

**Report to General Manager**Attachments:  
Nil**SUBJECT:** Pattons Slipway - 62 Willoughby Street, Kirribilli - DA 313/19**AUTHOR:** Geoff Mossemeneer, Executive Planner**ENDORSED BY:** Joseph Hill, Director City Strategy**EXECUTIVE SUMMARY:**

This Development Application is seeking consent to carry out alterations and additions to an existing boat repair facility and marina including the removal of slip rails, timber jetties and mooring piles and construction of a boatshed, installation of a boat crane with the capacity for 35T vessels, installation of a floating pontoon to accommodate five (5) vessels, new concrete hardstand, vehicular crossing and ancillary works.

The site is owned by Pattons Slipways Pty Ltd who are also the applicant.

Council's notification of the proposal has attracted 24 submissions raising particular concerns about amenity, intensification of use, loss of views and building over the water.

The proposal is classified as a marina and therefore Designated Development. Council is not the consent authority for the proposal and instead the application will be determined by the Sydney North Planning Panel. The Panel was briefed on 12 February 2020 and a determination meeting has not yet been scheduled. An issues letter was sent to the applicant following the SNPP briefing.

The purpose of this report is to provide Councillors with information on the assessment of the application thus far, with regard to submissions received and responses from referrals. This information may be used by Councillors to make a submission (independently or collectively) to the Sydney North Planning Panel, if desired.

**FINANCIAL IMPLICATIONS:**

Nil.

**RECOMMENDATION:**

**1. THAT** Council note the proposed Development Application and resolve whether to prepare a submission to the Sydney North Planning Panel prior to its determination of the application.

## **LINK TO COMMUNITY STRATEGIC PLAN**

The relationship with the Community Strategic Plan is as follows:

Direction: 1. Our Living Environment

Outcome: 1.1 Protected and enhanced natural environment and biodiversity

## **BACKGROUND**

The site has been used for boat repairs for many years and by Pattons Slipways since 1948. The site was sold to the Sydney Flying Squadron in 1972.

Development Application No. 313/19 was submitted to Council on 3 October 2019 seeking consent to carry out alterations and additions to an existing boat repair facility and marina including the removal of slip rails, timber jetties and mooring piles and construction of a boatshed, installation of a boat crane with the capacity for 35T vessels, installation of a floating pontoon to accommodate five (5) vessels, new concrete hardstand, vehicular crossing and ancillary works.

As Designated Development, the application is to be determined by the Sydney North Planning Panel. The application is also integrated development pursuant to s4.46 of the Act.

## **CONSULTATION REQUIREMENTS**

Community engagement undertaken in accordance with the requirements for Designated and Integrated development.

## **SUSTAINABILITY STATEMENT**

This report is for information purposes only; a sustainability assessment was not undertaken.

## **DETAIL**

### **INTRODUCTION**

For marinas or other related land and water shoreline facilities, which meet the requirements for designated development under clause 23 of Schedule 3 to the *Environmental Planning and Assessment Regulation 2000*, the consent authority for the development application is the Sydney North Planning Panel. Integrated approval bodies and approvals are required from:

1. NSW Environment Protection Authority  
*Protection of the Environment Operations Act 1997 (Section 43 (b) and 48)*
  2. NSW Department of Primary Industries  
*Fisheries Management Act 1994 (Section 205) Water Management Act 2000 (Section 90 and 91)*
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The matter was the subject of an initial briefing with the Panel on 12 February 2020. An issues letter was sent to the applicant following the SNPP briefing.

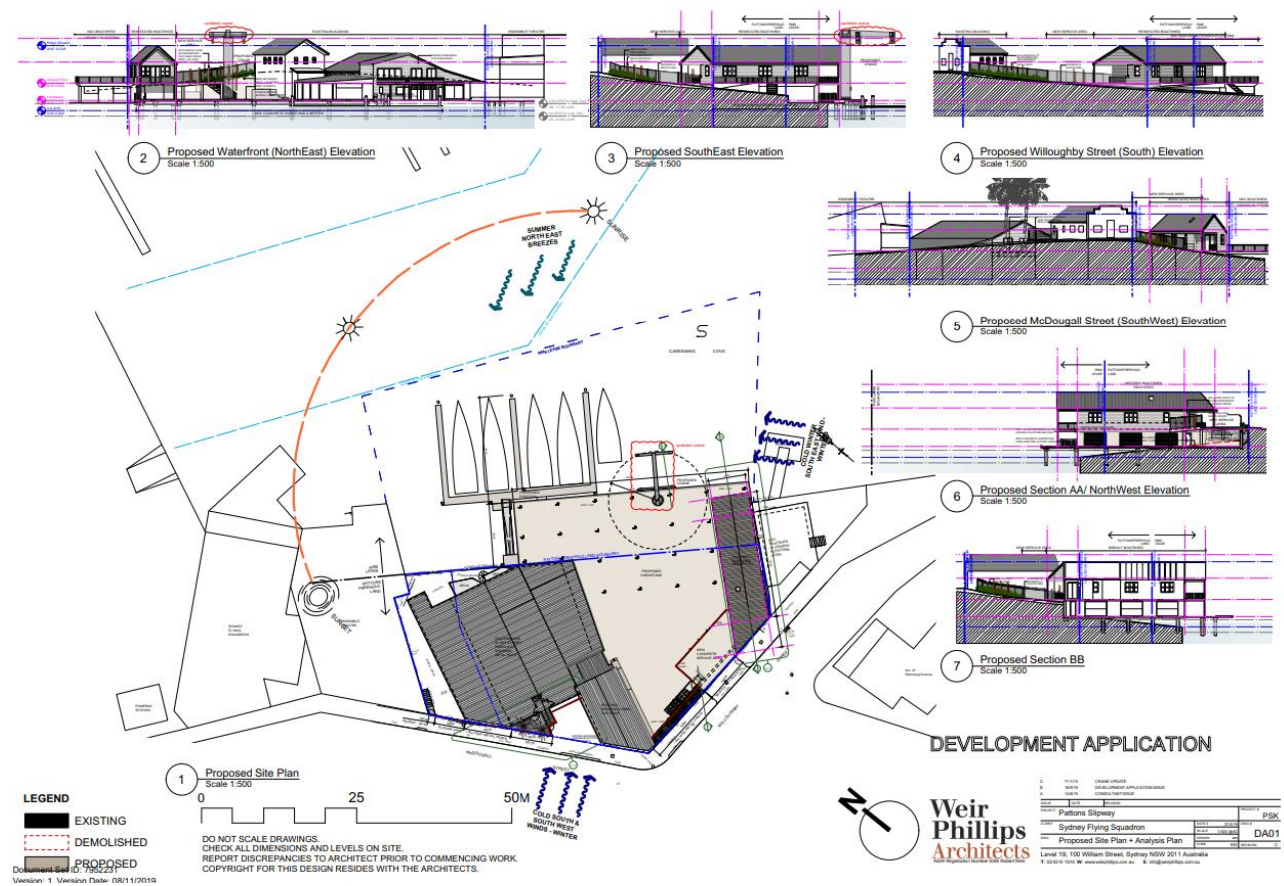
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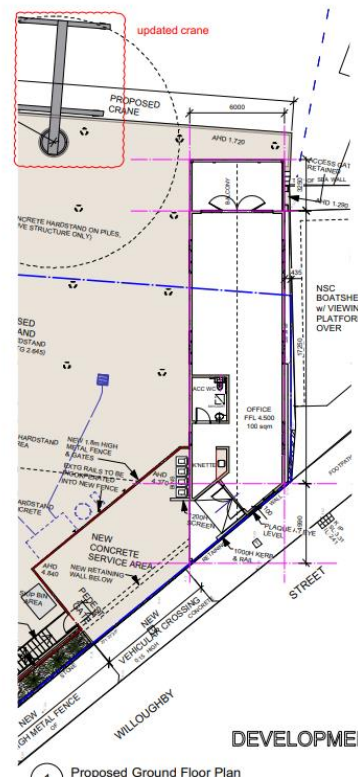
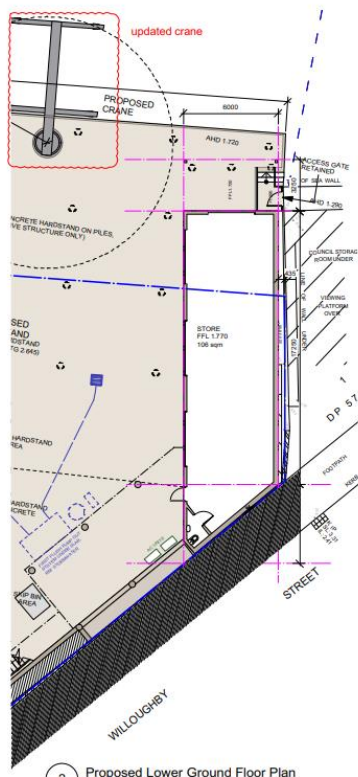
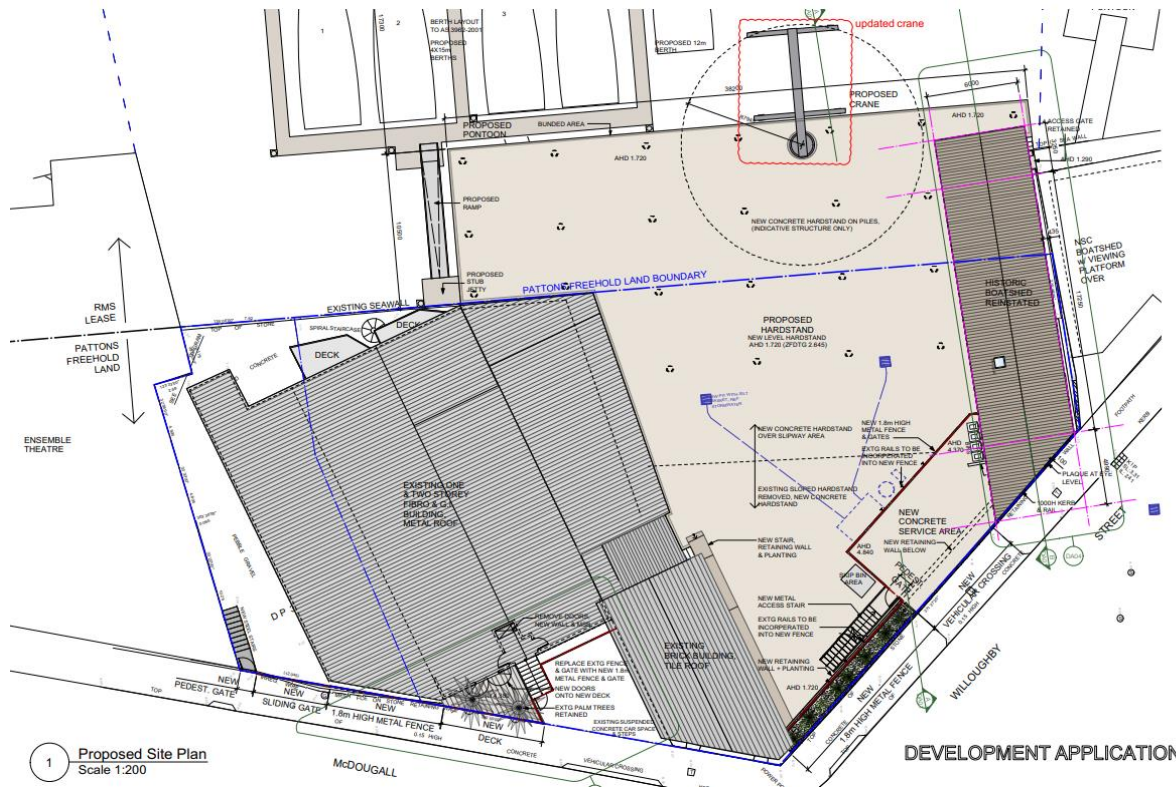
Pursuant to the Procedures of Operation of SNPP, Council's Assessment staff are unable to provide Councillors with a planning assessment report prior to the report being forwarded to the Panel Secretariat.

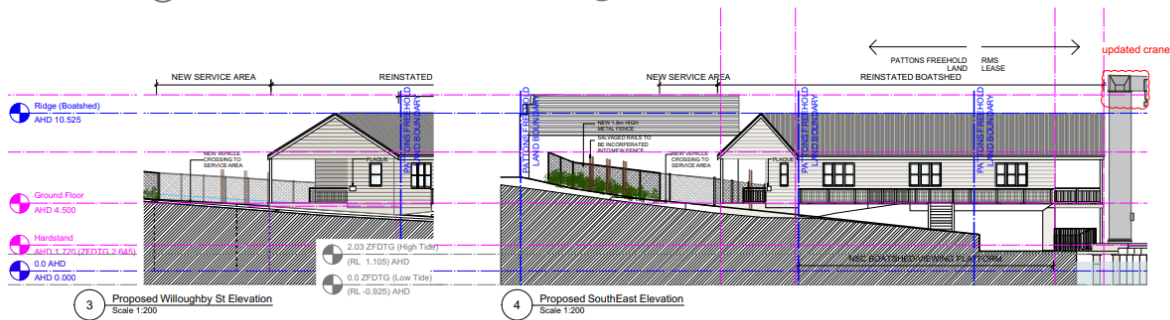
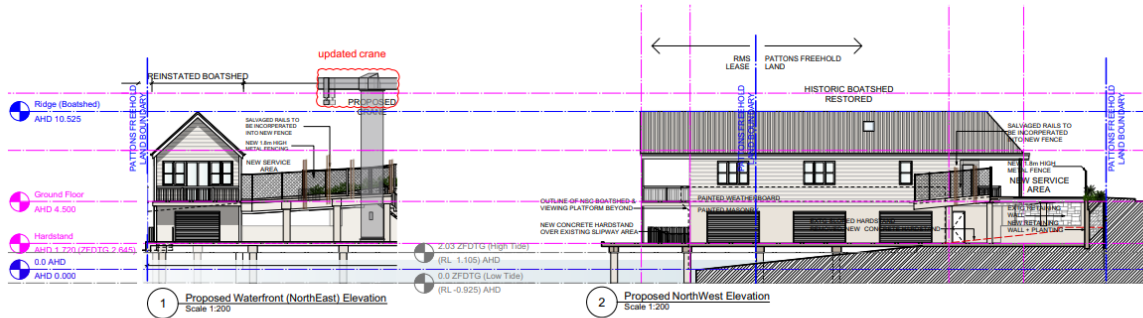
## DESCRIPTION OF THE PROPOSAL

This application seeks approval to carry out alterations and additions to an existing boat repair facility and marina including the removal of slip rails, timber jetties and mooring piles and construction of a boatshed, installation of a boat crane with the capacity for 35T vessels, installation of a floating pontoon to accommodate five (5) vessels, new concrete hardstand, vehicular crossing and ancillary works.

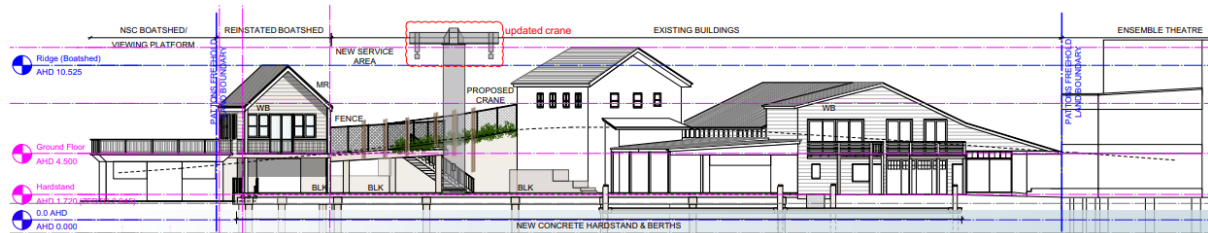
Proposed hours of operation of the boat repair facility are Monday to Friday (7.30am-5pm) and Saturday (8.00am-3:00pm) and offices are Monday to Friday (8.30am-5.30pm).







DEVELOPMENT APPLICATION



FINISHES SCHEDULE

Part of Building	Description	
MR	Roof & rainwater goods Metal Roof, Corrugated/ Colour: Colorbond Windspray	
BLK	External Walls Blockwork, Painted/ Colour: British Paints Costa Rica Blue or similar	
WB	External Walls Weatherboards, Painted/ Colour: British Paints Costa Rica Blue or similar	
TIMB	Windows, Doors, Balcony + Timber Trims	
RD	Roller Door Metal/ Colour: Colorbond Windspray	
FENCE	Metal Fence & Gates, 1.8m High Cyclone Fence, PVC coated/ Colour: Black	

DEVELOPMENT APPLICATION

THE SITE

The subject site is described as Lot 1, DP 326759, Lot 1 326760 and Lot 1, DP 1095443 and is known as 62 Willoughby Street, Kirribilli. The land has an area of approximately 1490m<sup>2</sup>.

The site has an existing single and two-storey fibro building, with a smaller brick building fronting the street, as well as the remnants of a now demolished burnout boat shed, located at the eastern side of the site.

The site currently operates primarily as a boat repair facility with five marina berths and is occupied by four commercial tenancies. These tenancies currently include a sail making business, a marine electrician, plumber and the Ensemble Theatre. Administration Offices also occupy the building.

A foreshore parkland area owned by North Sydney Council adjoins the east of the subject site and contains an existing small craft boatshed with a viewing platform above.



Source: <https://maps.six.nsw.gov.au/>



## STATUTORY CONTROLS

North Sydney LEP 2013

Zoning – IN4 – Working Waterfront

Item of Heritage – Yes

Conservation Area – Yes – Careering Cove Conservation Area.

Building Height – 10m

SREP Sydney Harbour Catchment 2005 & Draft Environment SEPP Land Zone below MHWM  
- W1- Maritime Land

SEPP 33 – Hazardous and offensive Development

SEPP 55 – Remediation of Land & Draft Remediation of Land SEPP.

Protection of Environmental Operations Act

## POLICY CONTROLS

North Sydney DCP 2013

Foreshores and Waterways Development Control Plan 2005

### Public Submissions

The application was advertised as a designated and integrated development proposal from 25 October 2019 until 22 November 2019. To date, 24 submissions were received and are summarised/reproduced as follows:

1	<p>Milson Precinct objects to the size and scale, as it is too expansive in terms of concrete hardstand covering 200sqm of water; bulk and size of the crane sitting beyond the current waters' edge; boats and their masts will be sitting several metres higher on the hardstand, than they currently do on the slipway, which will be more imposing on the size and bulk of the craft to pedestrians / residents; the hardstand is too intrusive on the public's current view of the Careening Cove water interface; it is unacceptable to intensify the operation's facilities by more than two and a half times. Effectively it is privatising, for commercial purposes, community owned water space, with this concrete hardstand. This is not acceptable to the community.</p> <p>Milson Precinct requests that this matter be discussed at a full NSC meeting. Milson Precinct supports a redevelopment of these sites, but NOT in this configuration. Renewed slipways would be far more acceptable, with timber decking, as traditionally used on waterfront areas versus expansive concrete areas.</p>
2	<p>Milson Precinct objects to the scale of the proposed development. The 'renewed' boat shed exceeds the footprint and scale of the former boat shed. It burnt down nearly 30 years ago, so any existing use rights have long expired. We object to the footprint of the hardstand and marina extending into Careening cove. We propose that buoys and height poles should be installed to show the extent of this proposal on the community and loss of amenity especially from Wrixton Park and the Council's viewing platform. We are extremely concerned at the health impacts of the open air 'anti fouling' and spraying of hulls of the vessels, especially as there is proposed a 250% increase in numbers of craft that can be serviced. We suggest that there should be photo montage illustrating the view-loss from the Willoughby / Elamang intersection.</p>
3	<p>Loss of views from Ensemble Theatre</p> <p>Loss of views from Public Domain</p> <p>Acoustic impact on theatre</p>
4	<p>Visual impact on Theatre foyer bar and restaurant, boats larger than current. Crane and boatshed will impact views.</p> <p>Acoustic impact on daily activity of rehearsal and performances. Noise from construction phase and use of crane plus intensification of activity by increasing capacity of site. Further detailed assessment on impact on theatre required.</p> <p>The DA does not adequately address management of air quality that will arise from intensification of operations that would adversely affect restaurant, bar patrons and staff.</p>

5	<p>Air pollution during sand blasting and spray painting that is not fully contained.</p> <p>Additional noise from hard stand area and related activities.</p>
6	<p>I live about 200 metres from the proposed development and have done so for 35 years. I support the existence of maritime businesses in Careening Cove as a traditional use of this precinct and contributing to the character of the precinct.</p> <p>The proposed development is to create a concrete hard stand for servicing yachts and motor-boats in place of the existing slipway. It will also replace or rebuild a shed that was destroyed by fire some years ago. I estimate that the existing slipways could haul out vessels of up to 100 tonnes. The decision authority should be aware that replacing these existing slip ways with a 35 tonne crane reduces the market supply of slipways for larger commercial vessels.</p> <p>The proposed concrete hard stand over the harbour, beyond the high tide line, is a major extension of the existing ship repair yard. The proposal will have a significant impact on the aesthetic of Careening Cove. Additionally, it will encroach on the turning circle for Vessels mooring across the bay at the end of Bradly Avenue, and manoeuvring room for small craft using the recently renovated Council Launching Ramp.</p> <p>The new building on the South Eastern perimeter is replacing the burned shell of a former boat shed. The proposed design of this new building appears higher and larger than the former building that it is replacing. A compromise might be to include the existing burned out building in the area of Hard stand, and to reduce the Hard Stand by 5 m on its North East edge. Additional low-rise shedding could be provided along the Southern perimeter of the site. Any building on this Southern perimeter should not be so high as to encroach on the pleasant views that the public presently enjoy across Careening Cove.</p>
7	<p>View impact caused by crane. Insufficient information provided with regard to the crane.</p> <p>Operational details. The site will have capacity to service increased number of vessels (up to 10). The gross floor area of buildings will increase by 206m<sup>2</sup>. Increase in number of employees by 9. Increased activity will require suitable conditions to be imposed to control operations on site.</p> <p>Air Quality. Mitigation measures required to address air quality impacts from spray painting. There are no buildings or enclosures capable of accommodating the vessels.</p>
8	<p>Crane would impact views. Air pollution during construction and with on-going works such as spray painting. Vibration from construction and noise levels during construction and on-going.</p>
9	<p>Privatise the public water amenity, creeping encroachment on the waters of Careening Cove. Block views of the water from public space. Intensification of boat maintenance from 3 to 10. Increase noise and fumes with no mitigation measures. Visual impact of crane.</p> <p>Clean up and modernisation of slipway is long overdue. Support working waterfront but not at the expense of the alienation of our waterways and the aesthetic amenity of water views for the locality.</p>



10	<p>The monolithic concrete hardstand and attached marina will significantly degrade the public view of the Cove.</p> <p>It involves an unreasonably large increase in the commercially useable area at the expense of the public good in terms of negative environmental impacts such as increased noise, odours and shadowing of hundreds of m<sup>2</sup> of water; much increased activity; and further restricting already tight navigability of the affected waters. It effectively privatises the water by covering it with concrete hardstand creating a bad precedent.</p> <p>Modernisation of run-down slipway by either replacement with a more efficient and environmentally friendly slipway system or a modestly sized hardstand behind the seawall is long overdue.</p>
11	<p>This proposed development is unacceptable – being both obtrusive and inappropriate for the site and would significantly affect the amenity of residents and visitors to the area including pleasure craft, patrons of the Ensemble and visitors to Milson Park.</p> <p>The proposed development would obstruct the views from Willoughby Street, Elamang Avenue and the public grassed area atop the kayak storage building and the adjacent park. The obtrusive crane would be an eyesore.</p> <p>Noise, dust and spray drift has increased significantly with the growth of the existing businesses and would inevitably increase with the expansion of this site.</p> <p>The proposed building would tower over the kayak storage building, thereby obstructing the afternoon sun and the view enjoyed by the public from the park and seating atop this structure.</p>
12	<p>I am all for modernisation of older facilities however I would like to bring to your attention the following impacts, matters and or behaviours in consideration of their application.</p> <p>Increased operator activity means more staff, more traffic, more water pollution and more noise</p> <p>Residents in lower Willoughby Street and Elamang Ave will have blocked views of Milson Park</p> <p>The Cove is known for its aquatic visitors- Manly penguins, stingrays, seals, and last year, a huge school of silver coloured fish with yellow tails. Hundreds of them. Increased boat activity will no doubt affect water quality in the Cove. We may not see these creatures ever again.</p> <p>The local fish population under the Ensemble Theatre and The Flying Bear Café has grown over the past few years. Increased vessels will pollute the Cove for their inhabitation.</p> <p>The environmental impact of over-spraying of vessels with the increased new facilities. They do not consider the effect on historic houses or residents surrounding the site.</p>

	<p>Previous behaviours/actions:</p> <ul style="list-style-type: none"> <li>- Excessive vessel speed entering or exiting the Cove. Both the operators and other vessels don't have an etiquette for local boats or residents</li> <li>- Overuse of the public jetty. Tying up their vessels for lengthy periods which reduces the use of other boaters, including kayaks etc.</li> <li>- Installing inappropriate mooring points near the public jetty. These actions virtually blocked access to the public and ensured they had solitary access. You can check with the RMS as they have visited the operators on several occasions. Suggestion: implement a 20m 'no mooring' arc surrounding the Jetty</li> <li>- Unacceptable vehicular speed by their employees in surrounding streets.</li> <li>- Operator employees parking in already over-crowded streets</li> <li>- The use of their vehicles in Willoughby Street, blocking driveway access for residents</li> <li>- Unacceptable mechanical and other vessel repairs of trailered vessels in surrounding streets. Chemical waste deposited into street gutters and water drains to the harbour.</li> <li>- Unacceptable trading hours. Regularly working on vessels after 6:00pm, Saturday afternoons and all-day Sunday. Where's the residential/commercial balance?</li> </ul> <p>I object to the current proposal based on the above. The area in concern should be re-zoned completely renewing the area into a park or restaurant. The current arrangement does not fit the residential majority and approving further commercial growth through vessel and repair pollution is unsatisfactory. We have thousands upon thousands of visitors every year and why not take this opportunity to make Kirribilli a place of beautification.</p>
13	<p>Careening Cove with its long marine history is one of the little gems of Sydney Harbour, and this will be spoilt if the application is given approval in its present form.</p> <p>The existing slipway nestles comfortably into the lower end of Careening Cove. The very much expanded proposal is an overdevelopment of the site and the large crane will be out of scale and an eyesore. Renewal of the slipways and traditional timber decking would be a more acceptable option.</p> <p>The proposal to install a floating pontoon to accommodate up to 5 vessels is an encroachment into the public's water of the Cove. As stated in the EIS the hardstand will accommodate up to 10 boats, compared to the 2-3 on the slipway. As a nearby resident I am concerned about the increase in pollution, dust, odours, scraping and spray from the cleaning of the boats and noise which will reverberate across the cove.</p> <p>The boatshed which burnt down in 1992 resulted in views across the Cove. After 27 years it seems pointless to restore the high-pitched boatshed as there are no other historic buildings on the site and will also cut out the westward views for the public, tourists, residents and from the public viewing platform. This would be a good opportunity for Council and Pattons to jointly come up with an innovative development to incorporate the burnt-out boat shed and the very popular grass viewing platform.</p>
14	<p>The large concrete hardstand is totally inappropriate for this cove and an overdevelopment of the site. It definitely should not be allowed to extend over public water. I also object to the idea of a huge permanent crane as it would obstruct pleasant views now enjoyed by visitors and residents.</p>

	<p>I do appreciate it is a working environment and needs to be upgraded. However there must be better options to consider that would not so negatively impact on this small cove.</p> <p>I am also alarmed at the idea of increasing the number of boats to be handled. There is a noise and dust issue to neighbours that would become much worse.</p> <p>I do hope a far better solution can be negotiated than the present overdevelopment of the site.</p>
15	<p>The proposed development is in an area of significance to the locality. It is currently in a form in which it has existed for a significant period of time and is in keeping with the surrounds, both natural and physical. It allows a business to be conducted while retaining the visual access of the surrounds and the public to the harbour and its perspective.</p> <p>The proposed development will substantially affect the street scale, substantially alter and adversely affect the historic and cultural significance of the area and create a visual impact on the area.</p> <p>Council is vigilant in retaining the look and feel of this area, and should continue to do so, especially when this is essentially a commercial development for commercial purposes and which will add nothing to the cultural and other heritage of the surrounding area. Council should reject this application and, if it is to proceed, its height scale and impact should be reduced significantly.</p>
16	<p>The proposed development is excessive and inappropriate for the site. The existing slipway has minimal impact on the water and the foreshore, allowing the pretty views from Willoughby Street and Elamang Avenue to be enjoyed by the public and residents. This would be replaced by a heavy concrete hard-stand extending 10 metres into the Cove. It is wrong to say, as the EIS does, that the proposal ‘does not compromise the use of the public foreshore area’, as the hardstand will take away the view of shoreline and water. Pattons are privatising the public’s water.</p> <p>The crane would be an eyesore, dominating the site. None of the photo-montages captures this encroachment. The proposal is operationally flawed, as the crane has essentially no water at low tide. A better solution would be to simply renew the existing rail-based slipway. The Department of Environment and Climate Change has no problems with slipways which adequately address pollution issues, so the rationale for a hardstand is not valid.</p> <p>The EIS states that the proposal ‘will not result in an intensification of the use of the site’, but also states that up to 10 boats will use the hard stand, compared with the current 2-3 on the slipways. Improved pollution control through a hardstand will be offset by the greater intensity of use of the site. Noise, dust and spraying residuals will increase.</p> <p>As for the proposal to restore the burnt-out boatshed, the proposed two-story building with a high-pitch roof would be inappropriate for the current built-form of the Cove as a whole, which comprises low buildings with low-gable roofs. It would not present a ‘continuous line of building’, as it is separated from other buildings by the slipway and is twice the height of the adjacent Council kayak storage.</p>

	<p>The Report consistently understates the impact on views, especially from the Willoughby/Elamang intersection. Any building on this site should minimise the view-disturbance from nearby streets, and from the grassed platform of the Council’s kayak storage. A far better solution would be for Pattons and the Council to jointly redevelop the boatshed site, with a leasing arrangement giving Pattons use of the Council’s kayak storage in exchange for creating a grassed area as the top level of the boatshed site, contiguous with the Council’s existing grassed area. Joining the lower level of the boatshed site to the Council’s kayak storage would increase the marine activity on site, with the upper level greatly enlarging the public’s access to the delightful vistas from the expanded grassed area.</p> <p>The EIS states that the Milson Precinct ‘raised no significant objection’ when Commodore Loader made his presentation. The meeting gave Commodore Loader the opportunity to make a presentation without opposition, explicitly reserving our comments for the DA process. This was a courtesy, not an absence of objection.</p>
17	<p>I live directly opposite the site &amp; strongly object to the extent of the Proposed DA313/19 Development and the proposed Building hours which include Saturdays when we are trying to enjoy the residential amenity.</p>
18	<p>We are concerned about the proposed development and the impact this will have on the green areas immediately adjacent. The extent of the development is not fully and clearly set out in the DA documentation. It is not clear how tall the final structure will be, nor how tall the in-situ crane will be.</p> <p>We are concerned that a significant increase in boats being serviced and moored in this area will adversely affect the Careening Cove environment. We expect this development will impact on our view sharing, however there is insufficient information, photographs or drawings to indicate the eventual height of the completed development. We believe approval of this DA should be deferred until a fuller analysis is undertaken and made available to impacted residents, including the height and breadth of the construction and the full impact of increased use of the Cove is understood.</p>
19	<p>Hardstand encroaches into Careening Cove by 10 metres, impacting on the view of the land water interface for the general public, with a further 15m marina berth for 5 boats protruding further into the cove. Their report advises that the navigable Chanel will be improved, the navigable Chanel is narrowed between Landseair Marina opposite and Pattons Slipway, which will impede the historic 18 footer skiffs to get out of the cove, especially in difficult wind conditions.</p> <p>Currently there are 4 rail slipways on the site, allowing 4 vessels to be serviced at one time. They say that the 10m hardstand will not intensify the operations. They then state that it will be able to service 10 boats at any one time, with another 5 on the marina berths. This is a 2.5 times intensification.</p> <p>Currently on the rail slipway, they are able to service larger vessels, from memory 50 T ferries etc. being one of two sites on Sydney Harbour that can cater for these sized vessels. This proposal of a hardstand, with 2-3 storey crane lift for a maximum 35T vessels, is lessening their capacity to service craft in Sydney Harbour. But increasing the number to greater than 5 vessels to be serviced at any one time. Renewing the current Rail Slipways may be a better option for the larger vessels, but Pattons would</p>

need to employ more EP&A environmental protection practices to ensure the waste from grinding & scrubbing hulls, and re-painting same with anti-foul was not let loose into the waterways.

Crane lift has a 10 m reach and is close to 3 storeys high – 10m. This will have a visual impact for the public to the water interface, especially from the Wrixton Park adjacent on Willoughby St. The craft shown in their application, are smaller motor boats with flybridges, and they did not show a yacht with mast, as are currently moored down there, and serviced. Any yacht lifted onto the hard stand, will have a much higher presence, than on the current rail slipways. Certainly more impact than the motor craft shown in their illustrations, of their 18m / 60ft boats. Yachts have the depth of the keel plus height of the mast. This is misleading in the application, by omission.

Ref: SEAR 1165 was valid till 22.10.19 for commercial marina and commercial boat maintenance facilities. Question: Is this still valid? Or does it need to comply now?

Executive Summary states that the increased intensification and the extent of the hardstand will take into consideration the impacts from the dwellings behind the site. This did not occur for my property, which overlooks the facility. This I would have thought should have included each of the Heritage Listed properties in the vicinity, being Wrixton House, the other on corner of Willoughby St & McDougall St., as well as my house, which overlooks it from Carabella St.

Burnt out Boat shed to be rebuilt. There were no visuals of the original boat shed, so we do not know the height and pitch of the original roof structure. DA04 shows that the Boat shed is only 6 m wide, with 20.5–25.5 m long, with two storeys; lower of storage space and toilet; upper of office, balcony, ‘accessible’ toilet and kitchenette. The roof pitch is then another 3 m higher, (equivalent to another floor height) which is excessive pitch for a 6 m wide property. Which could be planned later to be made into an “attic roof” space, as I spotted a skylight in the roof on the northwest elevation. This pitched roof would only be useful in snow falls, but not necessary in Kirribilli! It does not read with any of the surrounding buildings and detracting from the heritage Wrixton House opposite. This roof should be flat, or no greater angle than the other metal roof over the sail maker at the other side of the site. This Boat shed should be pulled back, by nearly a third, so as to not protrude over the RMS leased water way section. This is effectively a three storey structure, with the high-pitched roof, over the water. In its current form it impacts the views from Wrixton Park to Milson Park to be able to watch the 18 ft skiffs launch and return.

The current height and size of the boat shed impacts on the sun to Wrixton park with loss of public amenity by this overshadowing. If the roof was lowered to a skillion roof, sloping SE down to the park, and the shed did not protrude out over the High Water mark, then the Wrixton park would be less impacted, as would the other properties around and the general public on the street.

Milson Precinct had Bill Loader present the essence of this DA at the July meeting, but it only considered a few drawings of the hardstand and no drawings for the boat shed. This is not ‘community consultation’ for the whole development application.

	<p>Concerns were raised about the impact and extensive nature of the hardstand. So their statement concerning no objections from the precinct is in fact inaccurate.</p> <p>As others have suggested over the years, there is an opportunity here for Council to come to an arrangement with Pattons for the use of the storage space under Wrixton park, in exchange for a continuation of the park across the top of the rebuilt one storey boat shed.</p>
20	<p>The proposed Pattons development is excessive and inappropriate for the site. The existing slipway has minimal impact on the water and the foreshore, allowing the pretty views from Willoughby Street and Elamang Avenue to be enjoyed by the public and residents. This would be replaced by a heavy concrete hard-stand extending 10 metres into the Cove. It is wrong to say, as the EIS does, that the proposal ‘does not compromise the use of the public foreshore area’, as the hardstand will take away the view of shoreline and water. Pattons are privatising the public’s water.</p> <p>The crane would be an eyesore, dominating the site. None of the photomontages captures this encroachment. The proposal is operationally flawed, as the crane has essentially no water at low tide. A better solution would be to simply renew the existing rail-based slipway. The Department of Environment and Climate Change has no problems with slipways which adequately address pollution issues, so the rationale for a hardstand is not valid.</p> <p>The EIS states that the proposal ‘will not result in an intensification of the use of the site’, but also states that up to 10 boats will use the hard stand, compared with the current 2-3 on the slipways. Improved pollution control through a hardstand will be offset by the greater intensity of use of the site. Noise, dust and spraying residuals will increase.</p> <p>As for the proposal to restore the burnt-out boatshed, the proposed two-story building with a high-pitch roof would be inappropriate for the current built-form of the Cove as a whole, which comprises low buildings with low-gable roofs. It would not present a ‘continuous line of building’, as it is separated from other buildings by the slipway and is twice the height of the adjacent Council kayak storage. Its adverse impact on views from the public domain and residences at the Willoughby/Elamang intersection is obvious.</p> <p>A far better solution would be for Pattons and the Council to jointly redevelop the boatshed site, with a leasing arrangement giving Pattons use of the Council’s kayak storage in exchange for creating a grassed area as the top level of the boatshed site, contiguous with the Council’s existing grassed area. Joining the lower level of the boatshed site to the Council’s kayak storage would increase the marine activity on site, with the upper level greatly enlarging the public’s access to the delightful vistas from the expanded grassed area.</p> <p>The EIS states that the Milson Precinct ‘raised no significant objection’ when Commodore Loader made his presentation. The meeting gave Commodore Loader the opportunity to make a presentation without opposition, explicitly reserving our comments for the DA process. This was a courtesy, not an absence of objection.</p>
21	<p>Serious concerns regarding anti fouling. I see major issues with poisonous residue to humans, houses and cars let alone the environment in the local area. There are winds</p>

	<p>blowing from some direction at least 80% of the daytime. If there is approval it should be to worlds best practice which includes total enclosure as with commercial spray painting and compulsory use of spray booths.</p> <p>Parking in McDougall and Willoughby Streets are already an issue. Residents have issues, the Ensemble which has a large number of elderly patrons have an issue and this can only be exasperated by an increase of users of the boating facilities. Each large boat moored could have 8 crew or guests all driving and looking for parking as close as possible.</p> <p>Levels of noise when the facility is in use and movement of traffic to and from the facility in an already very congested area.</p>
22	<p>I have examined the plans but cannot say that I have considered them in the context of the LEP and DCP. I am simply a local resident and not a trained town planner or developer. In short, I do not support the application as it stands. I have reservations about the proportions of the development in relation to the surrounding environment of Careening Cove and the potential noise during both construction and afterwards.</p> <p>While I support the use of the harbour as a working harbour, and hence, support a shipyard in Careening Cove, I believe that the proposed size of the building (on the burnt-out boatshed site) is too tall. A single level building would be more appropriate and less visually impacting on views from both sides of the cove. Similarly, the extension of the marina into the cove is not acceptable. While boats are visually appealing, too many in a small space is not so appealing, particularly for those taking in the view from Milson Park and the Flying Bear cafe. I would much prefer to see a more modest proposal which suits the dimensions and proportions of Careening Cove.</p>
23	<p>The “Historic Boatshed” should not be approved: Its effect on public views from the viewing platform; Its effect on the only street view of the cove from its southern side;</p> <p>It’s not a boatshed. And what kind of “store” (upper level) needs a balcony? The past existence of a boatshed related to past use, not proposed use. There is no existing use right to erect a structure where the boatshed was. Its steep gable roof is not an industrial form, wantonly occludes views, and screams out for internal loft addition.</p> <p>On a site over-endowed with existing structures to support hardstand operations, it covers what should be hardstand operation space within the site so as to enlarge claims for hardstand encroachment into the harbour. It exemplifies the thrust of the DA to maximise commercial and industrial lettings that are not reliant on a waterfront location. Its appeal to the need for specialised large boat servicing is not borne out by the physical nature of this application. Its balcony commences about a metre beyond the corner of the viewing platform railing. When “boatshed” occupants address trespass and privacy from the viewing platform, there will be further view loss. The east elevation windows and the balcony could put viewing platform and “historic boatshed” uses (whatever non-“store” uses they might turn out to be) into conflict.</p> <p>The letter from Sydney Flying Squadron does not speak for all users, now or in future, of the Milson Park boat ramp. Consents run with the land, not the owner. Sydney Flying Squadron is the development applicant’s sole shareholder.</p>
24	<p>We have thoroughly examined the proposed development application and wish to say that we have no objection to the development as presented. We feel it will enhance</p>

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	Careening Cove and add a new dimension of interest in that very special cove. They have our full support, and we wish the applicant, Pattons Slipways Pty. Ltd every success in their endeavours.
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### ***External Referrals***

#### ***NSW Department of Primary Industries***

DPI Fisheries is responsible for ensuring that fish stocks are conserved and that there is no net loss of key fish habitats upon which they depend. To achieve this, DPI Fisheries ensures that developments comply with the requirements of the Fisheries Management Act 1994 (FM Act) (namely the aquatic habitat protection and threatened species conservation provisions in Parts 7 and 7A of the Act, respectively), and the associated Policy and Guidelines for Fish Habitat Conservation and Management (2013).

In addition, DPI Fisheries is responsible for ensuring the sustainable management of commercial, recreational and Aboriginal cultural fishing, aquaculture, marine parks and aquatic reserves within NSW. DPI Fisheries has reviewed the proposal in light of these provisions and has no objections, subject to the proponent meeting the General Terms of Approval that follow.

As per s.4.47(3) of the Environmental Planning and Assessment Act 1979, any consent issued by Council must be consistent with these GTAs.

1. In this instance, the proponent does not require a Part 7 permit under the FM Act. If the scope of work changes, it must be referred to DPI Fisheries; and
2. Environmental safeguards (silt curtains, booms etc.) are to be used during construction to ensure that there is no escape of turbid plumes into the aquatic environment. Turbid plumes have the potential to smother aquatic vegetation and have a deleterious effect on benthic organisms; and
3. A minimum of 900 mm is to be maintained between the underside of the pontoon and the substrate at all times.

#### ***NSW Environmental Protection Authority***

The proposal constitutes both Designated and Integrated Development and was referred to the Environment Protection Authority (EPA) under s43(b), 48 & 55 of the Protection of the Environment Operations Act 1997 (POEO Act). The EPA received a request for comments on the proposal on 21 October 2019 and was provided the public submissions on the proposal on 25 November 2019. The EPA understands that the Sydney North Planning Panel is the consent authority for the proposal. The EPA provided input to the Secretary's Environmental Assessment Requirements (SEARs) for the proposal on 11 August 2017 (DOC17/395190).

The EPA understands that the site is currently occupied by four commercial tenancies, the largest of which is used as a slipway and boat maintenance facility. This facility is

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not currently licensed by the EPA. The proposal seeks to upgrade the existing boat maintenance facility, and includes:

- Removal of existing slip rails, timber jetties and hardstand
- Installation of new hardstand, boat crane, and floating pontoon
- Restoration of existing boatshed for storage and office space.

The proposal will trigger the requirement for an environment protection licence under clause 25 of schedule 1 of the POEO Act, for 'Marinas and boat repairs'. The EPA has reviewed the information provided in relation to the proposal, including the public submissions, and has determined that it is able to issue a licence for the proposal, subject to a number of conditions. The applicant will need to make a separate application to EPA to obtain this licence.

**The EPA has not assessed whether the land is suitable for the proposed development. Any assessment of the suitability of the site for the proposed land use will need to be undertaken by the Sydney North Planning Panel.** These general terms relate to the development as proposed in the documents and information currently provided to EPA. In the event that the development is modified either by the applicant prior to the granting of consent or as a result of the conditions proposed to be attached to the consent, it will be necessary to consult with EPA about the changes before the consent is issued. This will enable EPA to determine whether its general terms need to be modified in light of the changes.

**In assessing the proposal EPA has identified a number of environmental issues that the Sydney North Planning Panel may wish to consider in its overall assessment of the application. These issues include the following:**

*Operational Capacity*

The Environmental Impact Statement (EIS) does not provide adequate details of either the current or proposed activities undertaken on site, such as the frequency of spray painting and blasting, the type of repair work undertaken (e.g. minor/ spot repair works or full overhaul and respray) and the type of spray equipment and air emission controls used. Section 3 of the EIS for the proposal states "While the site will have the capacity to service an increased number of vessels (up to ten (10) at any one time, depending on size), the introduction of the extended hardstand area and crane will allow for a more efficient configuration of these than the current circumstances." and "By replacing the slipways with the boat crane and hardstand area will not result in an intensification of the use on the site; the purpose is simply to reduce the environmental risk associated with the use of slipways..." **The EPA recommends that the consent for the proposal limit the type and frequency of boat repair activities to those currently approved under the existing consent.**

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### *Air Quality*

Section 1.2 of the Air Quality Impact Assessment (AQIA) notes that a quantitative air assessment for the proposal has not been undertaken, because "detailed information on the proposed operational activities within the Development Site (daily activity rates, ventilation rates, pollution control systems, potential emission rates, etc.) is not yet available." The AQIA therefore includes a qualitative (risk-based) assessment of air impacts. Section 8.3 of the AQIA states "The potential risk of air quality impacts due to VOCs emissions from spray painting and associated activities would be reduced significantly, if all spraying and paint mixing operations are conducted in well-designed, ventilated and filtered booths and enclosures [and] surface preparation is carried out in enclosed, ventilated and filtered spaces." However, Section 8.3 of the AQIA states "Currently, spray painting and associated activities are understood to have been undertaken in the open and this will continue after the upgrade." **The EPA therefore recommends that the consent prohibit any significant spray painting and associated activities, including sand and soda blasting, paint mixing operations, and antifoul application, from being undertaken at the site, unless "well-designed, ventilated and filtered booths and enclosures" are installed for this purpose. Design and operation of any such enclosure should include appropriate air pollution mitigation equipment. For the purposes of this requirement, the EPA has taken 'significant spray painting' to mean spray painting in which the total area being painted on an individual vessel is greater than ten (10) square metres.** The EPA notes that minor spray painting works are currently undertaken at the site. Section 8.3 of the AQIA states "At the time of writing this report, hours per week that spray painting is performed at the Development Site is not available, however it is understood to be minimal... there has never been an odour complaint received from the residents in the vicinity of the Development Site, which indicates that the small amount of VOC emissions released from the spray painting operations are dispersed by the time they reach the residential receptors." **The EPA recommends that spray painting and associated activities undertaken at the site, in the open, are subject to conditions to help minimise any potential risks to human health or the environment. This is consistent with limits currently in place for other, similar EPA-licensed facilities.** The EPA has included these conditions in Attachment A.

### Noise Emissions

Table 15 of the Noise and Vibration Assessment (NVA) for the proposal states that noise from some operations on site will exceed recommended noise criteria for some sensitive receivers. Section 7 of the NVA lists a number of recommendations to ensure that potential noise impacts from the proposal are minimised. **The EPA recommends that the consent for the proposal require these recommendations to be implemented.**

### *Site Contamination*

Section 4.5 of the Preliminary Site Assessment (PSA) for the proposal states that potential contaminants of concern (PCoC) at the site "include heavy metals and metalloids particularly lead, PAHs, TRHs, organotins including TBT, PCBs, OC and OP pesticides and phenols." Table 5.1 of the PSA identifies potential pathways for exposure to PCoCs, including:

- Dermal contact with contaminated sediments at the toe of the slipway (likely)
  - Dermal contact with contaminated subsurface soils located beneath the slipway hardstand (likely)
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- Inhalation of soil gas, or generation of offensive odours originating from exposing contaminated subsurface soils located beneath the slipway hardstand (likely)  
Section 7 of the PSA lists a number of recommendations to ensure that potential risks to human health and the environment posed by the identified PCoC are minimised or eliminated. **The EPA recommends that the consent for the proposal require these recommendations to be implemented.**

#### *Sewerage Pump Out*

Section 2.3.3 of the AQIA states that "fuel storage or sewerage pump out facilities are not proposed at the Development Site." Sewerage pump-out activities from vessels are known to pose a potential risk of odour emissions, and the **EPA therefore recommends that sewage-pump out activities are prohibited at the site.**

Scheduled development work Under section 47 of the POEO Act 'Scheduled Development Work' is defined as work at any premises at which scheduled activities are not carried on that is designed to enable scheduled activities to be carried on at the premises. Under section 47 it is an offence to undertake scheduled development work without an environment protection licence. If the proposal is approved, the proponent must obtain an environment protection licence from the EPA before construction commences.

#### ***Foreshores and Waterways Planning and Development Advisory Committee***

The Foreshores and Waterways Planning and Development Advisory Committee (the Committee) has reviewed the referral in accordance with Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (the SREP), and considers the proposed development is to be a 'Category 2' matter. In referring the proposal to the Committee, North Sydney Council, as the consent authority, has satisfied its statutory obligation as required under the SREP. The Committee raises no specific issues in relation to the proposed development and as such does not wish to make any further comment concerning this matter.

#### ***Sydney Water***

Sydney Water has a critical wastewater main located within the boundaries of the proposed development site. It appears that the proposed development will be built over the existing wastewater main. In addition, the proposed development has the potential to impact sewage pumping station SP 0033 which is directly adjacent to the subject area.

**Due to the potential risk of damage to Sydney Water's wastewater asset, as well as the building resulting in impaired maintenance access to the asset, Sydney Water objects to this proposal in its current form.**

Alternate building design options that comply with Sydney Water requirements may be available.

#### ***Natural Resources Access Regulator***

The Natural Resources Access Regulator has reviewed documents for the above development application and considers that, for the purposes of the Water Management

Act 2000 (WM Act), general terms of approval and / or a controlled activity approval is not required, and no further assessment by this agency is necessary.

### ***Port Authority of New South Wales***

Port Authority's interest in the proposal is limited to the Harbour Master's remit, such as issues regarding navigations impacts and marine traffic management.

Section 4.3 of the Navigation Impact Assessment, prepared by Haskoning Australia Pty Ltd, dated 04/10/2019 states: "*However, the directions issued by the Harbour Master are primarily regarding vessels that require pilotage. Vessels under 30m LOA are exempt from pilotage. Due to the size of berths and the lift capacity of the proposed crane at Pattons Slipway, the Harbour Master's Directions (Port Authority of New South Wales 2016) are not applicable to proposed users of Pattons Slipway*".

Although vessels under 30m LOA are indeed deemed as exempt from pilotage under the Harbour Master's Directions (Port Authority of NSW 2016), it is erroneous to simply state that the Harbour Master's Directions are entirely not applicable to the proposed users of Pattons Slipway. The Harbour Master has authority under the Marine Safety Act 1998 to direct and control the time and manner in which any vessel may leave or enter the port. The general powers of the Harbour Master are outlined under s88 of the Marine Safety Act 1998. The Harbour Master's Directions for Sydney Harbour, issued under s88 of the Marine Safety Act 1988, are documented in the Harbour Master's Directions (Port Authority of New South Wales 2016).

All vessel operators are required to comply with the Harbour Master's directions.

Please note that written approval of the Harbour Master is required for any proposed works (whether undertaken in relation to a Port Authority of New South Wales facility or not) that will disturb the bed of a port or are otherwise captured by clause 67ZN of the Ports and Maritime Administration Regulation 2012.

Clause 67ZN of the Ports and Maritime Administration Regulation 2012 states:

*"A person must not use drags, grapplings, or other apparatus for lifting any object or material from the bed of a port described in Schedule 1, or otherwise disturb any such bed in any way, except with the written permission of the relevant harbour master and in accordance with the conditions attaching to such permission"*.

The Harbour Master approval process includes providing Port Authority with all final documentation (assessment reports and plans) for review together with a completed Harbour Master Approval Form. The Harbour Master may impose conditions on any approval to disturb the seabed.

### ***Internal Referrals***

### ***Environmental Health***

The predicted noise from operations at the slip way show exceedance of noise criteria at several residential receivers. The noise associated with these exceedances is from

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water blasting and other hard stand activities, deliveries and collections (skip bin) and general waste collection.

Of these noise sources, only the hard stand crane is new. The other activities are current at the slip way.

The acoustic report advises that the water blasting, which alone produces the highest noise level of the hard stand activities lasts for about 15 minutes at a time and will only occur 4 times per day. The new hard stand crane complies with the predicted noise level but has little to no safety margin.

The slip way has been in operation for some years with collections and deliveries, general waste collection, and slip way activities. The acoustic assessment is based on these activities in their current form – as in the current number of boats being maintained at the facility.

Given the development application is for a larger workspace, it would stand to reason that the intent is to maintain/service more boats than is currently accommodated.

This in turn would increase the number of hard stand crane movements per day, the amount of water blasting and other hard stand activities, increased deliveries and collections etc.

The EPA in their assessment recommend that the number of boats serviced at a time at the slip way does not increase with this application.

If the intent is to accommodate more boats, this should be reflected in the acoustic report.

Also as water blasting is the biggest noise contributor to the hard stand noise, an acoustic curtain can be used to reduce noise to surrounding receivers. The acoustic report would need to advise of the expected noise reduction from this.

With regard to consent conditions, the EPA has made a list of recommendations and conditions that would be required to be adopted. These are based on the facility not increasing in capacity. If the capacity is to increase, the acoustic report should be amended to include some noise mitigation measures where possible to be utilised.

## ***Heritage***

### ***Heritage Status and Significance***

*62 Willoughby Street is identified as an item of environmental heritage in Part 1, Schedule 5 of North Sydney LEP 2013 (I 0299) and is situated within Careening Cove conservation area (CA10) as identified in Part 2 of Schedule 5. Section 8.3.3 of Part C North Sydney DCP 2013 states that Careening Cove conservation area. is significant:*

*(a) as a largely consistent early 20th century residential area with an unusual and irregular pattern of street layout and irregular subdivision pattern that give the area a particular character.*

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(b) as retaining much of the urban detail and fabric seen in gardens, fencing, street formations, use of sandstone for retaining and building bases, sandstone kerbing and natural rock faces.

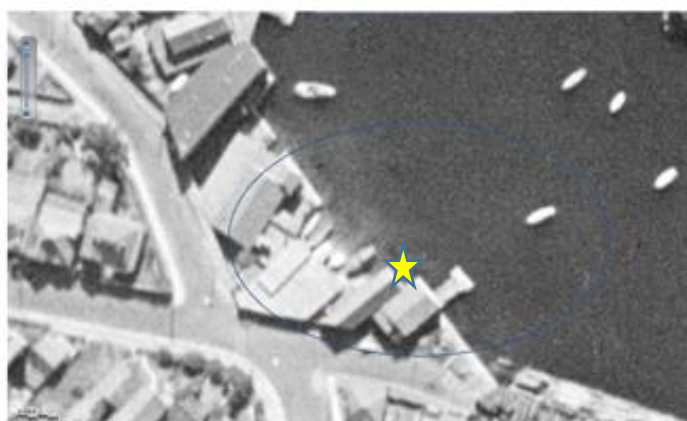
(c) for the amphitheatre like form around the reclaimed Milson Park and the head of the bay.

(d) for the remaining waterfront industrial and recycled industrial development that gives the area much of its character.

The site comprises a group of heritage items that are waterfront buildings representing the last relics of the once extensive maritime industry on this waterfront.

### SITE CONTEXT

The site context is that of a working waterfront that was once a part of an extensive maritime industry in Careening Cove during the late nineteenth and early twentieth



Source: Six Maps NSW – 1943 aerial image



Source: Six Maps NSW – aerial image

FIGURE 1

centuries. The increase of coastal land values and technological changes affecting the boatbuilding industry, contributed to the coastal shipping and wooden boat building trade to go into decline. From the 1960s and 1970s, the increase in residential development has taken hold and compatible uses such as the adaptive use of the Wharf Theatre site and the nearby park are evident in improving residential amenity in the area. The remaining maritime activities are contained in a relatively low scale amphitheatre-like setting that are generally set below the street.

### Comment

The HIS describes the remaining burnt out shell as 'an anomaly in the streetscape'. The heritage and design premise put forward for the current proposal is that the new structure will be constructed with similar dimensions to those of the previous boatshed that

is, of one to two storey height and with a gabled roof so that it will reinstate the 'staggered roof profile that existed along this section of Careening Cove prior to the fire'. It is noted that the gap left from the loss of the earlier boatshed structure creates an infill opportunity where the proposed new boatshed will enable gap views either side of a gable roof form-

*An analysis of the marina area comparing historical images (FIGURE 1), highlights changes that have modified the form of the existing marine structures over time within the marina area. The images indicate that the low scale character within the marina is retained. The historical images of the earlier boatshed relating to the subject proposal, shows a two storey form facing the harbour and the street facing scale to be single storey. At that time, the single storey Willoughby Street elevation appears to be set back and below the street and its scale to the street appears to be smaller than the street facing elevation of the 1980s which appears to be built to the street alignment suggesting that the earlier building underwent some changes. The form of the adjacent building has also changed - the Council owned building has been rebuilt as a low scale concrete structure with a viewing platform above.*

*The principal of replacing the boatshed is supported on the basis that it is an infill development that will be built over the area that denotes the existence of a boatshed since the late 1870's and within the context of an area historically occupied and operational as a marine facility. The new boatshed will utilise a mix of traditional and modern materials with new elements such as a continuous Colorbond gable roof, concrete platform at street level for vehicular access, a concrete hardstand and new crane to cater for larger boats. However, the new structure, described as a [replica] of its 'early basic form', falls outside of the parameters of conservation works relating to preservation, restoration, reconstruction and adaptation as per the Burra Charter definitions.*

*The proposed height and scale of the new boatshed is comparatively too high and does not reflect a transitory height between the flat roofed building on the one side and the height of the existing marine buildings on the other. The proposal seeks to remove any remnant structures including associated elements such as the slipways. In the absence of any compelling argument submitted for consideration and any supporting documentation from RMS, removal of the existing slipways is not supported. The slipways form part of the historic fabric significant to the site context. Demolition of these elements, although proposed to be repurposed on the site, will affect the historic character of the marina and its interpretation within the Careening Cove conservation area and should remain in situ.*

### **Conclusion and Recommendations**

*The proposed maritime building is not a 'replica' boatshed structure of the previous boatshed and sits outside the definition of the processes of heritage conservation as per the Burra Charter. The proposal is out of character for being too high and has a poor relationship with the adjacent low-scale Council building. Other new elements such as the concrete hardstand and the large crane to handle bigger boats than were previously catered for, will increase the built and operational scale of the boatshed in relation to its previous form as well as within its current setting and context. The proposal in its current form is NOT SUPPORTED.*

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### ***Engineering***

No objection with regard to road and engineering works, draft conditions supplied

### **ISSUES**

#### ***Hardstand Area Over the Water***

The proposal involves a significant additional hardstand area 10m outside of the freehold property and over the RMS water lease. This allows for an intensification of the boat repairs in the open and that would be more visible to adjacent properties. The lease should be for the use of the water (such as jetties and pontoons) rather than expanding the land component of the site. The site is surrounded by residential activities. To increase the size of the site would increase impacts on the surrounding properties.

#### ***Intensification of Activity and Amenity Impacts***

The applicant claims that there would no intensification of the use although the work area is significantly increased with a capacity for 10 boats compared to the current 3-4 boats and an increase of 9 employees. The repairs would be in the open and minimal details how amenity impacts of noise and air quality can be controlled and minimized. The EPA recommends to limit the number and type of boat repair activities to those currently allowed on the site. There is no existing consent for the slipway and therefore the activity is controlled only by the facilities available and size of the site. To control activities to no more than existing, the best way is to allow the existing slips to be rebuilt with up to date environmental safeguards or allow a smaller hardstand that would not encroach as much over the water and limit the number of boats by its size. Conditions to restrict the use are not preferred as they require continual enforcement.

#### ***Boatshed***

The boatshed is proposed as restoration of the existing boatshed. The previous boatshed was destroyed by fire nearly 30 years ago. The use of boat repairs on the site is permissible and “Existing Use” rights are not relevant to the application. There is no right to rebuild and there are no details to show that the proposed boatshed is a restoration. The boatshed was not a heritage item.

The lower level of the boatshed is proposed as store with the upper level with balcony as office. There is no internal link between the floors. The office is accessed from the street. The application is silent on the proposed use. It would appear to be a potential area to lease as the slipway already has offices on site.

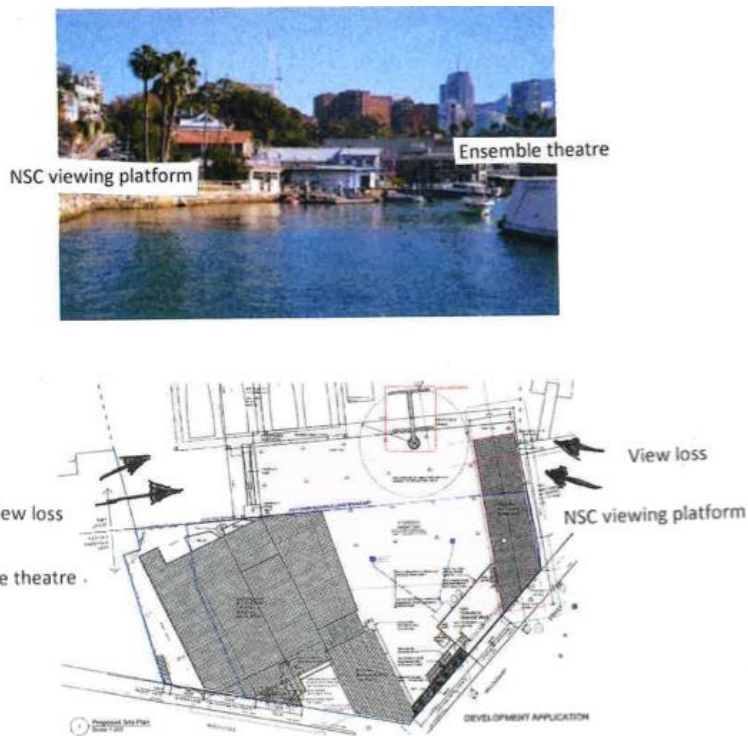
The upper floor and pitched roof are out of character with nearby buildings. The boatshed’s height and scale are a concern.

#### ***Visual Impacts***

The roof and upper level of the boatshed will impact on views from the adjacent park and viewing platform and from the adjacent Ensemble Theatre. The height will also impact on views from nearby dwellings.

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The extended hardstand area and crane will be highly visible from the public domain with water views interrupted by boat repairs above the water level.

## CONCLUSION

As Council is not the consent authority for the subject application, this report has been prepared to provide Councillors with information on the subject application and provide a summary of those issues and concerns raised by residents resulting from the notification of the plans and the external referral authorities.

Councillors may make a submission (collectively or independently) on the proposal prior to its determination by the SNPP. A full assessment report prepared by Council's Assessment staff will be prepared for the SNPP prior to its determination meeting and will be publicly available approximately one week prior to the meeting.