

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSNH-456
DA Number	LDA2023/0335
LGA	City of Ryde
Proposed Development	Construction and use of a 36 berth marina including an extension of the wharf deck and ancillary facilities. The proposed activity is classed as 'Designated Development' pursuant to Schedule 3(32) of the EP&A Regulation 2021.
Street Address	20 Waterview Street, Putney (Lot 1, DP 430647, Lot 1, DP 70489, Lot 2, DP 70488 and Lots 440–447, DP 15224)
Applicant/Owner	Applicant: Perifa Owner: PMAP Putney P/L
Date of DA lodgement	21 December 2023
Total number of unique submissions	First notification/advertising period: One (1) submission objecting to the development Second notification/advertising period: Two (2) submissions objecting to the development
Recommendation	Approval
Regionally Significant Development (Schedule 6 of the SEPP (Planning Systems) 2021)	Particular Designated Development (Marina which meets the requirement for Designated Development under the EP&A Regulation Schedule 3, Section 32).
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979 • Water Management Act 2000 • Environmental Planning and Assessment Regulation 2021 • State Environmental Planning Policy (Planning Systems) 2021 • State Environmental Planning Policy (Biodiversity and Conservation) 2021 • State Environmental Planning Policy (Resilience and Hazards) 2021 • Ryde Local Environmental Plan 2014 • Ryde Development Control Plan 2014 • Ryde Section 7.12 Development Contributions Plan 2020
List all documents submitted with this report for the Panel's consideration	Attachment 1: Proposed Architectural Plans Attachment 2: Approved Plans for Stage 2 DA (LDA2023/0245) Attachment 3: Assessment against SEPP (Biodiversity and Conservation) 2021 – Chapter 6 Water Catchments and Sydney Harbour Foreshore and Waterways DCP Attachment 4: Applicant's Legal Opinion on Permissibility under SEPP (Biodiversity and Conservation) 2021 Attachment 5: Recommended Conditions of Consent
Clause 4.6 requests	None
Summary of key submission issues	<ul style="list-style-type: none"> • Loss of a current vessel swing mooring • Reduction in the width of Parramatta River • Exhaust and oil pollution impacts on waterway • Proposal will bring more people and vessels and impact on privacy

Report prepared by	Shannon Butler – Senior Town Planner
Report date	28 August 2024
Summary of s4.15 matters Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the Assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	No
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S7.24)?	Not applicable
Conditions Have draft conditions been provided to the applicant for comment?	Yes

1. EXECUTIVE SUMMARY

This report considers a development application under Section 4.15 of the *Environmental Planning and Assessment Act (EP&A) 1979* on land at 20 Waterview Street, Putney, which is legally described as Lot 1, DP 430647, Lot 1, DP 70489, Lot 2, DP 70488 and Lots 440–447, DP 15224. This application is classed as Designated Development under Schedule 3, Section 32 of the Environmental Planning and Assessment Regulation 2021.

The consent authority is the Sydney North Planning Panel under the provisions of Schedule 6 of SEPP (Planning Systems) 2021.

The subject development application (LDA2023/0335) was lodged on 21 December 2023 and seeks consent for the construction of a 36 berth marina including an extension of the wharf deck and ancillary facilities. Refer to Section 4 of this report for a detailed description of the proposed works.

Access to the marina and the provision of 17 allocated car parking spaces are provided by way of the Stage 2 redevelopment of the site approved by the Sydney North Planning Panel on 31 July 2024 (LDA2023/0245).

The key details of the proposed development are outlined in the following table:

Element	Details
Pontoon length	The pontoon is 220m in length and extends north-west up Parramatta River, generally parallel to the Putney foreshore, with access proposed via a gangway extending off the existing hardstand.
Berths and vessels	36 fixed berths accommodating vessels ranging between 12m and 18m in length on the eastern side of the pontoon.

Berths and vessel lengths	Vessel length	Number of berths	Percentage
	12m	16	44%
	15m	4	11%
	18m	16	44%
	Total	36	100%
Leased area of Parramatta River	The existing leased area is 2,321m ² and the proposed leased area is 6,469m ² .		
Parking spaces	There are 17 car parking spaces specifically allocated to the marina under LDA2023/0245.		
Marina office hours	Monday to Sunday 9:00am to 4:00pm		
Vessel access and movements	24 hours, 7 days per week		
Berth services	Berths will have access to sewer pumpout, power and water.		

Community notification and advertisement

The application was notified and advertised as lodged in accordance with Part 2.1 of *Ryde Community Participation Plan*. During the assessment phase, the applicant submitted amended plans for the land-based development. A decision was made to re-notify all the applications for the site concurrently as a result of the amended plans and as a result of some residents reporting that they had not received a notification letter during the initial round of notification.

A total of one (1) submission was received during the initial notification period raising the following key issues:

- Concern in relation to the reduction in the width of Parramatta River.
- Exhaust and oil pollution impacts on waterway.
- Concern that the proposal will bring more people and vessels to the area and impact on privacy.

A total of two (2) submissions were received during the second notification period raising the following key issues:

- Concern in relation to the loss of the resident's existing swing mooring.
- Details are required in relation to river dredging for the proposed marina. Need for the construction waste management plan.

Section 4.15 Assessment Summary

The land-based site benefits from a Stage 1 concept consent (LDA2018/0223) granted by the NSW Land and Environment Court which approved the landuses and building envelopes across the site. Concurrent with the approval of LDA2018/0223, an Early Works DA (LDA2019/0172) was approved for a series of early works on the site including part demolition of the existing boat shed, demolition of ancillary structures, removal of trees and remediation works.

On 31 July 2024, the Sydney North Planning Panel granted consent for the Stage 2 Development Application which approved the adaptive re-use of the heritage boatshed, the construction of two residential flat buildings and 18 townhouses along the Waterview Street frontage of the site.

The subject application has been assessed against the relevant provisions of State Environmental Planning Policy (SEPP) (Biodiversity and Conservation) 2021, SEPP (Resilience and Hazards) 2021 and has been found to be compliant. Detailed consideration has been given to the permissibility of the development under the provisions of SEPP (Biodiversity and Conservation) 2021 (which addresses the water-based permissibility) and it was found that the development is most accurately defined as a 'marina' as opposed to a 'private marina'. A 'marina' is permitted with consent under the provisions of SEPP (Biodiversity and Conservation) 2021. This matter is addressed in the body of the report.

The application has been assessed against the Ryde Local Environmental Plan 2014 and is compliant with the relevant provisions. Further, the application has been assessed against the requirements of the Sydney Harbour Foreshores and Waterways Development Control Plan and is considered satisfactory.

The application was notified and advertised as lodged in accordance with Part 2.1 of *Ryde Community Participation Plan* to the owners and occupants of surrounding properties between 16 January and 16 February 2024. In response, one submission was received objecting to the proposal.

Following the close of the initial notification period a number of residents reported that they had not received a notification and these residents lived within the scope of properties that Council's records indicate were notified.

As a result, the decision was made to re-notify and re-advertise the application. The application was re-notified and re-advertised from 5 March until 7 April 2024. As a result, two (2) further submissions were received objecting to the development.

The issues raised in the submissions are addressed in the body of the report and do not warrant refusal of the application.

The application is recommended for approval subject to conditions.

2. APPLICATION DETAILS

Applicant & Owner: Applicant: PMAP Putney P/L
 Owner: Transport for NSW (Maritime) and PMAP Putney P/L

Capital Investment Value: \$7,376,600 (including GST)

Disclosures: No disclosures with respect to the Local Government and Planning Legislation Amendment (Political Donations) Act 2008 have been made by any persons.

3. THE SITE AND LOCALITY

The land-based site is legally known as Lot 1, DP 430647, Lot 1, DP 70489, Lot 2, DP 70488 and Lots 440–447, DP 15224 and is commonly known as No. 20 Waterview Street, Putney.

The marina is proposed to be located on the Parramatta River which will be subject to a future lease agreement with Transport for NSW covering an area of 6,469m², which is inclusive of some area already being leased (being 2,321m²). The area of Parramatta River where the proposed marina will be located is devoid of any vegetation including seagrass or saltmarsh.

The land-based site is located on the northern foreshore of the Parramatta River and the south-western side of Waterview Street. The site is an irregular shaped parcel and has a combined area of 15,870m².

The land-based site currently accommodates a large boatshed (approximately 13m in height). Additional structures include a large fibreglass shed to the north, storage, machine rooms and ancillary structures on the south-eastern and north-western sides. There are also detached service buildings within the south-eastern portion of the site. A fibro cottage is located within the north-eastern part of the site. A large portion of the site comprises car parking and access driveways. South-west of the boatshed (below MHWM) is a concrete hardstand area, jetties and slipway.

The land-based site slopes from Waterview Street (north-east) to Parramatta River (south-west). From the north, the site slopes approximately 2m from the street alignment to the boatshed over a distance of 150m. At the southern end, the site falls approximately 8m at the street alignment to the southern corner over a distance of 150m.

Surrounding development is low density residential, comprising detached dwellings 1 and 2 storeys in height. Bennelong Park adjoins the site to the south-east and Settler's Park adjoins the site to the north-west.

Kissing Point Wharf is located to the south-east serviced by Sydney Ferries operating between Circular Quay and Parramatta. The site is located approximately 3.5km from Meadowbank Railway Station. The site is located 15km from Sydney CBD, 3km from Ryde Town Centre and 11km from Parramatta Regional Centre.



Figure 1 – Aerial photograph of subject site and surrounds. The blue outline indicates the land-based portion of the site and the red outline depicts the indicative boundary of the proposed marina



Figure 2 – View of land-based site from existing vehicle entry point



Figure 3 – View of boat shed from river side



Figure 4 – View of boatshed from Parramatta River showing existing maritime structures to be demolished

SITE HISTORY

The site has heritage significance due to its:

- Association with James Squire, an early settler of Ryde and pioneer of Australia's brewing industry, and the establishment of the first hops brewery in Australia.
- Potential to yield archaeological information about early brewing practices.
- Former use as the Lars Halvorsen Sons boat building operation, which is a recognised forerunner in the development of Sydney's marine industry.

Accordingly, the site is listed as State heritage item No. 68 “Naval Refit Centre” under Schedule 5 of the BC SEPP but is not listed on the State Heritage Register under the *Heritage Act 1977*. The site is also listed as local heritage item No. 327 and local archaeology site No. A346 “Former Squire’s Brewery and Halvorsen’s Boat Yard” under RLEP 2014. There are also several local heritage items and archaeological sites within proximity to the site including item No. 157 “Kissing Point Park (former boat slips)” at 24 Waterview Street.

The submitted Statement of Heritage Impact notes that the remnants of James Squire’s wharf are located below mean high-water mark. A dive inspection of the remains of James Squire’s wharf was undertaken on 19 February 2015. This dive inspection identified a linear formation of sandstone rock rubble, as well as highly degraded remains of a timber log. There were also fragments of sand stock brick that were observed amongst the scattered rocks beyond the main rubble mass.

4. THE PROPOSAL IN DETAIL (as amended)

This Development Application seeks consent for the construction and use of a marina containing 36 fixed berths. Access to the marina is proposed to be provided from the land-based development approved under the Stage 2 consent (LDA2023/0245). Also

approved in the Stage 2 consent was 17 basement car parking spaces allocated to the marina.

Specifically, the application seeks consent for the following:

- Demolition of existing jetty structures.
- A single new 220m marina pontoon extending north west up the Parramatta River, generally parallel to the Putney foreshore, with access provided via a gangway extending off of the existing hardstand.
- A marina office on the proposed floating pontoon between the gangway and marina arm.
- The provision of 36 fixed berths accommodating vessels ranging between 12m and 18m in length on the eastern side of the pontoon.
- Relocation of the existing swing moorings located in the footprint of the proposed new berths.
- Extension of the existing hardstand adjacent the boatshed and demolition of existing jetty structures.
- Provision of a small craft pontoon extending from the proposed hardstand extension which will be available for public use.
- Provision of a public water taxi drop-off/pick-up location.
- Provision of a dry dock storage area for kayaks and other passive watercraft which will be available for public use.
- Associated signage and safety buoys; and
- Construction and rebuilding of seawalls around the boatshed.

Figures 5 to 9 depict details of the proposed marina.

Development Statistics

Use	Details		
Pontoon length	The pontoon is 220m in length and extends north-west up Parramatta River, generally parallel to the Putney foreshore, with access proposed via a gangway extending off the existing hardstand.		
Berths and vessels	36 fixed berths accommodating vessels ranging between 12m and 18m in length on the eastern side of the pontoon.		
Berths and vessel lengths	Vessel length	Number of berths	Percentage
	12m	16	44%
	15m	4	11%
	18m	16	44%
	Total	36	100%
Leased area of Parramatta River	The existing leased area is 2,321m ² and the proposed leased area is 6,469m ² .		
Parking spaces	There are 17 car parking spaces specifically allocated to the marina under LDA2023/0245.		
Marina office hours	Monday to Sunday 9:00am to 4:00pm		

Vessel access and movements	24 hours, 7 days per week
Berth services	Berths will have access to sewer pumpout, power and water.



Figure 5 – Demolition plan showing elements to be demolished in red shading

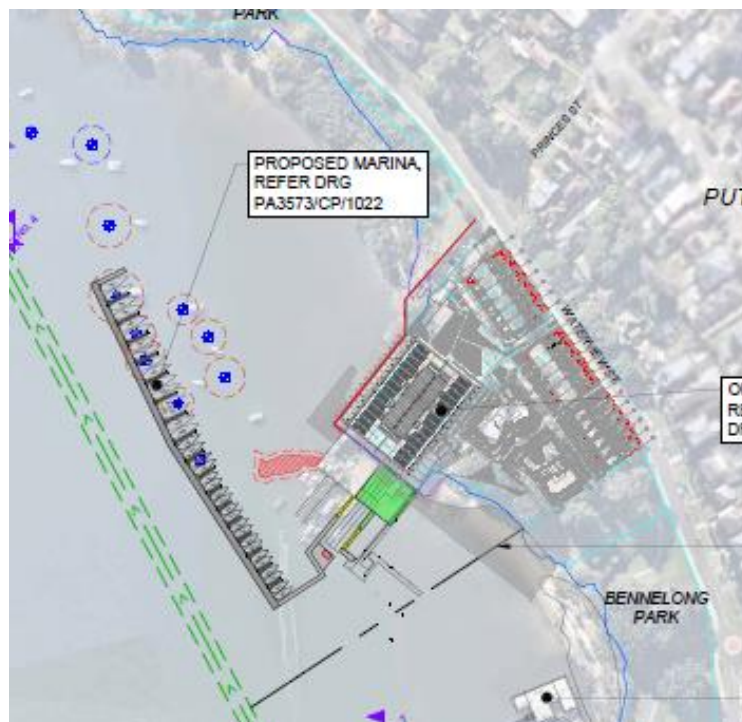


Figure 6 – Proposed site plan (note: consent is sought only for non land-based works as part of the subject application)

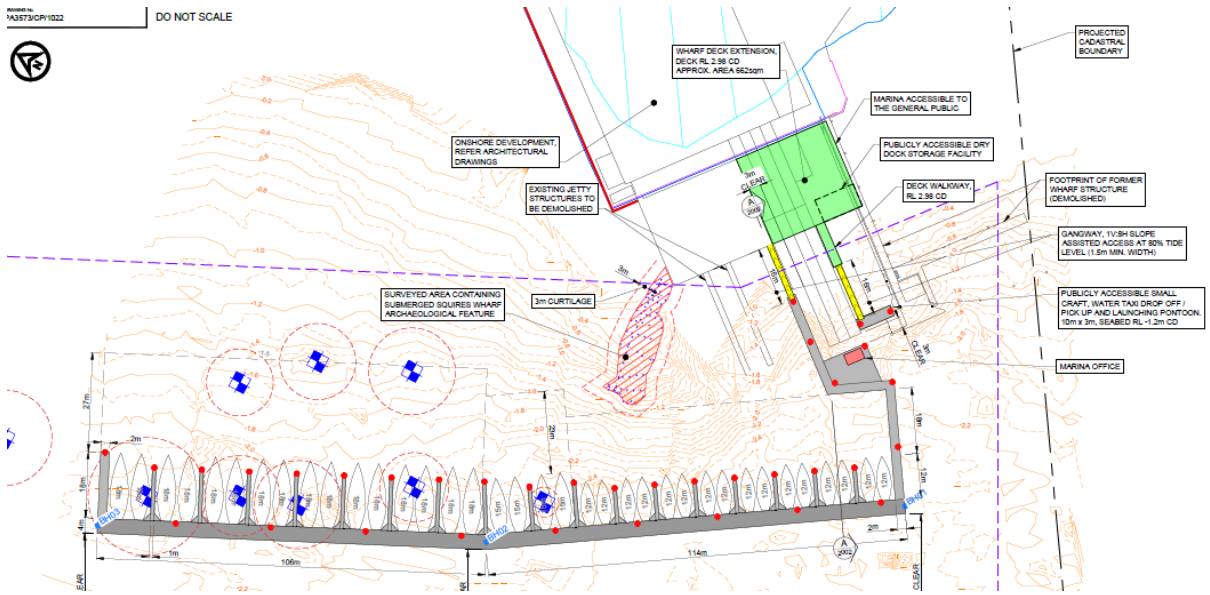


Figure 7 – Proposed Marina detail plan

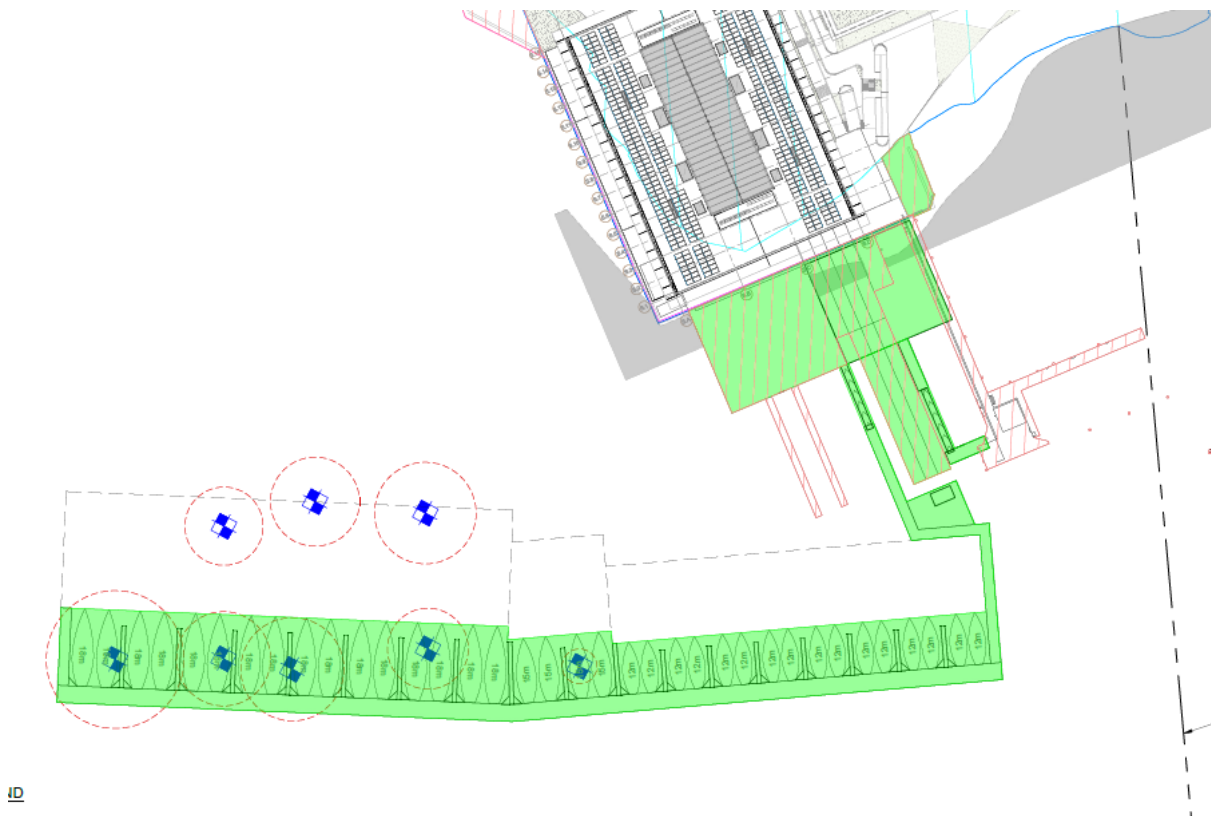


Figure 8 – Marina leased area plan (proposed leased area depicted in green)

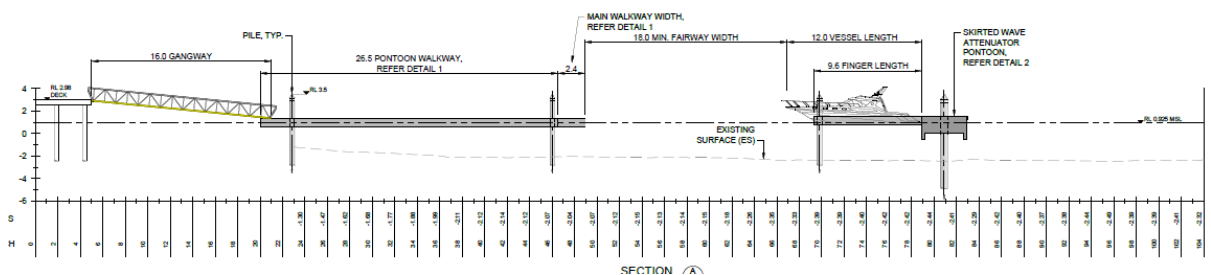


Figure 9 – Proposed marina section

5. HISTORY

5.1 Site History

The site and precinct have been subject to various approvals in recent years, which can be summarised in the following table:

Date	Application description
September 2013	A Planning Proposal was lodged with Council seeking additional permitted uses for the land-based portion of the site (including residential uses, business uses and marinas) under Schedule 1 of the <i>Ryde Local Environment Plan 2014</i> (RLEP 2014). It also sought to amend the maximum height and Floor Space Ratio (FSR) standards that applied to the site.
22 April 2016	<p>Amendment No 7 to the RLEP 2014 was published which provided a maximum FSR of 0.83:1 and a variable height control ranging from 9.5m to 14m. The amendment also included the following new provision under Schedule 1:</p> <p><i>1) This clause applies to land at 20 Waterview Street, Putney, being Lot 1, DP 430647, Lot 1, DP 70489, Lot 2, DP 70488 and Lots 440–447, DP 15224.</i></p> <p><i>2) Development for the purposes of attached dwellings, business premises, food and drink premises, kiosks, marinas, multi dwelling housing, residential flat buildings and shops is permitted with development consent if:</i></p> <p><i>a) no more than 70 dwellings will be erected on the land to which this clause applies, and</i></p> <p><i>b) no more than 19 dwellings will be erected on the land identified as “Area 1” on the Key sites Map, and</i></p> <p><i>c) site-specific development control plan is prepared and provides for the retention of trees on Waterview Street, the impact on, and improvements to, the public domain, including the foreshore, and appropriate building setbacks from the foreshore.</i></p> <p>In accordance with provision 2(c) of Schedule 1, a site-specific Development Control Plan (DCP) is required to unlock the additional uses at the site. The site is also identified as a Strategic Foreshore site in the <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> (BC SEPP) and consequently requires a masterplan to be prepared for the site prior to the granting of development consent for any significant works.</p> <p>Section 4.23(2) of the <i>Environmental Planning and Assessment Act 1979</i> (EP&A Act) states that a requirement for a DCP can be satisfied with the making and approval of a Concept DA. In other words, the requirements stated above can be satisfied through the making and approval of a Concept DA which contains the matters required to be included in any such DCP or masterplan.</p>
23 March 2021	<p>A Stage 1 Concept DA (LDA2018/0223) was approved by the Land and Environment Court (LEC) for the following development in concept form only:</p> <ul style="list-style-type: none"> The adaptive reuse of the existing boat shed for a mixed-use development including:

	<ul style="list-style-type: none"> - Marine related businesses and services. - Food and drink premises. - 19 residential apartments. <ul style="list-style-type: none"> • Establishment of building envelopes to accommodate up to 70 dwellings at the site (inclusive of the proposed within the boat shed), including: <ul style="list-style-type: none"> - 18 x 3-storey town houses fronting Waterview Street. - 2 x 3-storey residential apartment building containing 33 units with basement carparking. • At grade car parking comprising a minimum of 116 car spaces to be allocated to residential uses and 63 car spaces to be allocated for non-residential uses • Indicative landscape design. • Demolition of ancillary structures. <p>Concurrent with the approval of LDA2018/0223, an Early Works DA (LDA2019/0172) was approved for a series of early works on the site including part demolition of the existing boat shed, demolition of ancillary structures, removal of trees and remediation works.</p> <p>A demolition plan for LDA2019/0172 is shown at Figure 8. At the time of writing this report, these works have not commenced.</p>
3 May 2024	Development Consent No. LDA2023/0327 was granted by Council for the construction of a temporary display suite and associated car parking area along the Waterview Street frontage of the site. The consent permits the operation of the suite for an 18 month period following the issue of an Occupation Certificate.
18 July 2024	Section 4.56 modification application No. MOD2021/0201 was approved by Council which amended the Stage 1 consent to be consistent with what is proposed in the subject application in relation to the building heights and footprints of the residential flat buildings and in relation to the arrangement of the land uses within the boatshed building.
2 August 2024	Development Consent No. LDA2023/0245 was granted by the Sydney North Planning Panel for the construction of 18 townhouses on the Waterview Street frontage, two residential flat buildings and adaptive re-use of the boatshed building to contain 19 residential and retail/commercial tenancies.

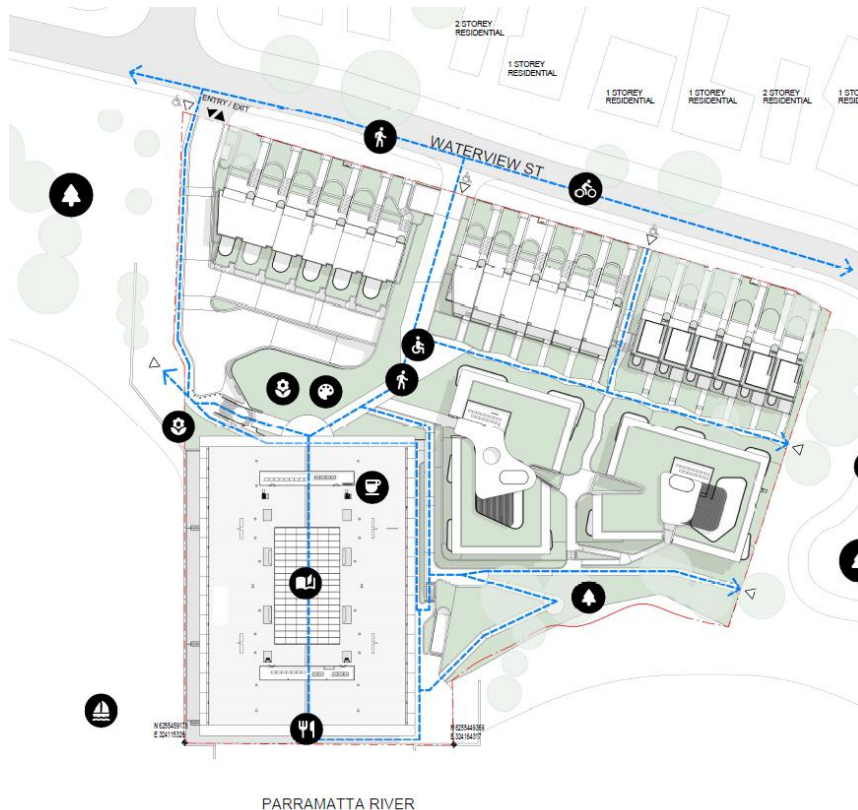


Figure 9 – Approved site plan for land-based development (LDA2023/0245)

4.2 Application History

6 July 2023	The Secretary's Environmental Assessment Requirements (SEAR's) were issued for the proposed development (SEAR 1151).
21 December 2023	The subject Development Application was formally lodged with Council.
16 January until 16 February 2024	The subject application was notified and advertised in accordance with the Designated Development requirements and in accordance with the Ryde Community Participation Plan. One submission was received in response.
23 February 2024	A request for additional information letter was sent to the applicant requesting additional information in response to concerns raised by Transport for NSW and requesting a plan of management for the marina.
5 March until 7 April 2024	In response to concerns being raised by residents that they had not received the initial notification letters, the application was re-notified and re-advertised in accordance with the Designated Development requirements and in accordance with the Ryde Community Participation Plan. Two (2) additional submissions were received in response.
20 March 2024	Additional information including a plan of management for the marina were submitted in response to Council's letter.
3 April 2024	A preliminary briefing with the Sydney North Planning Panel was undertaken. The Panel requested that Council ensured that all groups in the vicinity of the site that use the waterway were notified of the application.
3 April 2024	Further notification letters were sent to the Concord and Ryde Sailing Club and the Ryde Dragon Boat Club and no further submissions were received.

3 May 2024	Comments were received from the NSW Department of Primary Industries (DPI) – Fisheries requesting additional information. The applicant was advised of the request from Fisheries.
15 May 2024	Additional information was submitted in response to the DPI Fisheries request and was referred to Fisheries for their assessment.
6 June 2024	<p>An email was received from the applicant requesting two minor amendments to the application as follows:</p> <ul style="list-style-type: none"> - Change the description of the proposal to remove reference to a commercial marina, and instead refer to it as a marina; and - Include a kayak storage facility on the wharf deck extension. <p>A response email was sent to the applicant advising of no objections to the amendments to the proposal.</p>
2 August 2024	The applicant submitted a legal opinion in relation to permissibility along with an amended operational plan of management and amended plans demonstrating public accessibility of the marina.
16 August 2024	The applicant submitted a further, more detailed legal opinion in relation to permissibility.

6. STATUTORY PROVISIONS

6.1 Environmental Planning & Assessment Act 1979

Designated Development

Schedule 3 of the Environmental Planning and Assessment Regulation 2021 classifies development for the purposes of a marina as designated development if it involves:

- (a) *the marina or facility has an intended capacity of 30 or more vessels of any length, and*
- (b) *the marina or facility—*
 - (i) *is located in non-tidal waters or within 100 metres of a wetland or aquatic reserve, or*
 - (ii) *requires the construction of a groyne or annual maintenance dredging, or*
 - (iii) *has a ratio of car park spaces to vessels of less than 0.5:1.*

The proposed marina will accommodate more than 30 vessels, will comprise a car parking to berth ratio of less than 0.5:1 and part of it lies within 100m of mapped protected wetlands and thus the proposal is classified as designated development.

Integrated Development

Section 4.46 of the Environmental Planning and Assessment Act outlines 'Integrated Development,' being development that requires approval under other legislation in addition to the Act. The proposed development is classified as Integrated Development given that it triggers a requirement for an additional approval under the Fisheries Management Act 1994. Specifically, as the proposal will have potential indirect impacts on aquatic vegetation a Part 7 Permit to Harm Marine Vegetation is

required. The proposal is also classified as Integrated Development in accordance with Section 91 of the Water Management Act 2000.

Section 4.24 of Act – Concept Development Applications

On 23 March 2021, a Stage 1 concept consent was granted by the NSW Land and Environment Court for the land-based development in lieu of the preparation of a site specific DCP. Section 4.24 of the Environmental Planning and Assessment Act 1979 states the following in relation to the status of concept development applications and consents:

- (1) The provisions of or made under this or any other Act relating to development applications and development consents apply, except as otherwise provided by or under this or any other Act, to a concept development application and a development consent granted on the determination of any such application.*
- (2) While any consent granted on the determination of a concept development application for a site remains in force, the determination of any further development application in respect of the site cannot be inconsistent with the consent for the concept proposals for the development of the site.*

The Stage 1 consent primarily dealt with the land-based development and did not contain any conditions of consent specifically relating to a future marina. The proposed marina, therefore, is not inconsistent with the concept consent. Development Consent No. LDA2023/0245 has since been granted by the Sydney North Planning Panel for the development of the land-based development which will provide for access and car parking to the proposed marina.

Water Management Act 2000

The application was referred to the Department of Planning and Environment – Water (DPE – Water) as integrated development under Section 91 of the Water Management Act 2000. DPE – Water provided a response dated 18 April 2024 advising that for the purposes of the Water Management Act 2000 the proposed works are exempt from the need to obtain a controlled activity approval. The exemption is detailed in the Water Management (General) Regulation 2018, Schedule 4, 36 – Activities within exempt waterfront land maps for estuaries and lakes eg. Port Jackson (Sydney Harbour) area map.

Fisheries Management Act 1991

The application was referred to the Department of Primary Industries – Fisheries (DPI – Fisheries) as integrated development under Parts 7 and 7A of the Fisheries Management Act 1991. DPI – Fisheries provided General Terms of Approval for the development on 15 May 2024.

6.2 Section 4.15 Matters for Considerations - General

(a) The provisions of

(i) Any environmental planning instrument:

The following legislation, policies and controls are of relevance to the development:

- State Environmental Planning Policy (Planning Systems) 2021;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021;
- State Environmental Planning Policy (Transport and Infrastructure) 2021;
- State Environmental Planning Policy (Resilience and Hazards) 2021;
- Ryde Local Environmental Plan 2014;

State Environmental Planning Policy (Planning Systems) 2021 – Chapter 2 State and Regional Development

The Sydney North Planning Panel is the consent authority for the application in accordance with Part 2.4, Clause 2.19 and Clause 7(b) of Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021 which stipulates that development for the purposes of marinas or related facilities that meet the requirements for Designated Development under the Environmental Planning and Assessment Regulation 2021, Schedule 3, Section 32 is 'regionally significant'. Accordingly, the application is referred to the Sydney North Planning Panel for determination.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

The proposed development is satisfactory when assessed against the relevant provisions of State Environmental Planning Policy (Biodiversity and Conservation) 2021 (BC SEPP).

The site is located within the Sydney Harbour Catchment which is designated as a regulated catchment.

Part 6.2 of the BC SEPP applies to development in regulated catchments including the Sydney Harbour Catchment.

The proposed development has been considered against the relevant provisions of Part 6.2 of the BC SEPP (**Attachment 3**) and found to be satisfactory.

Part 6.3 of the BC SEPP applies to the waterways of Sydney Harbour including the foreshores and catchment. The BC SEPP also zones the waterways below mean high water mark. The marina is proposed on part of the watercourse which is zoned 'Zone 1 – Maritime Waters', see Figure 10 below:



Figure 10 – Extract of Foreshores and Waterways Area zoning map

For the purposes of the BC SEPP, the proposal is most accurately defined as a marina as follows (definition as per standard instrument – the BC SEPP does not define ‘marina’ and refers to the standard instrument per clause 6.2(2)):

Marina means a permanent boat storage facility (whether located wholly on land, wholly on a waterway or partly on land and partly on a waterway), and includes any of the following associated facilities—

- (a) any facility for the construction, repair, maintenance, storage, sale or hire of boats,
- (b) any facility for providing fuelling, sewage pump-out or other services for boats,
- (c) any facility for launching or landing boats, such as slipways or hoists,
- (d) any car parking or commercial, tourist or recreational or club facility that is ancillary to the boat storage facility,
- (e) any berthing or mooring facilities.

Development for the purpose of marinas is permissible with consent within Zone 1 – Maritime Waters under Section 6.27 of the BC SEPP.

It is noted that Part 6.36 of the BC SEPP states that development for the purpose of private marinas is permissible with consent on land in Zone 6 and is otherwise prohibited on land in the zoned waterway. Detailed consideration has been given to whether the proposal is most accurately defined as a ‘marina’ or ‘private marina’ as per the SEPP.

The SEPP defines a private marina as follows:

Private marina means an apparatus or structure located on or in a waterway that—

- (a) is used for restraining 2 or more vessels, and
- (b) is privately owned and not generally available for public use.

The definition of private marina is quite restrictive in that it only anticipates a structure used for restraining vessels which is privately owned and generally not available for public use. The proposed marina provides more facilities than anticipated by the private marina definition and part of it is available for public use.

The following table considers the components of the marina definition and how they form part of the subject proposal:

Component of Marina Definition	How the proposal provides this feature
<i>(a) any facility for the construction, repair, maintenance, storage, sale or hire of boats,</i>	The proposal will provide facilities for sewer pump-out for vessels and storage facilities for small passive watercraft which is available for use by the general public. There are no repair facilities for vessels but there are minor maintenance activities anticipated which is evidenced by the proposed provision of water and power to the berths.
<i>(b) any facility for providing fuelling, sewage pump-out or other services for boats,</i>	There are no fuelling facilities proposed, however, it is proposed that sewer pump-out will be provided by way of a mobile pump unit which can be wheeled to vessels. The proposal includes the provision of power and water facilities to the berths. In addition, the proposal includes a marina office which is a service centered around the management of the marina.
<i>(c) any facility for launching or landing boats, such as slipways or hoists,</i>	The proposal includes a facility for the launching and landing of small passive recreational craft which is accessible to the public. These craft which will comprise kayaks, canoes, etc fall within the definition of a 'boat' as they are controlled by paddles or oars.
<i>(d) any car parking or commercial, tourist or recreational or club facility that is ancillary to the boat storage facility,</i>	The car parking was approved as part of the Stage 2 land-based development application and does not form part of the subject proposal.
<i>(e) any berthing or mooring facilities.</i>	The proposal provides berthing and mooring facilities for 36 vessels.

Whilst it is acknowledged that the 36 berths will be subject to long-term leases and may generally be unavailable for the public, the proposal provides for a number of features that are considered to be beyond the scope of the 'private marina' definition and are catered for more readily by the more expansive 'marina' definition.

Further to the above considerations regarding permissibility, the applicant has submitted a legal opinion, **see Attachment 4**. The assessment officer generally concurs with the applicant's legal opinion, with the exception of their argument that the proposed marina is not wholly located on the waterway and on that basis, is not capable of constituting a *private marina* as per the SEPP definition. This argument is disputed, as the marina and its ancillary features are in fact wholly proposed in the waterway (with the exception of the car parking approved in the land-based Development Application). The remainder of the arguments presented in the legal advice are agreed with by the assessment officer.

Zone 1 – Maritime Waters is based on the following zone objectives:

- *To give preference to and protect waters required for the effective and efficient movement of commercial shipping, public water transport and maritime industry operations.*
- *To allow development that is compatible with, and will not adversely affect the effective and efficient movement of, commercial shipping, public water transport and maritime industry operations.*
- *To promote the equitable use of the Foreshores and Waterways Area, including use by passive recreation craft.*

The applicant has demonstrated that the proposed marina will not impact upon effective and efficient movement of public water transport and maritime industry operations. There are no commercial shipping operations undertaken on the subject section of Parramatta River.

The proposed marina will promote the equitable use of the Foreshores and Waterways area by providing for storage facilities for passive recreation craft including a range of boats and kayaks (given the proposed small craft storage area). Accordingly, the proposal satisfies the objectives of the zone.

Attachment 3 addresses the remainder of the controls of Parts 6.3 and 6.4 of the SEPP.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 2

State Environmental Planning Policy (SEPP) (Resilience and Hazards) 2021 Chapter 2 details provisions in relation to development in the coastal zone, in a manner consistent with the objects of the Coastal Management Act 2016 (CM Act). As detailed in the submitted Aquatic Ecology Report, coastal wetlands occur to the immediate northwest of the site, and the site is partially located within a proximity area for coastal wetlands. The Aquatic Ecology Report notes that the proposal will not result in direct impacts on wetlands as they are not within the proposal footprint. Part of the proposed marina structure is identified as being within the proximity area for coastal wetlands. In accordance with Clause 2.8 of the SEPP, and as determined by the submitted Aquatic Ecology Report and Hydrology and Water Quality Assessment, it is considered that the biophysical, hydrological and ecological integrity of the adjacent coastal wetlands will not be significantly impacted nor will the quantity and quality of water flows to them.

The site is also within the coastal use area and coastal environment area as defined by the SEPP. Notwithstanding this, given that the site is located within the Foreshores and Waterways Area as defined in the State Environmental Planning Policy (Biodiversity and Conservation) 2021 (BC SEPP), the provisions relating to the Coastal Use Area and Coastal Environment Area do not apply.

Chapter 4

The SEPP also aims to ‘provide a State-wide planning approach to the remediation of contamination of land.’ Clause 4.6 of this SEPP requires Council to consider whether the site is contaminated, and if so whether it is suitable for the proposed development purpose.

A hydrology and water quality assessment was submitted with the application, prepared by Royal Haskoning DHV. The report details potential impacts regarding the release of contaminants in the seabed at the site and concludes that the site is suitable for the proposed development without remediation. Accordingly, the proposal is considered satisfactory with regard to Clause 4.6 of the SEPP.

Ryde Local Environmental Plan (LEP) 2014

The water-based component of the site is zoned Zone 1 – Maritime Waters under the provisions of SEPP (Biodiversity and Conservation) 2021 and development for the purpose of a ‘marina’ is permissible with consent in the zone as previously discussed.

The land-based site is zoned W4 Working Waterfront under the provisions of the Ryde Local Environmental Plan (RLEP) 2014. For the purposes of RLEP 2014, the proposal is most accurately defined as a marina as follows:

Marina means a permanent boat storage facility (whether located wholly on land, wholly on a waterway or partly on land and partly on a waterway), and includes any of the following associated facilities—

- (a) any facility for the construction, repair, maintenance, storage, sale or hire of boats,*
- (b) any facility for providing fuelling, sewage pump-out or other services for boats,*
- (c) any facility for launching or landing boats, such as slipways or hoists,*
- (d) any car parking or commercial, tourist or recreational or club facility that is ancillary to the boat storage facility,*
- (e) any berthing or mooring facilities.*

The proposed marina is a permanent boat storage facility located wholly on a waterway (Parramatta River) which provides berthing and mooring facilities and public facilities for the launching of passive marine craft (including kayaks and stand-up paddleboards). The proposal includes the provision of sewer pump-out facilities and power and water to the berths to allow for minor maintenance but there are no repair facilities proposed. The proposal includes a small craft storage facility and a marina office which are considered to be ancillary elements of the marina.

The proposed use of the site for the purpose of a marina is permitted with consent in accordance with Schedule 1 (Additional Permitted Uses). Part 17 of Schedule 1 states the following:

- (1) This clause applies to land at 20 Waterview Street, Putney, being Lot 1, DP 430647, Lot 1, DP 70489, Lot 2, DP 70488 and Lots 440–447, DP 15224.*
- (2) Development for the purposes of attached dwellings, business premises, food and drink premises, kiosks, marinas, multi dwelling housing, residential flat buildings and shops is permitted with development consent if—*

(a) no more than 70 dwellings will be erected on the land to which this clause applies, and

(b) no more than 19 dwellings will be erected on the land identified as “Area 1” on the Key Sites Map, and

(c) a site-specific development control plan is prepared and provides for the retention of trees on Waterview Street, the impact on, and improvements to, the public domain, including the foreshore, and appropriate building setbacks from the foreshore.

Accordingly, access to the proposed marina development across the land-based portion of the site is permissible with consent.

The following table addresses compliance with the objectives of the W4 Working Waterfront zone.

Objectives of the W4 Working Waterfront zone	Comment
To retain and encourage industrial and maritime activities on foreshores.	The proposed marina is a maritime related activity which is being introduced to the site.
To identify sites for maritime purposes and for activities requiring direct foreshore access.	The proposed marina is for a maritime purpose and encourages direct foreshore access.
To ensure that development does not have an adverse impact on the environment and visual qualities of the foreshore.	The proposed development will not have any significant adverse impacts on the environment or visual qualities of the foreshore as outlined in this report.
To encourage employment opportunities.	The marina will involve the employment of one to two staff members.
To minimise any adverse effect of development on land uses in other zones.	The proposed marina will not compromise the development of land in other zones adjacent to the site.

The following table addresses the relevant Clauses of the Ryde Local Environmental Plan 2014:

Clause	Proposal	Compliance
4.3(2) Height of Buildings		
No control relating to the water-based portion of the site.	N/A	N/A
4.4(2) Floor Space Ratio		
No control relating to the water-based portion of the site.	N/A	N/A
5.7 Development Below Mean High Water Mark		
(1) The objective of this clause is to ensure appropriate environmental assessment for development carried out on land covered by tidal waters.	The Clause states that development consent is required to carry out development on any land below the mean high water mark of any water body subject to tidal influence. The proposed works are wholly below the mean high water mark and development consent is being sought through this application.	Yes

Clause	Proposal	Compliance
5.10 Heritage Conservation		
<p>The objectives of this clause are as follows—</p> <p>(a) to conserve the environmental heritage of Ryde,</p> <p>(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</p> <p>(c) to conserve archaeological sites,</p> <p>(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.</p>	<p>Under RLEP 2014, the land-based site is identified as local heritage item No. 327 and local archaeology site No. A346 “Former Squire’s Brewery and Halversen’s Boat Yard”.</p> <p>The site is listed as State heritage item No. 68 “Naval Refit Centre” under Schedule 5 of the BC SEPP but is not listed on the State Heritage Register under the <i>Heritage Act 1977</i>, hence the application does not require integrated referral to the NSW Department of Environment and Heritage.</p> <p>The proposal does not result in any significant impacts on the land-based heritage of the site and this was considered in detail as part of the assessment of the Stage 2 Development Application.</p> <p>Council’s Heritage Officer verbally advised that they had no concerns in relation to the proposal subject to a condition of consent being recommended in relation to an exclusion zone being provided during construction around the submerged remains of the Squires Wharf which is a significant archaeological feature of the site. This is addressed in a letter provided by Curio Projects, dated December 2023.</p> <p>The impact of the proposal on the Squires Wharf remains is addressed in detail the letter provided by Curio Projects. The letter outlines a number of measures recommended to be followed both during and post-construction to minimise the impact on the heritage features of the site. Conditions of consent are recommended requiring compliance with the measures. See Condition Nos. 47, 48, 62, 63 and 64.</p>	Yes
6.1 Acid Sulfate Soils		
<p>(1) the objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.</p>	<p>The land-based site is mapped as being affected by Class 5 acid sulfate soils and the land is located within 500 metres of class 2 acid sulfate soils. As part of the Stage 2 Development Application for the land-based development, the applicant submitted an acid sulfate soils</p>	Yes

Clause	Proposal	Compliance
	<p>management plan, prepared by eiaustralia, dated 4 November 2020. This management plan was reviewed by Council's Environmental Health Officer and was considered satisfactory subject to conditions of consent regarding its implementation.</p> <p>With regard to the water-based portion of the site, a Hydrology and Water Quality Assessment was submitted which advised that there is likely to be a high risk of encountering acid sulfate in soil sediments adjacent to the marina, however, the proposed construction activities do not require removal of sediment or exposure of sediments to air, leading to oxidation. As a result, an acid sulfate soils management plan is not required.</p> <p>It was further noted that the embayments on the northern and southern sides of the site also have a high likelihood of acid sulfate soils being encountered at or near the ground surface. However, surficial sediments in these embayments will not be disturbed by the proposed construction works. The report further notes that acid sulfate soils were not identified over the onshore area of the site. The potential reconstruction of the seawalls along the northern and southern sides of the Boat Shed are also not considered to pose any acid sulfate soils risk.</p>	
6.5 Limited Development on Foreshore Area		
(1) The objective of this clause is to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area.	The subject site is not mapped as being subject to a Foreshore Building Line.	N/A

(ii) Any proposed instrument (Draft SEPP, Planning Proposal)

There are no relevant proposed or draft instruments for consideration as part of the assessment.

(iii) Any development control plan

Sydney Harbour Foreshore and Waterways Development Control Plan

The Sydney Harbour Foreshore and Waterways Area Development Control Plan (Sydney Harbour DCP) compliments the BC SEPP and provides more detailed design parameters for development within the foreshore area of Sydney Harbour.

The Sydney Harbour DCP includes provisions and maps that describe the landscape character and ecological characteristics of sites around the harbour. **Figure 11** is an extract of the Sydney Harbour DCP's Ecological Communities and Landscape Characters Map. The Sydney Harbour DCP states that the below map was produced from aerial photographs and is somewhat generalised. According to the map, there are no aquatic ecological communities within the site, with the only ecological community that occurs on the land-based site being 'open forest', which is identified as being of 'high' value. This area will be protected by a 14m setback to Waterview Street. A detailed assessment against the DCP is included as **Attachment 3** to this report.



Figure 11 – Sydney Harbour Foreshores and Waterways Area DCP Map

Ryde Development Control Plan (DCP) 2014

The proposal is subject to the provisions of the following parts of RDCP 2014:

- Part 7.2: Waste Minimisation and Management;
- Part 8.2: Stormwater & Floodplain Management;
- Part 9.2: Access for People with Disabilities
- Part 9.3: Parking Controls

Given that the applicant opted to lodge a Concept Development Application instead of preparing a site specific Development Control Plan, there is no applicable site specific DCP applying to the land-based site.

Part 9.3 – Parking Controls

Whilst Council does not have adopted parking rates in the DCP for marinas, the nomination of parking rates was originally presented in the concept application (LDA2018/0223) approval as an industry deduced rate of between 0.3 – 0.6 spaces per

berth. In this regard, the elected rate of 0.5 spaces per berth is within this range and therefore compliant with the rates in the concept DA.

The development benefits from 17 parking spaces allocated for use by the marina in the Stage 2 consent. There is also a pool of some 47 parking spaces allocated for other retail and commercial spaces of which patrons are likely to partly utilise and this was noted in the concept approval.

The proposed extent of car parking is considered to be suitable to cater for the demand generated by the marina.

Other DCP Chapters

An assessment has been undertaken under Parts 7.2, 8.2 and 9.2 and there were no non-compliances identified or issues warranting further discussion.

City of Ryde Section 7.11 Development Contributions Plan 2020

Council's Section 7.12 Development Contributions Plan 2020 effective 1 July 2020 is a fixed-rate levy contributions plan that applies to non-residential development on land outside Macquarie Park with a development cost exceeding \$350,000 that is not covered by the nexus-based contribution plan. Given the proposed cost of works of \$7,376,600, a development contribution of \$73,766.00 is payable prior to the issue of a Construction Certificate. A suitable condition of consent is recommended in this regard. **See Condition No. 23.**

(iia) Any planning agreement

No Planning Agreement is required or has been offered to be entered into with Council.

(iv) The regulations

Environmental Planning and Assessment Regulation 2021

The Regulation underpins the day-to-day operation of the NSW planning system. The Regulation guides the processes, plans, public consultation, impact assessment and decisions made by local councils, the Department of Planning and others. Standard conditions are recommended relating to compliance with BCA and AS.

The proposal is consistent with the Regulation. Clause 69 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). These matters have been addressed via standard conditions of consent regarding compliance with the BCA and Australian Standards.

(c) The likely impacts of the development

Likely impacts have been discussed throughout this report, with a summary of these impacts to the built, natural, and social environment is discussed below.

Vessel Navigation

The application was accompanied by a Marine Safety and Navigation Report, prepared by Royal Haskoning DHV. The following extract from the report explains how the marina has been designed in response to boat navigation of the waterway:

The development of the proposed marina layout has taken into account a number of constraints associated with available water depth, exposure to prevalent metocean conditions at the site, and existing waterway navigation and usage. Consultation has also been undertaken with TfNSW, the TfNSW Rowing Steering Committee, and Concord and Ryde Sailing Club (CRSC).

The rowing training route alignment adjacent to the proposed marina is positioned outside of the perimeter of the navigable area marked between the starboard marker near the Kissing Point Ferry Wharf and the starboard marker defining the limits of the eastern (upstream) navigation channel beneath the Ryde Bridge. Analysis of ferry tracks from a review of aerial photographs indicated that ferries travelling in an upstream direction along the eastern side of the waterway passed closest to the proposed marina. However, the traced ferry track lines were all generally inside (to the west of) the rowing training route.

In discussions held with TfNSW boating operations staff, it was advised that their main navigation concern was the management of conflicts between non-motorised and motorised craft in the area. It was considered that excessive encroachment of the marina into the area available for navigation would create a 'bottleneck' for occupation of the waterway by rowers, ferries, and other vessels and would further intensify existing interactions between these craft. This concern has been acknowledged in the proposed marina layout, which has been positioned as far landward as possible to accommodate the size of vessels proposed to be berthed. At its closest point, the face of the outer marina arm is approximately 34m from the centreline of the rowing training route. The western and eastern ends of the outer marina arm are approximately 39m and 44m respectively, from the centreline of the rowing training route.

The proposed marina layout is considered to provide a suitable navigation clearance from the rowing training route and does not encroach significantly into the waterway when compared to the alignment (or a prolongation of the alignment extended parallel to the navigation channel) of the outer limit of the swing circles of existing moorings. Therefore, the marina position generally maintains the location of existing waterway constraints for navigation on the eastern side of the waterway and provides a width of 34-44m landward from the alignment of the rowing training course for rowing craft to utilise if desired.

*In addition, it is considered that the shore parallel alignment of the entry/exit point of the marina would minimise potentially unsafe interactions resulting from marina boats cutting across the path of oncoming vessels (e.g. ferries or rowing craft). The positioning of the entry/exit point parallel to shore will enable marina boats to enter or depart the main navigation channel at an oblique angle with due consideration of other vessels. Navigation safety at the marina entry/exit point is further enhanced by the proposed provision of safety buoys (refer to the Marina Safety Features plan in **Appendix A**) along the outer marina pontoon, fitted with flashing lights that activate automatically when vessels are exiting the marina. These safety buoys would extend around 50m upstream of the marina exit to improve visibility of exiting vessels and facilitate safe merging into the main navigation channel. Additional marina safety*

features include provision of safety ladders at intervals long the outside face of the outer marina pontoon to provide ready and rapid egress from the water.

Further to the above, the application was referred to Transport for NSW who granted concurrence subject to recommended conditions of consent (**see Condition Nos. 6 and 24**). Further, the application was notified to the various rowing clubs that use the subject section of the waterway and no objections were received from these clubs.

Noise

The proposed works will take place along what is now a privatised foreshore with the nearest sensitive receivers being the local residents along Waterview Street, approximately 190m to the north-east. There is expected to be noise generated by the proposed construction equipment during the construction phase, particularly the driving in of the piles. The impact is considered low due to the separation distance of the nearest sensitive receiver.

Additionally, the noise would be typical of an urban construction site and limited to the hours of 7:00am–7:00pm Monday to Friday and 8:00am–4:00pm on Saturdays.

In order to manage noise generated during the operation of the marina, an Operational Management Plan has been submitted which incorporates a Noise Management Plan outlining the following measures for the marina operation:

The operation of the marina requires the observance of proximity of residential dwellings and the necessity to incorporate practical control mechanisms to reduce noise impacts on local residents.

Persons utilising the facility fall under the responsibilities as set out in the agreement between the marina manager and vessel owners. In this regard, marina berthing terms and conditions are in place that require marina berth users to secure all lines, rigging and halyards so as to prevent noise from rigging slap, prevent the excessive running of engines whilst at marina berths, the prohibition of public address systems as well as loud hailers, sound horns and the like.

The marina berthing terms and conditions prohibit the installation and operation of intruder alarm devices aboard vessels with an audible signal having a cut off period greater than 10 minutes.

All marina users are required to undertake an induction program operated by the marina to acquaint them with the Noise Management Plan requirements and other environmental management issues that have to be addressed by the users of the marinas.

With respect to the noise, all vessel owners are required to enter into an Agreement to abide by the marina berthing terms and conditions and any rules and regulations. Failure to comply with the Agreement will see forfeiture of the use of the marina facilities.

In accordance with the marina operator's berthing terms and conditions, all vessel owners are required to abide by a maximum 2 knot speed limit when in proximity to the marina and in the access lanes to the facility.

Any boat repairs undertaken by vessel owners are limited to hand operated tools. Where the sound power level of a thruster on an individual vessel exceeds 93 dB(A), then those vessels should be prohibited from the Marina.

The marina operator's berthing terms and conditions require that the vessel owners are responsible for the crews, passengers and guests' behaviour whilst in or on the marina.

No overnight accommodation is permitted on any of the vessels and the facility is under 24-hour security surveillance with key code access to the vessels for after-hours use.

Garbage associated with vessels returning from a days' outing will be deposited in nominated bins located at the extremities of the marina. There will be no operation of mechanical plant servicing, etc. on-board vessels by use of the installed motors. External 240 volt /415 volt power is available at each berth. There will be no functions, parties or similar to be provided at the marina.

Vessel owners must ensure that they and their guests are mindful of residential neighbours and must ensure that noise is minimised when arriving at and departing from the marina and when present on vessels berthed at the marina. Marina staff will ensure compliance with this requirement. If, in the opinion of Marina staff, noise occurs which has the potential to cause disturbance to the marina users or to residential neighbours, vessel owners and their guests will be required to leave the marina immediately.

A condition of consent is recommended requiring compliance with the Operational Management Plan, see **Condition No. 72**. Further, despite the comments above in relation to boat repairs, a condition of consent is recommended stating that no boat repairs are permitted at the marina, see **Condition No. 75**.

Visual Impact

The application was accompanied by a Visual Impact Assessment (VIA), prepared by SJB Architects. The VIA considers the impact of the proposal based on 11 of the most prominent viewpoints along the river. The visual impact will be greatest on Viewpoint 1, being from Settlers Park, which will experience a 'moderate' visual impact from the proposal. Specifically, the VIA notes that the proposal will have an impact on water views from the park and that the berthed vessels will be visually denser than the moored vessels, however on the balance the impact will be moderate as the existing clutter and intrusion of plant, shipping containers and equipment from the current use of the wharf deck will be removed, and the open view of the river and opposed foreshore will remain.

It is noted that the land surrounding the marina is relatively flat and contains a considerable amount of foreshore mangrove vegetation which will obscure the views of the marina from a number of viewpoints. Further, it is noted that the proposal will

result in the relocation (and possible removal) of the existing swing moorings located in the footprint of the proposed marina and associated vessel travel paths. **Figures 12 to 17** provide a comparison between current and proposed views from viewpoints 1 to 5 and 8 as per the VIA.



Figure 12 – Comparison between existing (left) and proposed (right) view from Settler's Park (viewpoint 1)



Figure 13 – Comparison between existing (left) and proposed (right) view from Bennelong Park (viewpoint 2)



Figure 14 – Comparison between existing (left) and proposed (right) view from Kissing Point Park (viewpoint 3)



Figure 15 – Comparison between existing (left) and proposed (right) view from Rocky Point (viewpoint 4)



Figure 16 – Comparison between existing (left) and proposed (right) view from Brays Bay Reserve (viewpoint 5)



Figure 17 – Comparison between existing (left) and proposed (right) view from Kissing Point Park (viewpoint 8)

Aquatic Ecological Impacts

The application was accompanied by an Aquatic Ecology Report, prepared by Ocean Environmental, which made the following findings:

No direct or indirect impacts on seagrass or saltmarsh will occur as they do not occur at the site. No direct impacts on mangroves or wetland areas will occur as long as these areas are designated no-go zones during construction. The potential for indirect impacts on mangroves and wetland areas are considered low if all mitigation measures outlined within this report are adopted. Therefore, it is not considered that any offsetting will be required for the current marina DA and the aquatic habitats / wetlands adjacent to the site.

Further to the above findings, the application was referred to the NSW Department of Primary Industries – Fisheries who assessed the impact of the proposal on the aquatic habitat of the area under Parts 7 and 7A of the Fisheries Management Act 1991. General Terms of Approval were granted by Fisheries on 15 May 2024.

Social Impacts

The marina will act as an extension of the land-based development of the site which comprises the adaptive re-use of the heritage boatshed, new residential flat buildings and townhouses fronting Waterview Street. The marina will benefit the development by promoting the use and enjoyment of the waterway. The application was accompanied by an Operational Management Plan which outlines management strategies to minimise the impacts of the marina on surrounding residents and users of the waterway. A condition of consent is recommended requiring compliance with the Plan of Management, see **Condition No. 72**.

(d) Suitability of the site for the development

The land-based site is zoned W4 Working Waterfront under the provisions of the Ryde Local Environmental Plan 2014 and benefits from Stage 1 and 2 development consents for the redevelopment of the site. The water-based location of the proposal is zoned 'Zone 1 – Maritime Waters' under the BC SEPP and development for the purpose of marinas is permitted in the zone. This report examines the impacts of the proposal and concludes that the site is suitable for the proposed development.

(e) Any submissions made in accordance with this Act or the regulations

The application was notified and advertised as lodged in accordance with Part 2.1 of *Ryde Community Participation Plan*. During the assessment phase, the applicant submitted amended plans for the land-based development. A decision was made to re-notify all the applications for the site concurrently as a result of the amended plans and as a result of some residents reporting that they had not received a notification letter during the initial round of notification.

One submission relating to the marina was received during the initial notification period and two (2) submissions were received during the second notification period. The issues raised in the submissions are detailed and addressed as follows:

- **River width.** *The river is not wide enough to accommodate the development. Additional vessels will make the river path much more crowded.*

Comment: The subject area of Parramatta River is predominately used by Rivercat Ferries (Parramatta to Circular Quay route) and by numerous rowing clubs in the locality. Prior to the lodgement of the subject application, the applicant undertook consultation with the various rowing clubs and Transport for NSW and no objections were raised to the proposed marina location. The application is accompanied by a Marine Safety and Navigation Report, prepared by Royal Haskoning DHV which includes **Figure 18** depicting the rowing routes and ferry tracks in both directions. It has been demonstrated that the river is of a sufficient width at the proposed location to accommodate all vessels that use the waterway.



Figure 18 – Diagram depicting proposed marina in relation to ferry tracks and rowing routes (Note: The marina design on this diagram has been superseded)

- **Emissions/Pollution.** *The proposal will result in additional boat traffic on the waterway which will result in additional exhaust and oil emissions.*

Comment: The application has been assessed by Council's Environmental Health Officer and no objections were raised in relation to emissions or pollution. A number of conditions of consent are recommended to control air and water pollution. **See Condition Nos. 17, 77, 79 and 80.**

- **Traffic/privacy.** *The proposed marina will result in additional people and boats which will result in a negative effect on the objector's way of life. Their privacy will be impacted by the additional boats using the waterway.*

Comment: It is acknowledged that the marina will result in an increase in maritime traffic in the locality, however, an increase of 36 boats is considered to be reasonable in the context of the Parramatta River and Sydney Harbour. The objector's property is located at Rhodes, in a westerly direction, and is approximately 600 metres from the proposed marina. It is anticipated that the majority of vessels travelling to and from the marina will be travelling to and from the east (Sydney Harbour direction) and will not travel near the objector's property.

- **Construction Waste.** *Details are required in relation to river dredging for the proposed marina. Please provide the construction waste management plan.*

Comment: The marina is proposed within water of a sufficient depth and dredging is not required in any form. The waste management plan is able to be viewed on the DA Tracking page on Council's website and formed one of the documents that was available during the advertising/notification period for the application.

- ***Loss of Swing Mooring.*** *Concern in relation to the loss of the resident's existing swing mooring.*

Comment: A condition of consent is recommended requiring that the applicant seeks approval from Transport for NSW for the relocation of moorings prior to the issue of a construction certificate. Transport for NSW has a process in place whereby they make contact with the leaseholders of the existing moorings and arrange a suitable position for relocation which will not impede the usage of the proposed marina. See **Condition No. 24.**

(f) The public interest

Having regard to the characteristics of the site and its location, the proposed development is considered appropriate in that:

- The site is zoned to accommodate the proposal and has undergone an extensive planning process and the subject application reflects the longstanding vision developed through this process.
- The size and dimensions of the land and waterway are appropriate for accommodating the proposed marina.
- The proposed development will positively respond to the character of the river and be compatible in size and siting with surrounding (existing and future) development.
- The site will have access to all utility services to accommodate the proposed development.
- The local road network and key intersections have been assessed to be able to accommodate the traffic volumes generated by the proposal, without adversely impacting on performance or safety.
- The proposal forms the next step in the long-term vision of redeveloping the important foreshore site for a maritime related use.

7. REFERRALS

External Referrals

Department of Primary Industries – Fisheries: The application was referred to the Department of Primary Industries – Fisheries in accordance with Parts 7 and 7A of the Fisheries Management Act 1991. General Terms of Approval from DPI – Fisheries were provided on 15 May 2024. **See Condition No. 5.**

NSW Department of Planning and Environment - Water: The application was referred to the NSW Department of Planning and Environment – Water under the provisions of Section 91 of the Water Management Act 2000. Comments from DPE – Water were provided on 15 January 2024 advising that the proposed works are exempt from the need to obtain a Controlled Activity Approval under the Water Management (General) Regulation 2018, Schedule 4, Item 36.

Transport for NSW: The application was referred to Transport for NSW under the provision of Clause 2.122 of SEPP (Transport and Infrastructure) 2021. Comments were received from Transport for NSW on 8 February 2024 raising no objections subject to four recommended conditions of consent. **See Condition Nos. 6, 24 and 44.**

Internal Referrals

Senior Development Engineer: Council's Senior Development Engineer reviewed the proposal and raised no objection. The following comments were provided:

Vehicle Access and Parking

The development proposes the construction of a new marina, marina office, 36 fixed berths (accommodating vessels 12m to 18m in length) and relocation of nine swing moorings.

The development benefits from 17 parking spaces allocated for use by the marina. There also a pool of some 47 parking spaces allocated for other retail and commercial spaces of which patrons are likely to partly utilise and this was noted in the concept approval.

Whilst Council does not have adopted parking rates in the DCP for marinas, the nomination of parking rates was originally presented in the concept application (LDA2018-223) approval as an industry deduced rate of between 0.3 – 0.6 spaces per berth. In this regard, the elected rate of 0.5 spaces per berth is within this range and therefore compliant with the rates in the concept DA.

Recommendation

There are no objections to the proposed development with respect to the engineering components, subject to the application of the following conditions being applied to any development consent being issued for the proposed development.

See Condition Nos. 9, 10, 11, 12, 33, 60, 61 and 71.

Environmental Health Officer: Council's Environmental Health Officer reviewed the proposal and raised no objections. The following comments were provided:

a) Noise/Acoustics

No dedicated noise assessment has been conducted as a part of the application. A Noise Management Plan has been included in the Operation Plan of Management prepared by Advanced Marina Management Pty Ltd, dated August 2024. The plan includes basic noise guidance including the prohibition of vessels with thrusters over 93dB(A). Conditions can be provided regarding the control of noise.

b) Contamination/Site Remediation

A Sediment Disturbance Letter has been prepared by Royal Haskoning DHV, reference PAMA1586_SedDistAss, dated 14 July 2020 to address the contamination on the seabed at the proposed site. A number of contamination investigations have

been conducted at the site which have identified heavy metals and tri-n-butyl tin (TBT) (being a biocide used in marine paints to prevent fouling). Further testing identified that the TBT concentrations were located close to the proposed dock and slipway.

Using the recent development of the marina at Wentworth Point, the letter assesses the impact on the soils from the manoeuvring of the boats into the mooring and it is considered that there is a low risk of the dispersion of contaminants of potential concern and that the use of the proposed marina will not pose a risk to human or ecological health.

c) Air Quality/Environmental Impacts

A Construction Management Plan has been prepared by Perifa, dated 28 November 2023, which outlines the general construction methodology and includes satisfactory environmental controls that will reduce the risk of pollution/ negative impacts of the construction on fauna and neighbouring residents.

A geomorphological Study Report has been prepared by Royal Haskoning DHV, dated 10 November 2023 to address the “Biodiversity” requirements of the Planning SEAR which identifies that the construction of the marina will not have any adverse impacts on the surrounding embayments, and provide some additional sheltering while having minor impacts on the sedimentary processes as the rock outcrops provide a stable environment.

An Aquatic Ecological assessment had been prepared by Ocean Environmental, dated 5 December 2023. This assessment identifies that the proposed development and construction methodologies will not result in issues with Acid Sulfate Soils as the piling will not expose sediment to air and will therefore not result in any negative impacts. The report identifies that the development should not have any impacts on mangroves, seagrasses and minimal impacts on aquatic life and provides a number of recommendations to minimise the potential for harm.

See Condition Nos. 17, 18, 19, 20, 21, 22, 38, 39, 40, 41, 70, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86 and 87.

City Works – Public Domain: Council's Activation and Compliance Officer reviewed the proposal and raised no objection subject to recommended conditions of consent.
See Condition Nos. 45 and 68.

City Works – Traffic: Council's Traffic Engineer reviewed the proposal and raised no objection. The following comments were provided:

External Traffic Impacts:

TfNSW's Guide to Traffic Generating Developments does not provide traffic generation rates for marinas. Consequently, the Traffic Impact Assessment (TIA) report prepared by TRAFFIX dated 19 September 2023 has estimated the traffic generation for the proposed marina based on surveys conducted on comparable marinas, being the Holmport Marina at Church Point and the D'Albora Marina at the Spit.

As outlined in the TIA report, both surveyed marina locations demonstrate a peak hour trip rate of 0.35 vehicle trips per berth, typically occurring on a Sunday. Utilising this data, the TIA report projects that the proposed installation of 36 pontoon berths will contribute to a trip generation of 13 vehicle trips per hour (7 incoming, 6 outgoing) during the weekend peak period.

The additional traffic generated by the proposed commercial marina is anticipated to have negligible effects on the evaluated traffic generation from the previously approved development application (LDA2023/0245). Consequently, the proposal is not foreseen to cause any noteworthy traffic impacts beyond what was previously assessed and approved under the current consent.

Parking provision:

The Traffic Impact Assessment (TIA) report outlined the minimum parking requirements for various land uses at the subject site, as specified in the Ryde DCP 2014. Additionally, it presented the proposed parking provisions associated with the proposed development.

The land-based development requires a minimum of 179 car parking spaces. However, the development includes a total of 206 car parking spaces, with 17 of these spaces proposed to be allocated to the marina.

Council's Traffic Services Department does not express any concerns regarding the proposed parking provision. Nonetheless, it is recommended that the proposed parking arrangement undergoes additional assessment by Council's Development Engineering Assessment team.

Conclusion:

*In conclusion, based on the above discussion, Traffic Services Department has no objection to the approval of this application subject to recommended conditions of consent. **See Condition Nos. 14, 15, 16, 31 and 58.***

8. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the likely impacts identified in this report, it is considered that the application can be supported, subject to conditions.

The likely impacts as outlined in this report have been resolved satisfactorily through amendments to the proposal and in the recommended draft conditions at **Attachment 5**. Therefore, it is recommended that the application be approved for the following reasons:

- The proposed development is consistent with the objectives and development standards for land zoned W4 Working Waterfront and Zone 1 – Maritime Waters.
- This proposal positively contributes to the locality and fits sensitively into the Parramatta River environment.

- The proposal promotes and provides for improved public access to the waterfront and enables the use of a range of vessels in order to provide for enjoyment of the waterway.
- The issues raised in the submissions do not warrant the refusal of the application and have been adequately addressed in the Assessment report.
- The proposed development does not create unreasonable environmental impact to the waterway.
- The proposal is not contrary to the public interest.
- The site is considered to be suitable for the proposed development.

9. RECOMMENDATION

- A. That the Sydney North Planning Panel, as the consent authority, grant development consent to Development Application No. LDA2023/0335 for land at 20 Waterview Street, Putney and within the Parramatta River subject to the draft conditions contained in **Attachment 4**.
- B. That the Department of Planning and Environment – Water, Department of Primary Industries – Fisheries and Transport for NSW be advised of the decision.
- C. That those who made a submission be advised of the decision.

Report prepared by:

Shannon Butler
Senior Town Planner

Report approved by:

Sohail Faridy
Senior Coordinator Development Assessment

Carine Elias
Manager Development Assessment

ATTACHMENTS

Attachment 1: Proposed Architectural Plans
Attachment 2: Approved Plans for Stage 2 DA (LDA2023/0245)
Attachment 3: Assessment against SEPP (Biodiversity and Conservation) 2021 – Chapter 6 Water Catchments and Sydney Harbour Foreshore and Waterways DCP
Attachment 4: Applicant's Legal Opinion on Permissibility under SEPP (Biodiversity and Conservation) 2021
Attachment 5: Recommended Conditions of Consent