conditions of this consent addressing construction-related impacts on biodiversity.

The Checklist is to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To protect native vegetation, wildlife and habitats in accordance with relevant Natural Environment LEP/DCP controls.

12. Design Impact on Coastal Processes and Public/Private Amenity

All development and/or activities must be designed and constructed so that they will not adversely impact on surrounding properties, coastal processes or the amenity of public foreshore lands.

Reason: To ensure the development does not impact the coastal process and public/private

13. External colour of roof

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light grey colours are not permitted.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)

14. Plan of Management

(a) The Plan of Management (the Plan) shall be amended to extend to all operations of the site and submitted to the Executive Manager Development Assessment for approved prior to the issue of the Construction Certificate. The Plan shall provide details and measures to address the following:

- (i) The hours of operation of all components of the marina.
- (ii) All other noise control measures recommended provided in Section 6 of the Acoustic Report prepared by Renzo Tonin and Associates dated 5 May 2020 which requires doors and windows to kiosk and adjoining internal seating area to be closed (except to allow for patron ingress and egress) prior to 7am (Monday to Saturday), prior to 8am (Sunday and public holidays). Doors and windows to workshop to be closed during noise-generating works.
- (iii) Delivery and waste management collection details including measures to minimise catchment pollution of the Harbour by way of litter.
- (iv) Measures to ensure the washing of the deck with detergents and cleaners will not result in pollution of the waterway.
- (v) Measures to ensure that the use of the eastern deck will not result in acoustic impacts.
- (vi) Parking and Travel Management, Communication addressing the scale of the Kiosk and the Active Transport access issues. Further details including how the information on parking, transport options and access from other key local areas will be provided to customers and staff are to be included in the Plan of Management.
- (vii) External lighting control details.
- (viii) Compliant resolution procedures.

(b) During the ongoing operation of the development the use of the site shall be carried out in accordance with the Plan.

(c) A copy of the development consent and the approved Plan of Management shall be kept on site and be made available to Council Officers and the Police on request.

(e) The approved Plan of Management shall only be amended with the approval of Council.

Reason: To maintain a reasonable level of amenity to the area.

15. **Construction Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase.
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- Make provision for all construction materials to be stored on site, at all times.
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic.
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site.
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an

appropriately qualified and practising Structural Engineer, or equivalent.

- Proposed protection for Council and adjoining properties.
- The location and operation of any on site crane.

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

16. **Green Travel Plan**

The applicant is to develop a Green Travel Plan for the site and this is to be submitted to and approved by Council, prior to the issue of a Construction Certificate.

Reason: Minimise the impact on parking and amenity in the surrounding area.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

17 **Protection of and/or removal of Trees on Land owned or managed by Council**

Unless identified by the development consent, existing trees shall be protected in accordance with AS4970- 2009 Protection of Trees on Development Sites, with particular reference to Section 4, with no ground intrusion into the tree protection zone and no trunk, branch nor canopy disturbance.

Should any problems arise with regard to the existing trees on public land during the construction period, the applicant is to immediately Contact Council’s Tree Services section and resolve the matter to Council’s satisfaction.

Removal of the existing identified Cheese Tree requires:

- a) Written notification is to be provided to Council giving a minimum of 7 days notice prior to undertaking the removal of any tree(s) approved for removal,
- b) Removal of approved tree(s) is to be undertaken by a qualified Arborist with minimum level 5 AQF qualifications with suitable public liability insurance.

Reason: management of public environmental assets.

18 **Installation and Maintenance of Sediment and Erosion Control**

Prior to commencement of works on site, sediment and erosion controls must be installed for all land-based works along the immediate downslope of the works area, in accordance with Landcom’s ‘Managing Urban Stormwater: Soils and Construction’ (2004). The erosion controls shall be maintained in an operational condition until the development activities have been completed and the site fully stabilised. Sediment shall be removed from the sediment controls following each heavy or prolonged rainfall period.

Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: to protect the surrounding environment from the effects of sedimentation and erosion from the site.

19 Construction Management Plan - Council Assets

Prior to commencement of works on site, appropriate environmental site management measures must be in place and incorporate the following throughout demolition and construction:

- i) access to and from the site during construction and demolition,
- ii) safety and security of the site, road and footpath area including details of proposed fencing, hoarding and lighting,
- iii) methods of loading and unloading machinery and building materials,
- iv) location of storage materials, excavation and waste materials,
- v) methods to prevent material being tracked off the site onto surrounding roadways, pathways, reserves and waterways,
- vi) erosion, sediment and dust control measures, and
- vii) protection of existing trees and vegetation including the tree protection zone, in accordance with AS 4970-2009 Protection of Trees on Development Sites.

During works, the site management measures set out in the above must remain in place and be maintained until the completion of works.

Construction materials must not be stored on Land owned or managed by Council. Safe pedestrian access free of trip hazards must be maintained at all times on or adjacent to any public access routes connected to Land owned or managed by Council.

Reason: to protect the surrounding environment from the effects of sedimentation and erosion from the site.

20 Tree removal within Land owned or managed by Council

This consent approves removal of the following trees within the road reserve (as recommended in the Arboricultural Impact Assessment):

Species	Location
Glochidion ferdinandi (Cheese Tree)	as identified in the Arboricultural Impact Assessment
Syagrus romanzoffiana (Cocus Palm)	as identified in the Arboricultural Impact Assessment

Removal of the approved tree/s in the road reserve shall only be undertaken by a Council approved tree contractor.

Details of currently approved tree contractors can be obtained from Northern Beaches Council's Trees Services Section prior to removal.

Reason: public liability.

21 Inspection of piles for Hippocampus whitei

The piles designated for removal must be inspected immediately prior to pulling works by a Marine Scientist to ensure Whites' seahorse (*Hippocampus whitei*) are not found on the piles. This must be documented in a report which is to be submitted to Council, a copy must also be retained on site. If they are found a permit must be requested from DPI fisheries before relocation to a suitable adjacent habitat.

Reason: Protection of *Hippocampus whitei*

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

22 Implementation of Construction Traffic Management Plan

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

23 Removing, Handling and Disposing of Asbestos

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- i Work Health and Safety Act;
- i Work Health and Safety Regulation;
- i Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- i Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)];
- i Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- i The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

24 Demolition Works - Asbestos

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

25 Storage of Materials on Reserve owned or managed by Council Prohibited

The dumping or storage of building materials, spoil, vegetation, green waste, or any other material in Land owned or managed by Council is prohibited, unless permission is sought for exceptional circumstances.

Reason: public safety and environmental protection.

26 Protection of Council's Public Assets

Any damage to Council's public assets shall be made good by the applicant and/or the contractor, to the satisfaction of Council.

Council's public assets include, but is not limited to the following: road, kerb and gutters, crossovers, crossings, paths, grass verge, open space and associated elements such as furniture, recreational facilities and the like, within the meaning of the Local Government Act 1993.

Reason: to protect and/or restore any damaged public asset.

27 Acid Sulfate Soil Management

Compliance with report by Marine Pollution Research Pty Ltd dated 18 September 2020

Reason: To protect the Environment DACHPEDW5)

28 Protection of landscape features and sites of significance

All natural landscape features, including natural rock outcrops, natural vegetation, soil and watercourses, are to remain undisturbed during demolition, excavation and construction works, except where affected by works detailed on approved plans.

Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: preservation of significant environmental features.

29 Tree and vegetation protection

a. Existing trees and vegetation shall be retained and protected, including:

- i) all trees and vegetation within the reserve,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

b. Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,

- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees.
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

c. Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment prepared by RainTree Consulting, as listed in the following sections:

- i. item 1.2.1 (i) (ii) (iii) and (iv) works in the vicinity of existing trees T3 and T5, including trunk and tree protection and excavation restrictions,
- i. item 2.2 tree management including hold points.

The Certifying Authority must ensure that:

d. The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree (s) is prohibited.

Reason: tree and vegetation protection.

30 Prevent spread of the invasive marine alga, *Caulerpa taxifolia*

The invasive marine alga, *Caulerpa taxifolia*, may be present at the work site. This alga must not be removed from the work site. All tools, machinery and environmental control devices must be inspected and cleaned thoroughly prior to leaving the site. Any *Caulerpa* removed from the waterway should be tightly sealed in a plastic bag and disposed in general waste. *Caulerpa* is listed under the *Biosecurity Act 2015* for all NSW waters. It is illegal to possess or sell the alga and heavy fines apply.

This must be communicated to all staff during inductions and staff must be able to identify *Caulerpa taxifolia*. As a precaution the project *Construction Environment Management Plan (CEMP)* must include *Caulerpa* Management directions, reference should be made to: NSW Control Plan for *Caulerpa taxifolia* (I&I NSW 2009)

Reason: Protection of the environment.

31 Environmentally sensitive construction

To prevent damage to the seagrass boats and barges must ensure the impact from the movement of the barges and boats, particularly from the propeller, does not damage the seagrass meadows (especially during low tide). All plant and vessel operators are to be aware

of the tidal limitations to ensure adequate depth clearance between vessels and seagrass beds. Without adequate clearance the vessels may lead to scouring of the seagrass beds.

No vessels are to be moored with an anchor or other bottom tackle in the vegetated areas identified in Figure 8 and 9 of the aquatic report. No objects are to be placed on the seagrass beds.

Reason: Protection of seagrass

32 Construction Hours – Manly LEP Clause 6.5

Construction hours are to be adhered to, with no construction vehicles or heavy machinery used outside the hours of 7:00am and 5:00pm.

Reason: Noise and vibration can disturb local native fauna (including threatened species) and prevent access to their natural habitats.

33 Installation and Maintenance of Sediment and Erosion Controls

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prior to commencement of any other works (including demolition) on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

The discharge of sediment-laden waters from the site may result in clean-up orders and/or fines under Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997.

Reason: Protection of the receiving environment.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO OCCUPATION CERTIFICATE

34 Works as Executed Drawings - Stormwater Treatment Measures

Works as Executed Drawings for the stormwater treatment measures must be prepared in accordance with Council's Guideline for Preparing Works as Executed Data for Council Stormwater Assets.

The drawings shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment

35 Operational Management Plan

An Operational Management Plan (OMP) is required to be prepared and submitted to Council detailing the operation of the development. The OMP shall include, but not be limited to the following:

- i Vehicle access and egress.
- i Management of car parking impacts from the premises in the surrounding streets.
- i The location and content of directional signage.

- i Complaints management.
- i Noise management.
- i Truck delivery times.
- i Waste management.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To ensure that the development operates with minimum disruption to the surrounding area.

36 Environmental Reports Certification

Written certification from a suitably qualified person(s) shall submit to the Principal Certifying Authority and Northern Beaches Council, stating that all the works/methods/procedures/control measures/recommendations approved by Council in the following reports have been completed:

- (a) Acoustic Report Rev 3 Ref TK592-01F03 Section 6 Recommendations page 13-16 dated 5 May 2020 prepared by Renzo Tonin and Associated (with the exception of the trading hours of the kiosk).
- (b) Arboricultural Report Ref RTC-2120 Section 2 conclusion and recommendations page 7-8 11 dated May 2020 prepared by Rain Tree Consulting.
- (c) BCA Assessment Report Rev 3 Ref 180538 dated 11 April 2020 prepared by Concise Certification.
- (d) Aquatic Ecology Impact Assessment Section 3 Impact assessment and recommendations pages 22-37 dated December 2019 prepared by Marine Pollution Research Pty Ltd.
- (e) Preliminary Geotechnical Investigation Rev B Ref-19-7405-B, Section 6 Recommendations page 9-15 dated 13 November 2019 prepared by Envirotech.
- (f) Landslip Risk Assessment rev B Ref-19-7406-B, Section 5 Recommendation page 13 13 November 2019 Envirotech.
- (g) Plan of Management RefM180463 12 May 2020 Planning Ingenuity.
- (h) Plan of Management statement of intent for revision 26 November 2020 Planning Ingenuity.
- (i) Traffic Impact Assessment Ref 18.555r01v07 6 June 2020 Traffix.
- (j) Traffic letter outlining Green Travel Plan 26 November 2020 Traffix.
- (k) Waste Management Report / Plan 5 May 2020 Robbie Treharne.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of a Interim / Final Occupation Certificate.

Reason: To ensure compliance with standards.

37 Registration of Food Business

The food business must be registered with the Appropriate Regulatory Authority, prior to Occupation Certificate being issued.

Reason: Food premises are required to be registered with the Appropriate Regulatory Authority.

38 Design, construction and fit out of food premises certification

Prior to the issuing of any interim / final occupation certificate, certification is to be provided from a qualified person that the design, construction and fit out of food premises kiosk is compliant with the requirements of AS 4674 Design, construction and fit out of food premises.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority. It is noted that no cooking is to be carried out only food "warming"

Reason: To ensure that the food premises complies with the design requirements.

39 Required tree replacement

Trees shall be planted in accordance with the following schedule:

Two (2) locally native species selected from the Tree Guide on Council's website, including at least one *Glochidion ferdinandi* to replace the removed *Glochidion ferdinandi*. Trees planting within the reserve shall be provided within a 9sqm deep soil area and located at least 3m from the other existing trees. The pot size shall be 75 litre.

Tree planting shall be located to minimise significant impacts on neighbours in terms of blocking winter sunlight, or where the proposed tree location may impact upon significant views.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Occupation Certificate.

Reason: to maintain environmental amenity.

40 Bright Lighting

No bright lighting is to be installed to illuminate external seating areas. Low to moderate lighting may be used consistent with safety requirements.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to issue of a Occupation Certificate.

Reason: To minimise nocturnal lighting impacts on wildlife.

41 Construction Environmental Management Checklist Inductions

All workers, including site inspectors and sub-contractors, are to be briefed on measures specified in the Construction Environmental Management Checklist through a site induction prior to workers commencing their works.

Evidence of the site induction is to be documented and provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To protect native vegetation, wildlife and habitats in accordance with relevant Natural Environment LEP/DCP controls.

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

42 Maintenance of Stormwater Treatment Measures

Stormwater treatment measures must be maintained at all times in accordance with manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Northern Beaches Council reserves the right to enter the property and carry out appropriate maintenance of the device at the cost of the property owner.

Reason: Protection of the receiving environment

43 Acoustic Report

Compliance with the recommendations and findings (subject to the amended plans, operational changes and the trading hours condition of this consent) of the acoustic report by Renzo Tonin & Associates dated 5 May 2020.

Reason: To minimise noise to affected residential receivers (DACHPBOC6)

44 Noise general

The use of the premise must be controlled so that any emitted noise is at a level so as not to create an “offensive noise” as defined in the Protection of the Environment Operations Act 1997 to any affected receiver.

Reason: To comply with Noise Legislation. (DACHPBOC5)

45 No Planting Environmental Weeds

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

Reason: Weed management.

46 Dead or Injured Wildlife – Manly LEP Clause 6.5

If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To mitigate potential impacts to native wildlife resulting from construction activity.

47 Replacement Trees

To compensate for Tree 4 approved for removal, at least two (2) locally native canopy trees are to be provided which at maturity will achieve a canopy height greater than 8.5 metres. Species are to be selected from the Manly Ward section of the Native Plant Guide available on Council's website. Trees may be planted within the adjoining reserve with the approval of Council. Planting of trees is to be certified in writing and evidence provided to the Principal Certifying Authority prior to issue of any Occupation Certificate.

Reason: To achieve compliance with Manly LEP Clause 6.5 (Terrestrial Biodiversity).

48 Commercial Waste Collection

Waste and recyclable material, generated by this premises, must not be collected between the hours of 9.00am and 5.00pm Monday to Saturday.

Reason: To ensure the acoustic amenity of surrounding properties. (DACPLG24)

49 Trading Hours

The hours of operation are to be restricted to:

Mondays to Fridays

- General Boat shed /marina (including tender service) - 6.00am to 10.00pm
- Workshop and shipwright activities - 7.00am to 6.00pm *
- Kiosk - Internal 6.00am to 6.00pm and external seating 7.00am to 6.00pm*

Saturdays

- General Boat shed /marina (including tender service) - 6.00am to 10.00pm
- Workshop and shipwright activities - 8.00am to 6.00pm*
- Kiosk - Internal 6.00am to 6.00pm and external seating 7.00am to 6.00pm*

Sundays and Public Holidays

- General Boat shed /marina (including tender service) - 7.00am to 10.00pm
- Workshop and shipwright activities - 8.00am to 6.00pm*
- Kiosk - Internal 6.00am to 6.00pm and external seating 8.00am to 6.00pm*

* Note:

- 1- Doors to the workshop shall be closed during noise generating work.
2. The doors and windows to kiosk and adjoining the internal seating area are to be closed (except to allow for patron ingress and egress) prior to 7am (Monday to Saturday) and prior to 8am (Sunday and public holidays).

Upon expiration of the permitted hours, all service shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

Reason: Information to ensure that amenity of the surrounding locality is maintained.

50 Kiosk

The kiosk shall operate in accordance with the definition of a kiosk contained within the Manly LEP 2013 namely a *"premises that are used for the purposes of selling food, light refreshments and other small convenience items such as newspapers, films and the like"* and which requires the gross floor area not exceed 55 square metres. The kiosk shall operate in accordance with the following:

- (a) The kiosk will be used for the purposes of selling food, light refreshments. There shall be no commercial kitchen, i.e. no stove, oven, deep fryer, grease trap or extraction fan(s) only food warming facilities for small food items.
- (b) The operating hours of the kiosk are limited to between: Internal 6.00am to 6.00pm Monday to Sunday and external 7.00am to 6.00pm Monday to Saturday and 8.00am to 6.00pm Sundays and public holidays.
- (c) The doors and windows to the kiosk shall remain between 6.00am to 7.00am Monday to Saturday and 6.00pm to 8.00pm Sundays and public holidays, except for ingress and egress.
- (d) The kiosk shall not be licensed.
- (e) There shall be no table service.
- (f) The patron capacity shall be limited to 16 internally and 16 externally.

Reason: to ensure that the kiosk does not operate as a water based restaurant which is a prohibited development and to protect neighbouring residential amenity.

51 Lighting

Lighting is to be shielded or located to promote safe navigation and minimise any likely adverse visual impact when viewed from the Waterway, any adjoining public land, and adjoining residences. Reflection off the water should be eliminated where possible.

Flood lighting of marine facilities is not permitted.

52 Restriction in the occupation of the dwelling

The occupation of the dwelling on level 1 of the Boatshed shall be for the purpose of a managers residence for the Manly Boatshed Marina.

The residence is only for the use of persons, or people who live in the same household, who are involved in the management and operation of the Manly Boatshed. The residential dwelling is not be sold, leased or used or occupied as a dwelling which is independent of the predominant use of the site as a marina.

Any variation to the approved occupancy of level 1 of the Boatshed beyond the scope of the above use will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent

53 Signage

No approval is granted under this Development Consent for signs (as defined under the Manly Local Environment Plan 2013 and State Environmental Planning Policy No. 64). A separate Development Application for any signs (other than exempt and signs permitted under Complying Development) must be submitted for the approval prior to the erection or display of any such signs.

54 Passive Craft Storage

Passive craft storage shall not exceed 108 spaces.

Reason: To minimise impacts on neighbouring residential amenity.

55 Signage on Council land

No signage is to be placed on council land, public road reserve or adjoining properties to attract addition clientele to the kiosk on this site, to ensure that the usage of the premise remain ancillary to the boat shed primary use as approved.

Reason: To ensure that the kiosk on site is used as an ancillary venture only (DACTRBOC1)