

## Subject: DA2024/1216 Application for Development of North Harbour Marina – Objection

Dear Maxwell Duncan

I am writing to formally object to the development application for the proposed marina development works of North Harbour Marina, submitted in DA2024/1216 (the proposal). After reviewing the details of this project, I have significant concerns about its non-compliance with the NSW *State Environmental Planning Policy (Biodiversity and Conservation) 2021* (SEPP) Division 4 Clause 10.30 (Boat repair facilities and commercial marinas in Zone No W2).

### 10.30 Boat repair facilities and commercial marinas in Zone No W2

- (1) The objects of this section 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.
- (2) Despite any other provision of this Chapter, development for the purposes of a boat repair facility or commercial marina may be carried out, but only with development consent, on a site shown edged heavy black on the Special Purposes (Boat Repair Facilities and Commercial Marinas) Map.

*Figure 1 – SEPP Division 4 Clause 10.30*

The application contains a Statement of Environmental Effects (SEE) report prepared by gsa planning which examines the proposals compliance with the relevant zone objectives in the SEPP (Figure 1) and the controls outlined in the *Manly Development Control Plan 2013* (DCP).

The SEE consistently misrepresents the proposal to find that the proposal complies with the objectives outlined in the SEPP and DCP. Section 4.4.2 of the SEE outlines the proposals compliance with the objectives outlined in the SEPP (Figure 2).

As the subject site is a Marina within Zone 2 – Environment Protection, Clause 6.38 applies to the proposal. The objectives of Clause 6.38 are as follows:

<b>Objective:</b>	<i>to maintain the working harbour character and functions of certain existing marinas and boat building and repair facilities by retaining their sites for maritime purposes</i>
<b>Response:</b>	The proposed alterations and additions continue to maintain the character and function of the existing Marina by only providing necessary improvements to the berths in order to accommodate for a growing Marina that meets the demands of a growing facility. Works will also enable the replenishment of walkers using the Coastal Walk as no nearby refreshment locations currently exist, as a notable element of the harbour.
<b>Objective:</b>	<i>to ensure development carried out on the sites, including alterations of or extensions to the facilities, does not substantially increase the scale of the facilities or the intensity of their use</i>
<b>Response:</b>	The proposed alterations and additions are limited in their bulk and scale. In fact, by relinquishing ten swing moorings, the overall area related to the site is decreased, also providing safe navigation improvements. The provision of a kiosk will only minorly increase the intensity of the site as a new use. However, when compared to the neighboring water-use developments and the 'Manly Boatshed' within the vicinity of the site, the subject site will continue to remain consistent with the surrounding scale of development.

Therefore, the proposed additional berths to both the eastern and western arms, the relinquishment of ten swing moorings, the new kiosk and associated deck extension to the existing Marina Building will ensure that the character of the harbour is maintained and that changes to the intensity of the use is only slightly increased within reason.

*Figure 2 - SEE Section 4.4.2 - Page 24*

The proposed development appears to violate the SEPP on several important grounds that protect the environment, character and community of Sydney Harbour. Below are the specific areas of concern regarding SEPP non-compliance:

**Clause 1(a): Maintenance of Working Harbour Character and Functions**

The intent of this clause is to preserve the traditional working harbor character of existing boat repair facilities and to retain these sites specifically for maritime purposes. The proposed marina development threatens this objective by:

- **Removal of Critical boat repair facilities:** The proposal outlines the removal of the 2 existing slipways. These slipways had previously been providing critical boat repair and maintenance services for North Harbour. The north side of Sydney Harbour has a desperate lack of commercial slipways with North Harbour Marina being the only commercial facility with 2 slipways in the North of Sydney Harbour. The entire purpose of the Special Purposes (Boat Repair Facilities and Commercial Marinas) Map exception was to maintain these working harbour functions. By removing these facilities, the proposal would likely alter the character of the harbor by shifting its primary use from boat repair and maritime support activities to leisure and tourism-based functions with kayak and dinghy storage. This shift directly undermines the SEPP's intention of maintaining the working nature of the harbor for maritime repair and support.
- **Response to the SEE Part 1:** The SEE attempts to justify the removal of the 2 slipway facilities by noting that the proposal ***"maintain the character and function of the existing Marina by only providing necessary improvements to the berths in order to accommodate for a growing Marina that meets the demands of a growing facility."*** This statement is misleading and represents the proposal and the 10.30 Clause (a) objective. The SEE response does not directly or indirectly address how the proposal supports the SEPP objective. The response fails to address the working harbour character and functions of the existing North Harbour Marina boat repair facilities with the removal of 2 slipways. The proposal removes 10 existing commercial North Harbour Marina swing moorings in favour of 9 additional mooring berth at the marina. This removes 1 overall boat storage location from North Harbour this does not support the growth of North Harbour Marina as the proposal is for a net loss of 1 boat storage option.
- **Response to the SEE Part 2:** The SEE attempts further attempts to justify the proposal under Clause a of 10.30 with the following sentence ***"Works will also enable the replenishment of walkers using the Coastal Walk as no nearby refreshment locations currently exist, as a notable element of the harbour."*** This statement regarding passing walkers on the nearby coastal walk has no relevance in responding to the proposal's compliance with the objective. Passing walker using a café does not provide any support of the ***"working harbour character and functions of certain existing marinas and boat building and repair facilities"*** outlined in the SEE objective.
- **The proposal's "workshop":** The proposal does include retaining the existing workshop within the main marina building. This appears disingenuous as any service that occupies this workshop will be limited to working on vessels berth within the marina given that the proposal seeks to remove the 2 slipways and there is no provision in the proposal for berths allocated for the workshops use. This limits the available to clientele to the workshop service provider to the 44 vessels that the proposal intends to berth at the marina which may or may not provide enough work for a service provider permanently occupy the workshop. The workshop may likely be occupied for storage or by a service provider who is based elsewhere that may occasionally provide services at North Harbour Marina. All the above scenario's do

not support the SEPP objective outlined in 10.30 Clause a regarding a ***“working harbour character and functions of certain existing marinas and boat building and repair facilities”***.

- **A working Harbour - Boat Building and Repair Facilities”**: Sydney Harbour’s identity as a working harbour is integral to its historical, economic, and cultural significance. The harbour’s working character supports not only commercial maritime activities but also essential services for the boating community, including transportation, sport, and local fishing industries. Slipways are crucial structures in a working harbour, play a pivotal role in boat building, maintenance, and repair. The preservation of slipways and boat repair infrastructure especially in the North of the harbour enables Sydney Harbour to continue supporting vital maritime services, fostering local communities, and maintaining its role as a functional maritime hub, rather than just a destination for the rich and those that need a coffee on a morning walk.

#### **Clause 1(b): Control of Development Scale and Use Intensity**

This clause is intended to ensure that any development, alteration, or extension does not significantly increase the scale or intensity of the facility’s use. The proposed marina fails to meet this requirement due to the following reasons:

- **Substantial Increase in Scale and Capacity**: The proposal includes the addition of additional berth moorings, a cafe and dingy/kayak storage facilities, which significantly increases the physical scale and capacity of the site. This expansion appears to violate the SEPP’s objective to prevent any substantial increase in the size of the facility, as it would introduce new structures and activities well beyond the scale of traditional boat repair operations. Although there is an overall reduction of 1 swing moorings the intensity of use of the facility is likely to be greater due to the ease of access to the boats. The substantial increase of intensity of the facility is due to the café and dinghy/kayak storage. For the café to remain profitable it would require a minimum between 60-100 customers per day which would be a significant increase in patronage to North Harbour Marina every day. The 72 dinghy and kayak spots would see usage daily with likely increased weekend usage, this poses a potential significant increase in patronage to North Harbour Marina. The new café and dinghy/kayak storage facilities outlined in the proposal would significantly increase the intensity of use of North Harbour Marina. It would be disingenuous or misleading to state otherwise, as stating otherwise would imply that the proposal is not financially viable. To justify that the proposal does not significantly increase the intensity of use of the marina. The Applicant should release current utilisation rates and forecast utilisation rates based on expected commercial viability. This is not consistent with the objectives outlined in 10.30 Clause 1(b).
- **Response to the SEE Part 1**: The SEE attempts to justify compliance with SEPP objective outlined in 10.30 Clause 1(b) by stating that the overall area related to the site is decreased. This is factually wrong and at odds with the previous response that explains the ***“additions ... to the berths in order to accommodate for a growing Marina that meets the demands of a growing facility.”*** The Plan - Subdivision of the proposal clearly outlines an increase in area of North Harbour Marina. Therefore, the statement overall area related to the site is decreased is factually wrong. They however attempt to justify that decrease in area by include the moorings which will be relinquished to accommodate the larger marina and the navigation channel for the “super yachts” they intend to bring to the marina. If the proposal seeks to describe the change in area of impact of the proposal using moorings removed, then they should consider the “safe navigation channel the proposal seeks to implement (Figure 3). Using the justification outlined in the SEE the proposal is a significant increase in the scale area of impact of North Harbour Marina on North Harbour.



*Figure 3 Overall Impact of the proposal*

- **Increased Intensity of Use – Super Yachts:** The proposal includes the provision for berthing 2 large vessels (25 metres and 32 metres) at the end of the eastern and western arm of the marina. This proposal is a significant increase in the intensity of the use of the facility. Currently the largest vessel in North Harbour (Jilings Cove) is 15.24 metres (50 feet), the proposal seeks to double maximum size of the yacht in North Harbour. Although recent communication from the Applicant implies that they do not intend to utilise the berthing for these larger vessels, the DA remains un-modified, and the Applicant did not intend to vary the proposal to remove the need for a navigational channel. The 14 metre and 15 metre vessels in North Harbour currently navigate in and out of the moorings without the need for a navigation channel. The proposal seeks to significantly increase the intensity of use of the North Harbour Marina through the permanent or causal berthing of 25 metre and 32 metres requiring significant alterations to the navigation arrangements on North Harbour. A channel is not required unless the Applicant intends to bring super yachts to North Harbour Marina. This is not consistent with the objectives outlined in 10.30 Clause 1(b).
- The marina is expected to attract high volumes of leisure boats and visitors, thereby intensifying the use of the area beyond its current level. Increased boat traffic, noise, and water pollution from fuel spills and waste discharge are all likely impacts that contradict the SEPP's intention of preventing intensified usage. Such activities also pose a risk to marine life and may disrupt local ecosystems.

In light of these concerns, I respectfully request that the council carefully evaluate this development proposal and enforce adherence to the SEPP's clear objectives in order to protect the working harbor's character. Approving this proposal in its current form would disregard these foundational planning principles and undermine the long-term viability of the harbor for essential maritime functions and preservation North Harbour environment.

Thank you for considering this objection. I hope the council will uphold the integrity of our environmental planning policies and prioritize sustainable, community-focused development.

Regards, [REDACTED]

