



Department of
Infrastructure, Planning and Natural Resources

ASSESSMENT REPORT

DEVELOPMENT APPLICATION (DA 449-10-2003-1)

**ROYAL SYDNEY YACHT SQUADRON, PEEL STREET,
KIRRIBILLI – EXTENSION TO PONTOON AND BREAKWATER
IN THE NORTH SYDNEY LOCAL GOVERNMENT AREA**

FEBRUARY 2004

1. SUMMARY

The Department is in receipt of a development application (DA) lodged by J S Parsons Structural Consultants Pty Ltd (the Applicant) to extend an existing pontoon and breakwater and replace the inner pontoon at the Royal Sydney Yacht Squadron's (RSYS) premises at 33 Peel Street, Kirribilli in the North Sydney local government area.

The DA was originally lodged with North Sydney Council on 20 April 2000. Council exhibited the DA between 5 May and 19 May 2000, resulting in 2 submissions objecting to the proposal. The submissions raised concerns about the private use/enclosure of the public waterway, impact on water views, traffic and parking impacts and impact on navigation.

Under the *Environmental Planning and Assessment Act, 1979* (the Act) the proposal is classified as State significant development under the Minister's Marina Declaration of 18 August 2000 and 10 April 2001. Consequently the Minister for Infrastructure and Planning is the consent authority for the DA. North Sydney Council subsequently referred the DA to the Department for determination in January 2001.

The proposal is non-designated development and the DA was accompanied by a Statement of Environmental Effects.

The Department publicly exhibited the proposal in accordance with the State significant development public participation provisions of the *Environmental Planning and Assessment Regulation 2000* between 14 November and 15 December 2003. A total of 2 submissions were received from members of the public during the exhibition period. One submission commented on the building work underway at the Club's premises and requested consideration be given to the impact on views from the adjacent residential building.

The NSW Fisheries and the Foreshore and Waterways Planning and Development Advisory Committee did not object to the proposal.

The Department has assessed the proposal and submissions on the proposed development and considers there are no outstanding issues and recommends that the Minister grants consent subject to conditions.

2. THE SITE

The RSYS is located at 33 Peel Street, Kirribilli on the southern foreshore of Careening Cove, at Wudyong Point (see Figure 1 below). The RSYS premises comprise land based and water based facilities. The land based facilities include a clubhouse and administration building, 140 space car park and a concrete hardstand area (vessel storage, rigging and repairs). The hardstand is located partially above and partially below the mean high water mark. Four access ramps provide access from the hardstand to the water.

The water based facilities consist of a floating concrete breakwater running north-northeast and then northwest into Careening Cove (approximately 90 metres in length), 3 pontoons (tender, service and refuelling) and 57 swing moorings (see layout plan tagged E).

The body of water enclosed by the outer breakwater is known as “the pond”. The RSYS uses this area for the launching and rigging of vessels during regattas, youth sailing training, water safety training, disabled sailors regattas and general drop-off and pick-up point for regattas and competitions, members and emergency services.

The RSYS site adjoins Colinda Reserve, a foreshore park located at the end of Peel Street. Land to the west of the park is zoned residential. The RSYS owns the 2 waterfront properties to the west of the park. The foreshores of Careening Cove are developed with jetties, boatsheds and public ferry wharves and some commercial/maritime development.



Figure 1 – Location Plan

The areas to the west and south of the RSYS consist of single and multi-unit residential developments. Directly to the north is Careening Cove and Neutral Bay. On the opposite bank of Careening Cove (north) is High Street Wharf and to the east is Kurraba Point.

3. THE PROPOSED DEVELOPMENT

The Applicant is seeking approval to increase the size of the existing breakwater and to add a new inner casual mooring pontoon. The proposal comprises:

- Demolition of an existing service pontoon and its replacement with a new 60 metre long casual mooring pontoon (parallel to the foreshore). The northern face of the pontoon will include a temporary berth, a refuelling berth and two berths for club vessels currently moored at swing moorings. The southern face will provide temporary berths for vessels up to 12 metres in length;
- Relocation and extension in the length of the existing breakwater. The extension involves increasing the length of the existing southern pontoon (north-northeast arm) by 14 metres and extending the outer breakwater (northwest arm) an additional 45 metres into Careening Cove (total 90 metres). The inner edge of the breakwater would be used for the casual mooring of vessels; and
- Relinquishment of 2 swing moorings (total 55) and relocation of 2 swing moorings and an increase in the number of casual berths (from 6 to 16).

The DA does not affect the land based facilities. The increase in the pond area will reduce congestion during and after sailing competitions and increase boating safety.

4. STATUTORY FRAMEWORK

4.1 Permissibility

The proposal is defined as a large marina under *Sydney Regional Environmental Plan No 23 – Sydney and Middle Harbours*. Within the General Waterways Zone (W1) of the REP, large marinas are prohibited development.

The RSYS has claimed existing use rights for the proposal as the area of the waterway into which the inner and outer pontoons extends have the benefit of existing use rights for the purpose of a large marina. The Department is satisfied the RSYS has existing use rights for the proposal, taking into account the Land and Environment Court's decision on the Rose Bay Marina. The Court determined that the if the area occupied by swing moorings had been occupied for a substantial time leading up to the relevant date and that a substantial number of moorings within the area had been occupied at any one time, then that area can be characterised as the area used for a large marina. The proposal is therefore permissible with consent under sections 106 and 107 of the Act as an existing use.

4.2 State Significant Development

The Minister declared marina development in the Sydney Region (Sydney Harbour, Middle Harbour, North Harbour, Botany Bay, Port Hacking, Broken

Bay) to be State significant development under section 76A (7)(b)(iii) of the Act on 18 August 2000 and 10 April 2001. The Marina Declaration applies to:

- the establishment of a new permanent boat storage facility on the waterway with support facilities on an adjoining area of land or waterway; and
- alterations or additions to an existing permanent boat storage facility on the waterway with support facilities on an adjoining area of land or waterway.

The term support services include:

- *Facilities for the construction, repair, maintenance, storage, sale, or hire of boats;*
- *Facilities for the provision of fuel or sewage pump out services to boats;*
- *Facilities for launching boats (such as slipways or hoists);*
- *Commercial, tourist, recreational, or car parking facilities that are ancillary to the marina development; and*
- *Any associated caretaker's residence.*

The proposal falls within the Marina Declaration as it involves an alteration to an existing permanent boat storage facility on a tidal waterway in Sydney Harbour with support facilities on the adjoining land and waterway.

The proposal is classified as State significant development under the Marina Declaration. The Minister is the consent authority for State significant development. Therefore the Minister is the consent authority for the proposal.

4.3 Designated Development

Under Schedule 3 of the Regulation “**marinas or other related land or water shoreline facilities**” are classified as designated development if they:

- (1) *Moor, park or store vessels (excluding rowing boats, dinghies or small craft) at fixed or floating berths, at freestanding moorings, alongside jetties or pontoons, within dry storage stacks or on cradles on hardstand areas:*
 - (a) *that have an intended capacity of 15 or more vessels of any length of 20 metres or more, or*
 - (b) *that have an intended capacity of 30 or more vessels of any length and:*
 - (i) *are located in non-tidal waters, or within 100 metres of a wetland or aquatic reserve, or*
 - (ii) *require the construction of a groyne or annual maintenance dredging, or*
 - (iii) *the ratio of car park spaces to vessels is less than 0.5:1 or,*
 - (c) *that have an intended capacity of 80 or more vessels of any size.*

- (2) *Repair or maintain vessels out of the water (including slipways, hoists or other facilities) with an intended capacity of*
- (a) *one or more vessels having a length of 25 metres or more, or*
 - (b) *5 or more vessels of any length at any one time.*

The RSYS facility satisfies the criteria for designated development as it is a marina that could accommodate over 107 vessels (57 vessels on swing moorings and over 50 vessels stored on the hardstand).

However, this does not mean the proposal would automatically be classified as designated development, as it is an alteration and addition to an existing marina.

Under clause 35 of Part 2 of Schedule 3 of the Regulation, development involving alterations or additions to development (whether existing or approved) is not designated development if:

In the opinion of the consent authority, the alterations or additions do not significantly increase the environmental impacts of the total development (that is the development together with the additions or alterations) compared with the existing or approved development.

Clause 36 of Part 2 of Schedule 3 of the Regulation sets out the factors which the consent authority must take into consideration when determining whether a development involving alterations or additions to development is designated or not. The proposed development has been assessed against these factors:

- 36 (a) *The impact of the existing development having regard to factors including:*
- (i) *previous environmental management performance, including compliance with the conditions of any consents, licences, leases or authorisations by a public authority and compliance with any relevant codes of practice, and*
 - (ii) *rehabilitation or restoration of any disturbed land, and*
 - (iii) *the number and nature of all past changes and their cumulative effects, and*
- 36 (b) *the likely impact of the proposed alterations or additions having regard to factors including:*
- (i) *the scale, character or nature of the proposal in relation to the development, and*
 - (ii) *the existing vegetation, air, noise and water quality, scenic character and special features of the land on which the development is or is to be carried out and the surrounding locality, and*
 - (iii) *the degree to which the potential environmental impacts can be predicted with adequate certainty, and*
 - (iv) *the capacity of the receiving environment to accommodate changes in environmental impacts, and*

- (c) *any proposals:*
- (i) *to mitigate the environmental impacts and manage any residual risk, and*
 - (ii) *to facilitate compliance with relevant standards, codes of practice or guidelines published by the Department or other public authorities.*

The Department has assessed the proposed development against each of these factors (see Appendix A) and is satisfied that the proposed extensions to the breakwater and pontoons would not significantly increase the environmental impacts of the total development, for the following reasons:

- There is no evidence of previous unsatisfactory environmental performance or compliance issue;
- The impacts of the proposal on the waterways and surrounding locality are considered to be minor;
- The receiving environment is capable of accommodating the potential impacts of the proposal; and
- The implementation of environmental management plans will mitigate and manage potential short-term environmental impacts.

Consequently, the Department is satisfied that the proposed extension of the RSYS pontoons would not significantly increase the environmental impacts of the total development compared with the existing or approved development, and therefore recommends that the Minister determine that the proposal is not designated development.

4.4 Relevant Planning Instruments/Policies

The proposal has been assessed against the relevant provisions in the following environmental planning instruments/policies:

- State Environmental Planning Policy No. 56 – Sydney Harbour Foreshores and Tributaries;
- Sydney Regional Environmental Plan No. 23 – Sydney and Middle Harbours;
- North Sydney Local Environmental Plan 1989, and
- Sydney Harbour and Parramatta River Development Control Plan for SREP No. 22 and 23.

This assessment concludes that the proposal is consistent with the relevant aims and objectives of these instruments, and satisfies the relevant assessment criteria.

5. CONSULTATION

North Sydney Council referred the DA to the Department for determination on 25 January 2001. Assessment of the DA was deferred pending the resolution of existing use rights. This was finalised in October 2003 and the Department

subsequently decided to re-exhibit the DA as additional information was provided by the Applicant.

5.1 Notification Procedure

The DA was originally exhibited by North Sydney Council between 5 May and 19 May 2000. The public exhibition resulted in 2 submissions objecting to the proposal. The objections raised concerns about the private use/enclosure of the public waterway, impact on water views, traffic and parking impacts and impact on navigation.

As the DA was not exhibited in accordance with the State significant development advertising procedures, the Department subsequently:

- Notified the adjoining properties in writing;
- Advertised the DA in the local newspaper, the Mosman Daily;
- Notified the relevant public authorities; and
- Exhibited the DA between 14 November and 15 December 2003.

This satisfies the requirements for public participation of State significant advertised development in the Regulation.

A total of 2 submissions were received from members of the public during the exhibition period. One submission supported the proposal and the other submission commented on building works at the Club and the impact of the pontoons on views from the adjacent residential building.

5.2 Submissions from Public Authorities

5.2.1 Foreshore and Waterways Planning and Development Advisory Committee

The Foreshore and Waterways Planning and Development Advisory Committee did not object to the proposal provided the RSYS boats were berthed in a location which did not obstruct views from the reserve.

5.2.2 NSW Fisheries

NSW Fisheries did not object to the proposal provided environmental safeguards were utilised during construction and all relevant authorities had no objections.

5.2.3 North Sydney Council

North Sydney Council advised it had a number of concerns about the proposal. These are:

- Inconsistencies and inaccuracies between the Statement of Environmental Effects and the DA drawings.

- Inconsistencies and inaccuracies between the Statement of Environmental Effects and North Sydney Local Environmental Plan 2001.
- Further details about current activities and justification for the proposal fronting Peel Street and foreshore land zoned residential.

Council also requested the Department consider a number of environmental protection issues prior to granting any consent. These relate to:

- The proposal will act as a litter trap.
- Provision of a waste management facility on the hardstand area.
- Fuel bowser protection.
- Staff emergency training.
- Minimise disturbance of sediments.

6. CONSIDERATION OF KEY ISSUES

6.1 Impacts on the Aquatic Environment

The Applicant states there are no seagrass beds in the vicinity of the existing and proposed breakwater and pontoons. The nearest seagrass beds are located to the northwest of the site along the shallow foreshore of the southern side of Careening Cove. The aquatic flora and fauna survey indicated the proposal would not impact on the existing seagrass beds and no wetlands and flora and fauna would be adversely affected by the proposal.

The existing structures are extensively colonised by aquatic flora and fauna, such as mussels and other crustaceans, algae, sponges and kelp. Fish species were abundant around the structures and in the sheltered pools between the inner and outer pontoons of the breakwater structure. The Applicant notes that the structures are cleaned regularly for structural checks and marine flora and fauna quickly re-establish.

The flora and fauna survey concluded the proposal is likely to provide suitable habitat for marine species to establish. The effect of the breakwater in reducing wave energy may be beneficial to the existing seagrass beds which are susceptible to wave action.

The removal of the existing pontoons and breakwater and sea anchors will result in the temporary loss of macro-algae and crustaceans, however, the extended pontoon and breakwaters and piles will provide new habitats for aquatic species to colonise. In the longer term there is likely to be an increase in aquatic habitats in and around the marina structures.

The Department is satisfied that the proposal would not have a significant adverse impact on flora and fauna species in the area. There would be a temporary loss of aquatic species but the extended breakwater and pontoon structures would provide additional habitats for marine species to re-establish.

6.2 Water Quality

The construction of the proposal is likely to result in a temporary impact on water quality from the removal of seabed anchors and pile driving activities. The Applicant states the use of silt curtains and other environmental safeguards would control the extent of this impact. The Applicant is reviewing the need for piles to stabilise the inner causal mooring pontoon. The breakwater pontoon utilises seabed anchors and this system may be adopted for the inner pontoon. Should this method be used, the installation of the anchors would have a lesser impact on disturbance of seabed sediments than for piles.

NSW Fisheries has requested the use of environmental safeguards such as silt curtains during construction. North Sydney Council commented that the removal of existing sea anchors should be conducted in a manner that would minimise disturbance of sediments and impacts on aquatic organisms and habitat.

The RSYS states the current breakwater traps a considerable amount of rubbish and that increasing the breakwater pontoon system will mean that more rubbish is likely to be trapped. The RSYS regularly removes rubbish trapped in the pond area and will continue to do so for the extended breakwater system.

North Sydney Council states the RSYS should be responsible for the collection of all rubbish trapped by the pontoon systems and should provide a waste management facility for the disposal of rubbish and waste on the hardstand area.

Council requested the provision of spill response kits in close proximity to the proposed fuel bowser and that staff should be trained in the correct use of the kits and an emergency spill response procedure should be prominently displayed.

The RSYS has advised waste facilities are currently installed on the hardstand area. The new fuel bowser would utilise similar measures to those provided for the existing fuel facility (including bunding and spill containment measures).

The Department is satisfied that the impacts from construction of the proposal are likely to be of short duration and minimal, and that operational impacts on water quality can be managed and mitigated. Should the Minister approve the proposal, the Department recommends the imposition of conditions to address sedimentation control, rubbish collection and fuel spill containment.

6.3 Traffic and Parking

The Applicant states the proposal to increase the capacity of casual berthing and an increase in the pond area is likely to reduce the demand for car parking, or if not, will not exacerbate the existing parking situation. The traffic assessment report concluded on-street parking within 400 metres of the

RSYS had high levels of utilisation with few spaces available during times of peak activity at the Club and that the off-street parking demand reflected the peaks of sailing activity and reached capacity during these times.

The traffic report states the proposal is likely to reduce car travel (and parking demand) to the Club. Some boat crews would likely access the Club by boat rather than car (after a race or for a social event). The extension to the breakwater and pontoon does not increase the level of activities carried out in the pond area but increases boating safety by reducing congestion during and after sailing regattas.

The Department is satisfied that the proposal is unlikely to increase traffic and parking generation and may result in an overall reduction in parking demand. The RSYS currently permits only short stay berthing in the pond area and no changes are proposed for the additional casual berthing, apart from the permanent mooring of 2 Committee vessels.

6.4 Navigation

The Applicant states the layout of the extended breakwater/pontoons would not have an adverse impact on navigation in the area and does not intrude into the existing navigation channels. The extension of the breakwater north into Careening Cove does not prevent vessels from accessing private or commercial facilities.

The proposal will result in the relinquishment of 4 swing moorings, 2 to be relocated elsewhere in Sydney Harbour. These swing moorings will not be replaced within Careening Cove, which has reached its capacity in terms of swing moorings.

The Department is satisfied that the extended breakwater and increased pond area does not encroach into the navigation channel and Sydney Ferry routes in Careening Cove and Neutral Bay. The extension of the inner pontoon across the frontage of the Peel Street road reservation and two adjoining residential properties (owned by the RSYS) does not impede boat access to the existing RSYS fuel berth pontoon and the pontoon fronting the residential properties.

6.5 Visual Impacts

The Applicant states the proposal will be visually unobtrusive. The proposed structures form an extension to existing water-based facilities and have a low profile. The visual assessment report submitted by the Applicant states the RSYS site is in a highly visible location on Sydney Harbour. The visual landscape at this location is dominated by the existing RSYS development, maritime facilities in Careening Cove and the high rise development behind.

The visual assessment considered the most significant visual impact to be on views from Colinda Reserve (adjoining the western boundary of the site). The proposed structures would extend across the frontage of the Reserve and adjacent residential properties. The current view corridor from the Reserve is

directly across the water to Kurraba Point Reserve. The photomontage indicates the shoreline of Kurraba Point would not be obscured by the proposal, nor would the bulk of the views of the water that are presently available. However, with vessels moored on the structures there would be greater interference with these views. The impacts on views of the proposal from other surrounding locations are considered to be minor.

The visual assessment concluded the proposal is consistent with the established landscape character of the locality, in particular its maritime character. From most vantage points the degree of visual change is considered to be low and the proposal integrates with the site's visual context. The proposal has a greater impact on the view corridor of Colinda Reserve. However, the overall impact is considered to be minor and accordingly the visual impact of the proposal is acceptable.

Submissions from the Department's and Council's exhibition of the DA raised concerns at the loss of views from Colinda Reserve and adjacent residential developments and the impact on the aesthetic value of Sydney Harbour and its foreshores.

The Foreshore and Waterways Planning and Development Advisory Committee raised concern at the permanent berthing of vessels fronting the public reserve and the resultant obstruction/interference with views of the Harbour. The Committee did not object to the proposal provided the Committee boats were berthed in a location which did not obstruct views from the reserve. The Committee recommended that these vessels be berthed inside the outer breakwater and directly fronting the Club premises.

The Department agrees with the recommendations of the Foreshore and Waterways Planning and Development Advisory Committee that the permanent berthing of the RSYs vessels in front of Colinda Reserve is an unacceptable intrusion in the Reserve's view corridor. The RSYs notes that the berthing of the Committee vessels on the inner face of the breakwater pontoon directly in front of the Club's premises would obstruct the primary use of that part of the pond area for the launching and retrieval of yachts to and from the hardstand and the rigging of yachts before and after sailing competitions. However, the RSYs will agree to the recommendation and will explore the options to locate the Committee vessels elsewhere.

The Department notes the Applicant's visual assessment of the proposal and concurs with its conclusions. The Department considers the impact of the proposal on views of the Harbour from the adjacent high rise residential development to be minor as the buildings are located higher up the point and water views would still be available with the proposed structures in place. The impact of the proposal on views from Colinda Reserve to the water is greater. However, the impact is not considered to be significant as the inner pontoon is located 33 metres from the Reserve, the pontoon structures are low profile, the berthing of vessels on the pontoon is temporary and views of the water are available between moored vessels and the pontoons.

The Applicant is investigating the feasibility of using seabed anchors instead of piles for the inner pontoon. Should seabed anchors be used the visual appearance of the inner pontoon would be improved, and the impact on views from Colinda Reserve reduced.

6.6 Impacts on the Amenity of the Area

The Applicant states there will be short term noise impacts during construction from pile driving activities. The noise levels can be minimised and piling work is expected to take between 5 to 7 working days. The outer breakwater utilises seabed anchors and does not require piles for stability. The utilisation of seabed anchors instead of piles for the inner pontoon would reduce construction noise impacts. The Applicant has indicated the feasibility of using seabed anchors instead of piles would be investigated.

The RSYS has observed that since the construction of the breakwater in 1981 the erosion of their own seawalls and those of neighbouring properties has slowed considerably. This was due to the breakwater pontoon absorbing the wave energy and creating the protected inner pond area. The RSYS expects that an extension of the breakwater to the north would better protect the seawall already benefiting from the breakwaters and further extend that protection along the southern bank of Careening Cove.

The proposal is unlikely to result in an increase in noise from activities carried out in the pond area as no change is proposed to the use of the pond. The increase in size of the pond area would reduce the congestion of boats during and after regatta competitions, thereby improving boating safety.

The Department is satisfied the construction and operation of the proposal has no significant adverse impact on the amenity of the surrounding area. The proposal is consistent with the existing maritime uses and character of Careening Cove.

7. SECTION 79C CONSIDERATION

Section 79C of the Act sets out the matters that a consent authority must take into consideration when it determines a development application.

The Department has assessed the DA against these heads of consideration (see Appendix B), and is satisfied that:

- The proposal is consistent with the relevant provisions in SEPP 56, SREP 23 and the Sydney Harbour and Parramatta River DCP;
- The proposal would not result in any significant adverse environmental impacts;
- The site is suitable for the proposed development; and
- The development is likely to be in the public interest.

8. RECOMMENDED CONDITIONS OF CONSENT

The Department has prepared a set of recommended conditions of consent should the Minister decide to approve the proposal. The proposed conditions address construction and operational management and mitigation measures. These include water quality, rubbish collection, spill management and construction management. The proposed conditions require the Applicant to submit an engineering report to the Director-General for approval should seabed anchors be used instead of piles for the inner pontoon.

The proposed conditions of consent would ensure that the environmental impacts of the proposal are managed and/or mitigated. The Applicant has been consulted in the preparation of the conditions and has agreed to them.

9. CONCLUSION

The Department has assessed the Development Application, accompanying Statement of Environmental Effects and the submissions received on the proposal from the general public and local and public authorities. The Department is satisfied that the proposal can be constructed and operated within appropriate environmental and safety considerations. The Applicant has addressed the water quality and flora and fauna impacts of the proposal. The proposal is considered to have no significant adverse impact on the amenity of the surrounding area.

Consequently, the Department recommends that the Minister approve the development application, subject to conditions.

10. RECOMMENDATION

It is recommended that the Minister:

- (a) Consider the findings and recommendations of this report in his consideration of the development application; and
- (b) Approve the DA subject to conditions.

Michael Young
Major Development Assessment

Endorsed,

Ian Cranwell
A/Deputy Director-General

**CLAUSE 36 OF PART 2 OF SCHEDULE 3 OF THE REGULATION -
FACTORS WHICH THE CONSENT AUTHORITY MUST TAKE INTO
CONSIDERATION WHEN DETERMINING WHETHER A DEVELOPMENT
INVOLVING ALTERATIONS OR ADDITIONS TO DEVELOPMENT IS
DESIGNATED OR NOT**

Clause 36 (a) – Impact of the existing development:

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

There is no evidence of unsatisfactory environmental performance or significant non-compliance with any approvals for the breakwater pontoon or inner pontoon. The Waterways Authority has advised the RSYS is not in breach of its lease terms and conditions. The RSYS states the hardstand area is licensed by the Environment Protection Authority under the *Protection of the Environment Operations Act 1997*.

- (ii) *rehabilitation or restoration of any disturbed land.*

There is no land requiring rehabilitation or restoration.

- (iii) *the number and nature of all past changes and their cumulative effects.*

The breakwater pontoon system was installed in 1981 and has not been changed in the past 20 years. There have been changes to the water-based facilities such as the addition of the refuelling and casual mooring pontoons. No environmental issues have been recorded from the operation of these facilities. The service pontoon is no longer used for vessel servicing, which is now carried out on the hardstand area.

Clause 36 (b) - The likely impact of the proposed alterations or additions

- (i) *the scale, character or nature of the proposal in relation to the development.*

The proposal does not facilitate any intensification of use by the RSYS but provides additional casual berthing for member's vessels which will reduce the environmental impacts in terms of traffic and parking. The increased pond area will improve boating safety and reduce congestion during and after regatta competitions. The proposal extends the existing breakwater and pontoon systems to the north and maintains the maritime character of the locality.

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

The proposal has no impact on terrestrial vegetation and minimal impact on marine fauna. The extended breakwater and pontoon structures are likely to

provide additional habitat for marine species to colonise. There will be short-term construction impacts from pile driving activities (noise and water quality). The use of silt curtains and other environmental safeguards will minimise these impacts.

The proposal has minor impact on the overall views of the site, which is located on a prominent point in Sydney Harbour, from surrounding public reserves. However, the extension of the pontoons across the frontage of Colinda Reserve will reduce the view corridor to the water and adjacent shoreline. The intrusion of the marina structures is considered to be acceptable given the distance from the shore of the pontoons, the temporary nature of the vessel berthing, low profile of the pontoons and views of the water are available through the moored vessels and structures. The impact on the scenic character of the area is minimal, the proposal maintains the maritime nature of the site and Careening Cove (jetties and wharves on the foreshore and swing moorings in the Bay.

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

There is a high degree of certainty that the potential environmental impacts can be predicted as the proposal involves an extension of an existing breakwater system which has been in operation over 20 years. There are minimal environmental impacts and these can be managed or mitigated through appropriate conditions of consent.

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

The proposal is unlikely to result in any significant adverse impacts on air, noise and water quality, and on the marina flora and fauna of the surrounding waterways and locality. The existing environment is considered to be capable of accommodating the proposal with no significant adverse impacts. The proposal does not intensify the existing use of the RSY facilities and the additional marine structures will increase the potential habitat for marine species.

Clause 36 (c) – Any proposals

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

All construction work and on-going operations will be carried out in accordance with all relevant legislation, licences and Australian Standards.

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

The Department has recommended a condition of consent to require the preparation and implementation of a construction management plan and conditions to address water quality, operation of the fuelling facility and waste management.

SECTION 79C MATTERS FOR CONSIDERATION

The following assessment is based on the matters listed for consideration under section 79C(1) of the *Environmental Planning and Assessment Act 1979*.

(a) **The provisions of:**

(i) **any environmental planning instrument;**

1. State Environmental Planning Policy No.56 – Sydney Harbour Foreshores & Tributaries	
1.	<p>Under Clause 7 of the plan, a consent authority must take into consideration the following provisions:</p> <p>(a) increasing public access to, and use of, land on the foreshore;</p> <p>(b) the fundamental importance of the need for land made available for public access, or use, on the foreshore to be in public ownership wherever possible, particularly land that is within the foreshore area as defined in the <i>Sydney Harbour Foreshore Authority Act 1998</i>;</p> <p>(b1) if public ownership of foreshore land is not possible, the use of appropriate tenure mechanisms to safeguard public access to, and public use of, that land and to ensure the rights of public authorities to determine the design of, use of, and amenities on, the land over time;</p> <p>(c) the retention and enhancement of public access links between existing foreshore open spaces areas;</p> <p>(d) the conservation of significant bushland and other natural features along the foreshore, where consistent with conservation principles, and their availability for public use and enjoyment;</p> <p>(e) the suitability of the site or part of the site for significant open space that will enhance the open space network existing along the harbour foreshores;</p>
	<p>The additional casual mooring berths would provide greater access to the shore-based facilities. Not applicable</p> <p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p>

	<p>(f) the protection of significant natural and cultural heritage values, including marine ecological values;</p> <p>(g) the protection and improvement of unique visual qualities of the Harbour, its foreshores and tributaries;</p> <p>(h) the relationship between the use of the water and foreshores activities;</p> <p>(i) the conservation of items of heritage significance identified in an environmental planning instrument or subject to an order under the Heritage Act 1977;</p> <p>(j) the scale and character of any development, derived from an analysis of the context of the site;</p> <p>(k) the character of any development as viewed from the water and its compatibility and sympathy with the character of the surrounding foreshores;</p> <p>(l) the application of ecologically sustainable development principles;</p> <p>(m) the maintenance of a working-harbour character and functions by the retention of key waterfront industrial sites or, at a minimum, the integration of facilities for maritime activities into development and, wherever possible, the provision of public access through these sites to the foreshore;</p> <p>(n) the feasibility and compatibility of uses and, if necessary, appropriate measures to ensure coexistence of different land uses;</p> <p>(o) increasing opportunities for water-based public transport.</p>	<p>The proposal would provide potential habitats for marine species.</p> <p>Visual impacts are considered to be acceptable. The proposal is consistent with the existing maritime character of the site and Careening Cove.</p> <p>The increased pond area improves boating safety and reduces congestion during and after sailing regattas.</p> <p>The proposal has no impact on the heritage significance of the RSYS site.</p> <p>The proposal is consistent with the maritime nature of the site and Careening Cove.</p> <p>The proposal is consistent with the existing maritime use of the site and Careening Cove.</p> <p>The use of seabed anchors instead of piles reduces the environmental impacts of the breakwater pontoon. No change is proposed to the recreational and boat repair facilities on the site.</p> <p>Not applicable</p> <p>Not applicable</p>
<p>2. Sydney Regional Environmental Plan No.23 – Sydney and Middle Harbours</p>		
<p>1.</p>	<p>Under Clause 11 of the plan, a consent authority shall not grant</p>	<p>The Foreshores and Waterways Planning and Development</p>

	<p>consent to a development listed in Schedule 4 unless it has referred the development application to the Foreshores and Waterways Planning and Development Advisory Committee.</p>	<p>Advisory Committee do not object to the proposal.</p>
<p>2.</p>	<p>Under Clause 18 of the plan, a consent authority shall consider following matters additional to those in Section 79C of the <i>EPA Act 1979</i>:</p> <p>(a) The appearance of the development from the waterway and the foreshores;</p> <p>(b) Whether the development will cause pollution or siltation of the waterway to an extent that would jeopardise any existing or potential uses of the waterway;</p> <p>(c) Whether the development will have an adverse effect on wetlands or flora and fauna habitats;</p> <p>(d) The noise likely to be generated by the development and any adverse effect that any such noise would have on existing uses of the waterway or nearby land;</p> <p>(e) Whether the development will have an adverse effect on drainage patterns or cause shoreline erosion;</p> <p>(f) Whether the development will cause excessive congestion of, or generate conflicts between people using the waterway or waterfront;</p> <p>(g) The demand for storage space for boats on the Harbours or on Parramatta River;</p> <p>(h) Whether the development warrants a foreshore location;</p> <p>(i) Whether the development will have an adverse effect on the</p>	<p>Consistent with the maritime character of the site and Careening Cove.</p> <p>Short-term construction impacts from pile driving activities can be managed and mitigated.</p> <p>No significant adverse impact on marine species. The marina structures will provide additional potential habitats for marine species.</p> <p>Short-term noise impacts are likely from pile driving activities. Measures can be implemented to minimise noise impacts.</p> <p>The extension of the breakwater has the potential to reduce wave action within the pond area and reduce the rate of seawall erosion from waves and boat wash.</p> <p>The increase in the pond area would improve boat safety and reduce congestion during and after sailing regattas. The proposal does not impact on navigation channels to Careening Cove and Neutral Bay and does not impede access to the Careening Cove swing moorings or access to foreshore boating facilities.</p> <p>The proposal increases casual mooring berths for RSYS member's and guests.</p> <p>The proposal extends an existing breakwater and pontoon.</p> <p>The mooring of vessels on the pontoon in front of Colinda Reserve</p>

<p>views to and from the waterway as a result of the size of vessels capable of being accommodated;</p> <p>(j) The effect of the development on any conservation area or on any building, work, relic, tree or place that is a heritage item of significance to the locality and the effect on its size and in its vicinity;</p> <p>(l) The Australian Standard – AS 3962-1991 – Guidelines for Design of Marinas;</p> <p>(n) Any other relevant plan of management, urban design or other development control guidelines that apply to Sydney and Middle Harbours and their foreshores and which have been notified and provided to the consent authority by a public authority;</p> <p>(o) Any representations of the Committee;</p> <p>(p) Whether the development will affect swimming in the locality;</p> <p>(q) The provision of pedestrian access in the locality of the development and the impact of the development on existing pedestrian access.</p> <p>(r) The importance of giving priority to onshore access to the foreshores and waterway rather than access by means of boardwalks;</p> <p>(s) Any development control plan prepared respect of this plan or, until such a plan has been prepared, the Sydney and Middle Harbours Design and Management Guidelines a copy of which is available at the Head Office of the Department.</p>	<p>is likely to obstruct views to and from the water. However, the impacts are acceptable as the moorings are of short duration, the size of vessel is restricted and views between and over the vessels and structures to the water and distant shoreline are still available.</p> <p>The proposal does not impact on the heritage significance of the RSYS site.</p> <p>Condition imposed to ensure compliance</p> <p>Not applicable</p> <p>The Committee does not object to the proposal</p> <p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p> <p>The proposal is consistent with the DCP for Sydney Harbour and Parramatta River.</p>
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(ii) **any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority;**

N/A

(iii) **any development control plan;**

Sydney Harbour and Parramatta River - Development Control Plan for SREP No.22 - Parramatta River and SREP No.23 – Sydney and Middle Harbours.		
3	<p>Landscape Assessment</p> <p>Landscape Character Type 8</p> <p>Performance Criteria: Vegetation is integrated with land-based development to minimise the contrast between natural and built elements. Design and mitigation measures are provided to minimise noise and amenity impacts between incompatible land uses. The maritime uses on the Harbour are preserved. Pressure for these uses to relocate is minimised. New developments adjoining maritime uses are designed and sited to maintain compatibility with existing maritime uses. Remaining natural features that are significant along the foreshore are preserved and views of these features are maintained.</p>	<p>Not applicable</p> <p>Short term construction impacts can be managed and mitigated.</p> <p>No changes to the recreational and maritime uses of the site.</p> <p>Not applicable</p>
4	<p>Design guidelines for water-based and land-water interface developments</p> <p>General Requirements Public access to waterways and public land is maintained and enhanced. Congestion of the waterway and foreshore is minimised.</p> <p>Conflicts on the waterway and foreshore are avoided.</p>	<p>The additional casual mooring berths would provide greater access to the shore-based facilities. The increase in the pond area would improve boat safety and reduce congestion during and after sailing regattas. The proposal does not impact on navigation channels to Careening Cove and Neutral Bay and does not</p>

<p>The development warrants a foreshore location. The development does not interfere with navigation, swimming or other recreational activities.</p> <p>The demand for the development has been established.</p> <p>The structure does not obstruct or affect the natural flow of tides and currents.</p> <p>Development does not dominate its landscape setting.</p> <p>The extent of development is kept to the absolute minimum necessary to provide access to the waterway.</p> <p>Shared usage of facilities is encouraged to minimise the number of structures and their cumulative impact on the environment of the Harbour and its Tributaries.</p> <p>Development is setback at least 2.5 metres from the division of waterway.</p>	<p>impede access to the Careening Cove swing moorings or access to foreshore boating facilities. The proposal extends an existing breakwater and pontoon. The proposal does not impact on navigation channels to Careening Cove and Neutral Bay and does not impede access to the Careening Cove swing moorings or access to foreshore boating facilities. The proposal extends an existing breakwater and pontoon and improves boating safety and congestion during and after sailing regattas. The breakwater reduces wave energy in the vicinity of the RSYS and permits the launching, training and rigging of vessels in clam waters. The breakwater has the added benefit of slowing seawall erosion on the RSYS and neighbouring properties. The breakwater does not impede tidal flow and currents. The proposal is consistent with the existing maritime use of the site and Careening Cove. The proposal extends the breakwater and pontoons and does not impede access to the waterway.</p> <p>Not applicable.</p> <p>Does not comply as the structures extend across the front of Colinda Reserve and neighbouring properties (owned by the RSYS).</p>
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(iv) any matters prescribed by the regulations that apply to the land to which the development application relates:

N/A

- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,***

The proposal is considered to have minimal adverse environmental impacts. Short term construction impacts can be managed and mitigated.

- (c) *the suitability of the site for the development;***

The site is suitable for the development.

- (d) *any submissions made in accordance with this Act or the regulations,***

N/A

- (e) *the public interest.***

The proposal has minimal environmental impacts, does not impede navigation in Careening Cove and Neutral Bay, the visual impacts are considered to be acceptable and the scale of development is consistent with the maritime character of the site and Careening Cove.