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1B Bolingbroke Parade
Fairlight NSW 2094

Director, Planning Frameworks
Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Re: State Planning Problems Associate with Manly Boatshed & other Commercial & Club based Maritime Facilities in North Harbour, Manly.

Dear Director,

Although this letter is submitted in representation of problems associated with Manly Boatshed, these problems flow onto Davis Marina, the Sea Scouts and the Skiff Club located on the western foreshore of North Harbour. We have made representations to the Department of Planning since 2011 for changes to the current REP for this locality, Sydney Harbour Catchment Regional Environmental Plan 2005 (the REP) to be made due to mistakes made in the past and this letter encapsulates our requests over time.

We are of the opinion that the current REP is erroneous and has had a number of band-aid repairs that have resulted in the current zoning for North Harbour. In turn this mistake in zoning has;

- Prevented existing maritime facilities in North Harbour from modernizing and utilising newer technologies to maintain and improve amenity;
- Had a significant detrimental impact on the cash flow of all commercial and club facilities in North Harbour;
- Significantly reduced the level of water-based recreational activities available to the general public in this locality;

- Stymied the growth in public water recreation in North Harbour and Manly Municipality as a whole;
- Been a recognized and significant error that was brought to the attention of the previous state government in 2004 who then directed the NSW Department of Planning to just patch the REP up to protect long-standing businesses that faced ruin, rather than undertaking a review of the proposed zoning utilising sound planning principals so as to accurately and logically zone the foreshores of North Harbour to the benefit of all.

So that you gather a sound understanding of all issues associated with the REP error we break down the problem into the following sections. The underlying rationale for bringing all of this to your attention is that the REP is currently being re-written and there currently exists a window of opportunity to correct the REP's planning mistakes.

1.0 The Site

2.0 The Draft REP, 2004

3.0 The REP 2005

4.0 Where is the error in the Existing REP?

5.0 What we are Requesting

We are requesting a review of the current zoning in North Harbour. We discuss all of the above following.

1.0 The Site

The site is known as North Harbour and is the Bay to the immediate east of Manly Cove. It runs from Fairlight Crescent at its easternmost point, west to North Harbour Reserve and returns to the south east across Wellings Reserve and Forty Baskets Beach.

Manly Boatshed is sited at the end of Bolingbroke Parade, Fairlight.

The site (and in fact all of North Harbour) is bound by the 'Manly-To-Spit Walk' that runs from Manly Quay to The Spit.

The site is a haven for water recreation activities with the public;

- Kayaking, paddle-boarding and canoeing through North Harbour;
- Sailing through North Harbour;
- Carrying out water and land based scouting activities;
- Permanently mooring vessels on NSW Maritime, Manly Boatshed and Davis Marina swing moorings;

- Fishing;
- Skiff (small sailing dinghy) Training;
- Swimming fronting North Harbour Reserve and Forty Baskets Beach; and
- General water recreation activities.

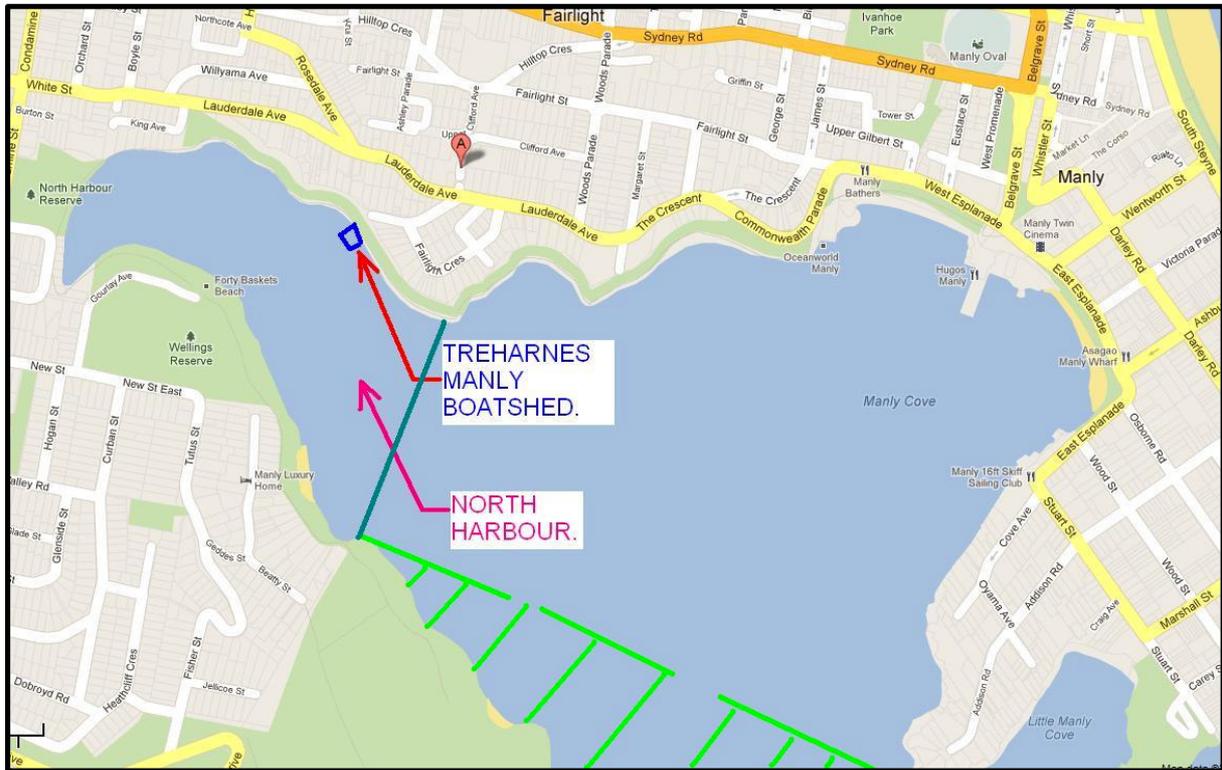


Fig 1.1 – Site Layout. North Harbour locating Manly Boatshed. For later reference, the green hatched area is the northern extent of Fisheries Aquatic Reserve.

2.0 The Draft REP, 2004

In 2004 the NSW Department of Planning released for public comment the Draft REP. This document specified eight (8) planning zones for the waterways and foreshores of Sydney Harbour and Middle Harbour. Council LEP’s and DCP’s set land based zoning and planning controls but stop at the Mean High Water Mark (approximately the high tide mark on the shoreline). Below this line zoning and development permissibility is controlled by the REP.

The draft REP zones all of North Harbour as W2 Environmental Protection. Strangely enough it also zones Manly Ferry Wharf as W2 Environmental Protection along with all other maritime assets and infrastructure within Manly Cove and Little Manly Cove.

The W2 Environmental Protection zone does not permit the development of any type of maritime infrastructure for any reason excepting swing moorings.

Clontarf Marina on Sandy Bay Road Clontarf however is zoned W5 Water Recreation permitting the development of water recreation facilities.

Based on the 2004 draft REP's zoning of North Harbour, the NSW Maritime Authority then issued notices to Davis Marina and Manly Boatshed notifying them that they will not have their leases renewed and that they will be forced to demolish their existing facilities.

A political storm resulted (see attached newspaper stories and editorial). The Marina Industry Association and the Boating Industry Association lobbied State Government to save these facilities. Sydney based Papers published articles noting that these facilities will be lost despite their positive contributions to the municipality and the Owners lengthy stewardships and financial investment.

Refer below for current REP's zoning map covering zoning differences for Clontarf Marina and Manly Boatshed. Clontarf Marina is zoned **W5 Water Recreation**, while manly boatshed is zoned **W2 Environmental Protection**

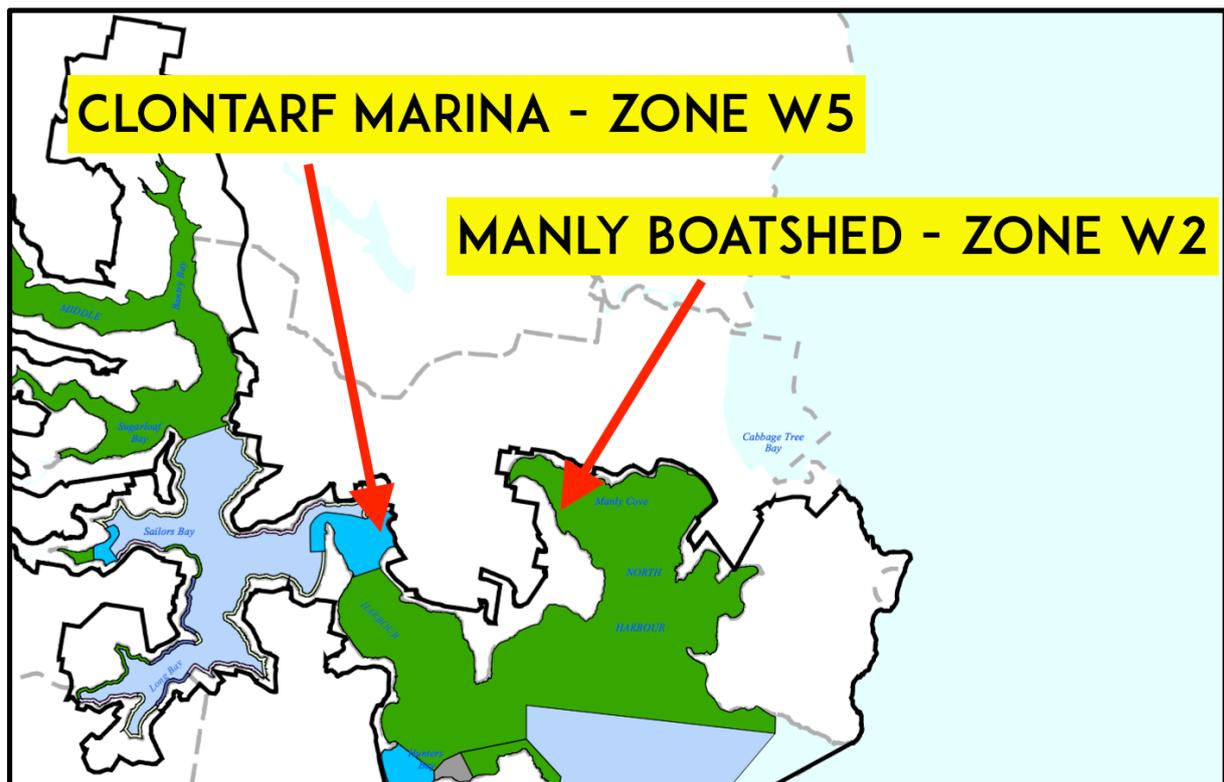


Fig 2.1 – SYDNEY REGIONAL ENVIRONMENTAL PLAN (SYDNEY HARBOUR CATCHMENT) 2005 ZONING MAP
12

3.0 The REP 2005

The REP was gazetted in 2005 becoming planning law. To get around the sensitive issue of demolishing existing commercial and club maritime assets in North Harbour the NSW Department of Planning decided to simply put a black box around existing development rather than reviewing zoning. So;

- Anything within the existing black box could stay.
- Nothing could be developed outside of the black box.

The REP was issued with, for all intents and purposes, a caveat on these sites preventing any growth or modernization taking advantage of new technologies and new levels of public amenity. Special Purpose zones (the black boxes) were created allowing existing uses and structures to remain. These black box maps are supplied in Appendix 'B'.

4.0 Where is the Error in the Existing REP?

So what went wrong? How was it North Harbour and Manly Cove were zoned W2 Environmental Protection but Middle Harbour was zoned W5 Water Recreation? What was the trigger that led the NSW Department of Planning to determine that all maritime facilities in North Harbour must be demolished and the Harbour saved for environmental protection while Clontarf and The Spit should be zoned for water recreation and permitted to operate commercial marinas?

Simply put, there was a significant mistake in the determination of the current use of North Harbour. Here is how we believe the mistake occurred.

1. The NSW Department of Planning (NSWDP) moves their attention to North Harbour while writing the 2004 Draft REP and prepares to determine a suitable zone for the waters of said harbour;
2. NSWDP contact all stakeholders for this waterway;
3. NSWDP ask Manly Council and the then NSW Fisheries if they have any zoning for these waterways;
4. The NSW Fisheries respond by noting that they have an Aquatic Reserve between Grotto Point and North Head;
5. The NSWDP misinterpret the information supplied by the NSW Department of Fisheries. They interpret the information supplied by Fisheries as representing that the area of North Harbour is an Aquatic Reserve. It is not. NSW Fisheries do have an Aquatic Reserve close by but it is south and west of Manly Cove and North Harbour. The NSW Department of Planning has completely misinterpreted the extent of Fisheries Aquatic Reserve;
6. The Map in the REP (Figure 5.2 – below) Map 16 “zoning for North Harbour,

and Manly) takes the Fisheries Aquatic Reserve Map and transfers the Aquatic Reserve in its' supposed exact footprint to Map 16. All the green Environmental Protection Zone on Map 16 (Figure 5.2) is meant to represent the area of the Fisheries Aquatic Reserve, but it was transposed incorrectly. Here is where the critical mistake is made. The REP completed by the NSWDP in 2005 assumes the Fisheries Aquatic Reserve running from Grotto Point to North Head continues into Manly and North Harbour.

7. **IT DOES NOT** - It stops at an east-west line (approx) taken from Forty Baskets Beach to Manly Point and then Little Manly Cove Point (so well south west). All waters north of this line are outside of the Fisheries Aquatic Reserve and can be zoned to support current and proposed future uses. The NSW Department of Planning were of the opinion that Fisheries had already zoned North Harbour as aquatic reserve and therefore specified a zone to support Fisheries aquatic reserve. North Harbour was never zoned as an aquatic reserve by NSW Fisheries.

The following two pages have two Figures. Figure 5.1 is the Fisheries North Sydney Harbour Aquatic Reserve Map (note its extent and proximity to North Harbour which we have added in colour). Figure 5.2 shows how the NSWDP interpreted the North Sydney Harbour Aquatic Reserve, by taking it up into Manly Cove and North Harbour. It was never the intent of NSW Fisheries to zone Manly, Little Manly Cove or North Harbour for Environmental Protection.

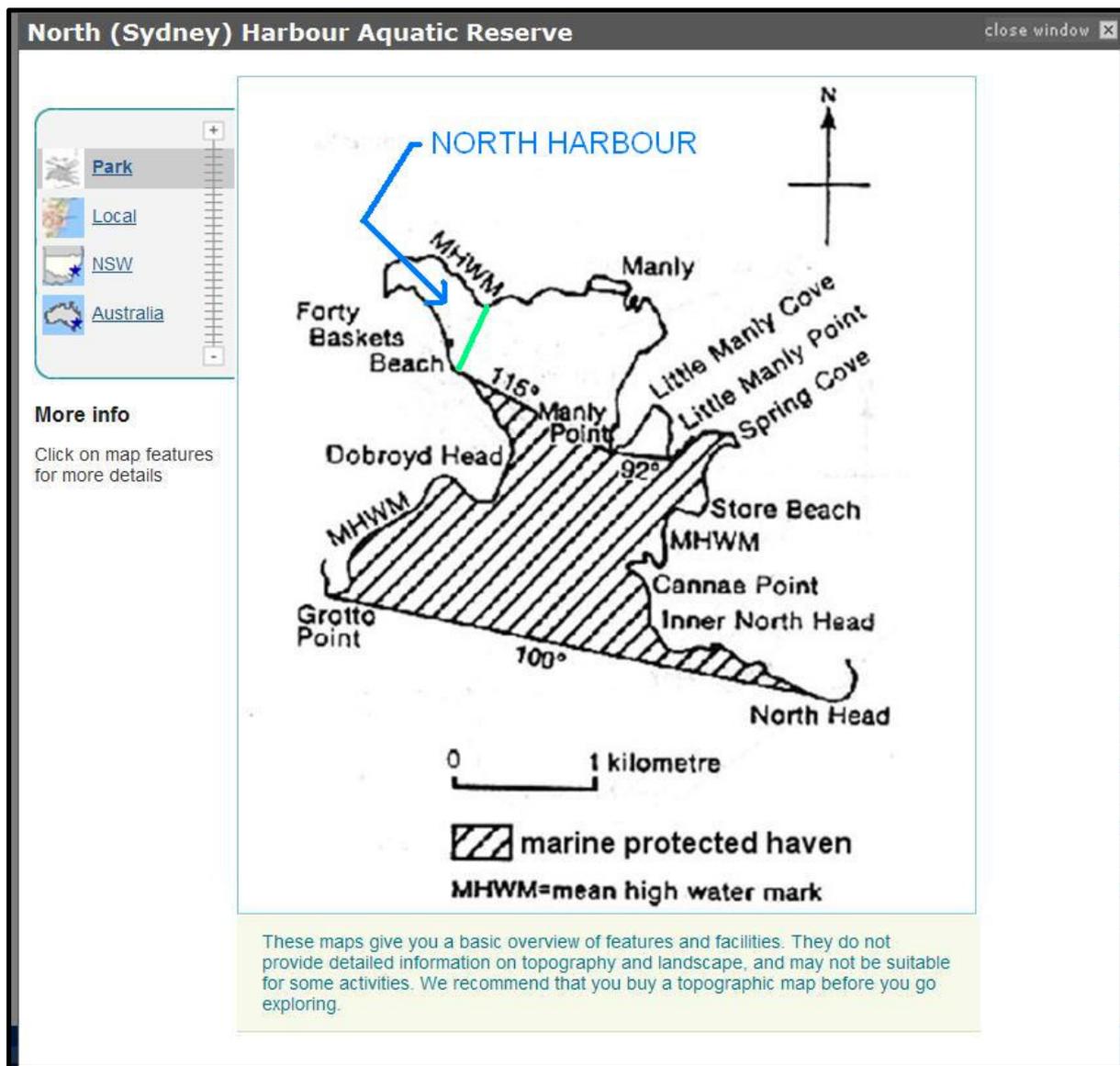


Fig. 5.1 – NSW Fisheries North Harbour Aquatic Reserve (shown hatched as the ‘marine protected haven’) with North Harbour (the location) noted in blue, west of the green line. The two are completely separate areas.

The map in Figure 5.1 was taken directly from NSW Fisheries (Department of Primary Industries) website for aquatic reserves. We added the blue arrow, blue text and green line so you can see that North Harbour is well clear of the reserve. You can see that:

- The Fisheries aquatic reserve is well clear and to the south of North Harbour. The REP from the Department of Planning shows the Fisheries Aquatic Reserve incorrectly extending up into North Harbour;
- Manly Cove and Little Manly Cove are also outside of the Fisheries Aquatic Reserve. The REP from the Department of Planning shows the Fisheries Aquatic Reserve incorrectly extending up into Manly Cove and Little Manly Cove; and
- That Fisheries call their reserve the ‘North (Sydney) Harbour Aquatic Reserve’.

They actually mean that this is their northern most aquatic reserve in Sydney Harbour. They do not mean that this is an aquatic reserve in North Harbour, the location. We believe that the NSW Department of Planning took this to mean an aquatic reserve in North Harbour. During our meetings with Department of Planning staff in 2011, it was pointed out to us that this is where the error most likely originated.

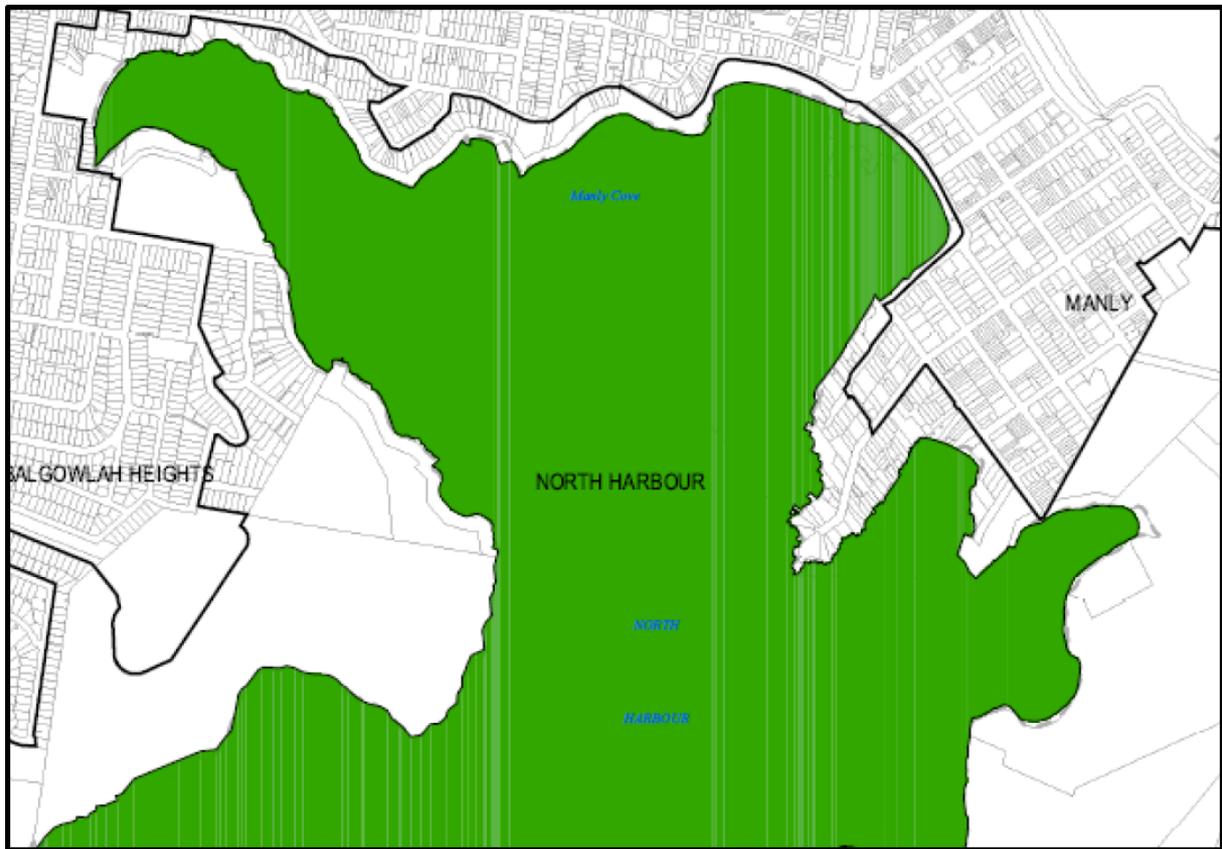


Fig. 5.2 – An excerpt from the current REP's zoning map 16. Note that the green area is Zone W2, environmental protection and it covers all of North Harbour, Manly Cove and Little Manly Cove.

Post the REP being gazetted in 2005 Fisheries could have amended their Map to support the new REP's zoning for Manly Cove, Little Manly Cove and North Harbour. They could have extended their Aquatic Reserve into these areas. They did not. Figure 5.1 was taken from Fisheries website in December 2011 and they have no plan to extend the existing Aquatic Reserve into North Harbour.

5.0 What we are Requesting

Manly Boatshed requests that;

As the current REP for this locality, Sydney Harbour Catchment Regional Environmental Plan 2005 is being reviewed and re-written, that the zoning for North Harbour be reviewed taking into account the current uses and users of this Harbour and the fact that the previous zoning was more than likely based on erroneous information.

We request that you specifically address the re-zoning North Harbour to suit current and proposed future uses given the fact that North Harbour is not in an Aquatic Reserve.

We appreciate your attention to this issue. We have this window of opportunity open to us now while the REP is being re-written and strongly believe that the new REP's zoning for North Harbour should be merit based and reflect the needs of Manly municipality. In any amendments of defining the zone, North Harbour, where Manly Boatshed is situated, should be correctly identified as the same zoning category as Middle Harbour, where Clontarf Marina is situated.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Hugh Treharne', with a large, sweeping flourish at the top.

Hugh Treharne, OAM

THE
Manly Daily

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Boatsheds and clubs could go

JOHN MORCOMBE
environment reporter

TWO family-run commercial boatsheds and several recreational clubs in North Harbour could be forced to move following a State Government plan that has the area zoned for environmental protection.

The owners of Davis Marina and the Manly Boatshed want the Department of Infrastructure, Planning and Natural Resources to respect existing family businesses that will be threatened if the new plan for Sydney Harbour is gazetted in its current form.

Last month the department issued its draft regional environment plan for Sydney Harbour, which zones North Harbour for environmental protection.

Davis Marina was established in 1946 by Steve Davis and is now run by his children, Bruce and Janet, whose lease expires in 2008.

The Manly Boatshed has been owned by the Treharne family since 1943 but is older than that. Their lease expires in 2015.

Both families fear their

NORTH HARBOUR REZONING PROPOSAL

■ **PLAN:** A State Government plan will rezone North Harbour for environmental protection

■ **FEAR:** Families running the boatshed and marina are worried they will go out of business

■ **CONCERNS:** They will have to tender for their leases, which may be short-term

boatsheds could disappear. They have been told that, once their leases expire, they will be put up for public tender. And the leases might only be for 10 years, not 20.

If the boatsheds are forced to close for more than 12 months due to fire or storm damage, or while being redeveloped to satisfy environmental regulations, they could lose their leases.

The families have no objection to the environment protection zoning but want small pockets of commercial activity retained in North Harbour to service local maritime needs.

Hugh Treharne said if the boatsheds had to bid for shorter leases, their owners would not be able to afford environmental upgrades.

"You need a long lease to make it viable," he said.

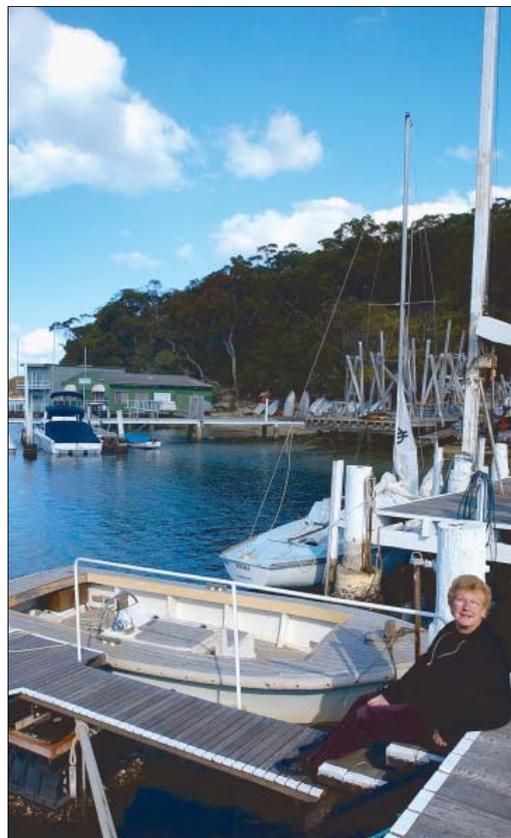
"We'd like the sites already in existence to be zoned for commercial recreation. Existing commercial operations in the rest of the harbour are zoned that way in the draft plan."

Janet Houlihan, of Davis Marina, said existing use rights should be respected. "We've worked hard for all these years only to find the Government doing this to us," she said.

The Boating Industry Association has told both families to prepare a submission to the Government.

"We want to work with them so they can see our side of things and help us remain, rather than make things harder for us," Mr Treharne said.

● See Editorial Page 14



UNDER THREAT: Janet Houlihan of Davis Marina says the State Government should respect existing rights. Picture: VIRGINIA YOUNG

ED: MAIN PUB: MAN DATE: 22/7/04 PAGE: 1 COLOUR: CMYK



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New policy will sink us say boaties

JOHN MORCOMBE

A NEW draft commercial lease policy for local marinas and waterfront clubs could spell the end for both, the Boating Industry and Boat Owner's Associations say.

The draft policy released by the Maritime Authority will force existing leaseholders to compete for the leases when they expire and is preventing them investing in their businesses.

At a meeting with the chief executive officer of the Maritime Authority on Tuesday night, 160 people from the boating industry voted unanimously to reject the draft policy. Marinas at North Harbour and Clontarf say the new policy amounts to asset stripping because infrastructure built over the terms of their previous leases could be taken over by a new lessee without compensation.

Because of that they are loath to invest in new infrastructure.

The NSW Boat Owner's Association and the Boating Industry Association, in a joint statement,

say the policy is "totally uncommercial".

Boating Industry Association chairman Roy Privett said his members were unanimous in their rejection of the policy.

Bruce Davis, of Davis Marina at North Harbour, said the new policy was "a radical change from anything that's gone before".

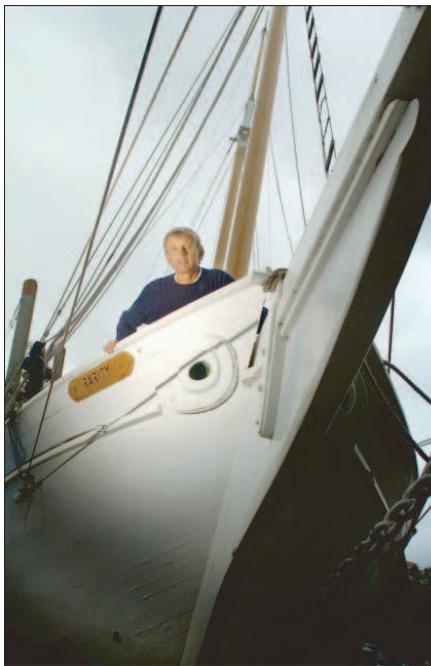
"If they put our leases out to public tender, those with more resources will probably be more successful, so the small family business will tend to be swallowed up by the big ones."

Hugh Treharne, of Manly Boatshed, said the chances of anyone signing the lease in its current form is "between zero and nil".

"You can't sign anything that will lose money or send you bankrupt," he said.

Hugh Shanks, of Clontarf Marina, said the new policy prevents modernisation and investment.

The Maritime Authority says the policy "aligns with industry needs" and ensures the best financial return for the State Government.



UNCOMMERCIAL: Bruce Davis of Davis Marina is one of the local operators opposed to the draft lease policy. Picture: ROS CANNON

Police looking for witnesses

MANLY police are appealing for anyone who witnessed the assault of a man in Raglan St, Manly, about 5am on Saturday.

The man told the police he and his female friend were walking when they saw a group of men assaulting another man, who was lying on the ground.

He said he tried to intervene but was himself assaulted.

Two of the attackers were described as of caucasian appearance and aged in their 20s.

Anyone who can help with inquiries can call Manly police on 9977 9499.

Forklift driver loses licence

A FORKLIFT driver has lost his licence for three years after drink-driving while four times over the limit on the wrong side of the road with three passengers in the car.

Aisake Tabaiwalu, 42, of Manly, pleaded guilty in Manly Court this week to high-range drink-driving on Denison St, Manly at 3.40am on December 28 last year.

Tabaiwalu, who had a previous drink-driving conviction, said he drank six beers that night and was depressed over his father's death. He was also ordered to complete 100 hours' community service.

4 THE MANLY DAILY, Thursday, April 21, 2005

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Existing rights must count

THE Treharne and Davis families are understandably worried.

Both families have run mooring operations in North Harbour for more than 60 years.

Now a State Government plan, if it is introduced, may spell the end of their enterprises, the Manly

The Manly Daily

Boatshed and Davis Marina, respectively.

The Government wants to rezone the area, bound by North and Middle Heads and including the aquatic reserve, for environmental protection. The businesses will have to

upgrade their boat-cleaning facilities to ensure they are environmentally sound.

They say they cannot afford the expense if they are offered only short-term leases, which may be put out to tender anyway.

The environmental aspect makes perfect sense and the families agree. But such a plan should not be implemented at the expense of businesses that have been operating for so long.

The Government must take into consideration the existing use rights of both families and give them some credit for 120 years of goodwill.

TO THE POINT

Letters, faxes and e-mails to this section should be no longer than 40 words. Preference will be given to shorter letters. The Manly Daily's address appears at the bottom of this page.

■ BOB Carr and his planning minister back the closing/destruction of the Orange Grove complex at Liverpool because it breaches zoning. If he's consistent he must also oppose, on the basis of zoning, the enormous proposed six-storey "retirement resort" complex which would quite unnecessarily destroy the historic Oxford Falls valley - zoned semi rural, low density.

S.V. Bender, Beacon Hill

■ IF Ray Awadallah of Blue Haven Swimming Pools (MD, July 15) thinks tipping 50,000 litres of Peats Ridge spring water into his swimming pool is going to alleviate our current drinking water shortage he must be an oxymoron.

Mark Ansiewicz, Newport

■ GWENETH Hibble (MD, July 9) complains of discrimination after having her licence restricted. She failed her test. She should not have a licence. At the age of 92 it is presumed many of her reflexes have gone and although she may not have an accident by driving within her capabilities, she could well have caused quite a few of which she may not be aware. She is trying to use her age to gain sympathy to allow her to keep her licence. If someone fails their licence, they should not be driving.

Jenni Miller, Church Point

■ AS someone a long way short of 80, I still feel sympathy with the older driver. We allow pushbike riders on main roads, also teenagers in extremely old vehicles, four-wheel drives and commercial vehicles with no special licence. Surely there's room for the older (not always slower) driver? If we must discriminate, what about something similar to the P-plate system, like an S-plate (Senior)? That way others can be aware of possibly slower reflexes, reduced awareness (sight, hearing) and be accordingly more courteous and patient. Most drivers (I include myself) could do with a few lessons in patience anyway.

Kerrie Waldron, Frenchs Forest

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LETTERS to the editor are submitted on the condition that Cumberland Newspaper Group, as publisher of The Manly Daily, may edit and has the right to, and license third parties to, reproduce in electronic form and communicate these letters. All letters in this section should be no more than 250 words, clearly typed or handwritten, and have a daytime phone number for verification. The editor reserves the right to edit the material.

Six reminders for slack drivers

IDRIVE from Dee Why to Mosman in peak-hour traffic and am appalled at the blatant disregard for road rules displayed each and every day.

It's simple, people, but in case you're confused, here are some reminders:

1. Get off your mobile phone.
2. Orange lights mean slow down to stop, not speed up and race through at the last moment.
3. A 40 km/h school zone means just that - 40km. Not 45 or 50 and certainly not 60.

If the driver in front of you is doing 40, it is because they are doing the right thing, so don't intimidate them by driving up their behind.

4. Use your indicators when you are changing lanes.
5. The transit lane is there for a reason.

If you don't have three or more people in your car, get out of the lane. And don't duck and weave in and out to avoid being caught by the police.

Watch out for motorcyclists. Check your blind spots carefully when changing lanes or turning. A bike is a lot harder to see than a car.

I am not a perfect driver - none of us is - but we can all be a lot better if we obey the rules that are in place to make the road safer for everyone.

And remember, stay off your mobile phone when driving.

Rachel Ferguson
Dee Why

Formula for a waste of money

HOW does the State Government plan to spend the \$500,000 it has allocated to research the proposed Dee Why Civic Centre as a site for a new hospital? I suspect as follows:

Step 1: Amalgamate Dee Why Library with the Warringah Mall Library.

Step 2: Split Warringah between Manly Council and Pittwater Council.

Step 3: Bulldoze and level site (pity about the trees, but a hospital is more important).

Step 4: Get permission for a 10-storey hospital.

Step 5: Commission further studies. These conclude that (surprise, surprise) the site is in fact too small and traffic congestion too severe for a hospital in that location.

Step 6: Sell the now unneeded land to developers, who build a 10-storey block of units on it.

Step 7: Commission a new



DEE WHY CIVIC CENTRE: Step by step to frustration and failure.

study to determine the best site for a new hospital.

I hope I'm wrong. In the meantime, I completely agree that the vacant land in Frenchs Forest is much more suitable (or what about Beacon Hill High School?)

and I share George and Shelagh Champion's concerns for one of the last remnants of greenery in Dee Why.

Margaret Kerr
Mona Vale

Thought hospital site was a joke

A LARGE general hospital in the middle of Dee Why? I thought this was some sort of a joke when I first heard of the proposal.

As expressed by Mr and Mrs Amos (Opinion, June 25) the civic centre is not only a busy locality for short-term parking, giving access to the library, doctors' surgeries, the police station and

the fire brigade. It has beautiful gardens and trees - more impressive than any other shopping centre on the peninsula. Pittwater Rd, Howard Ave and Fisher Rd are already heavily used, both day and night. How would visiting doctors, nurses, ambulance and visitors to patients ever find easy access?

Mona Vale and Manly hospitals both give very good service and could be gradually better equipped before a large general hospital is built in four or five

years' time. A fully-equipped large general hospital should be sited to serve the whole peninsula, not just the coastal strip. The obvious site is on the corner of Warringah Rd and Wakehurst Parkway. It is approachable from all directions and the land is already under control.

With population growth, all three sites will be needed. These choice sites should be preserved for posterity and not allowed to fall into developers' hands.

Fred McLaren, Cromer

WRITE TO US MAIL: The Letters Editor, The Manly Daily, PO Box 286, Manly 1655 FAX: The Letters Editor - 99772831 E-MAIL: The Letters Editor, manlydailyletters@cng.newsitd.com.au

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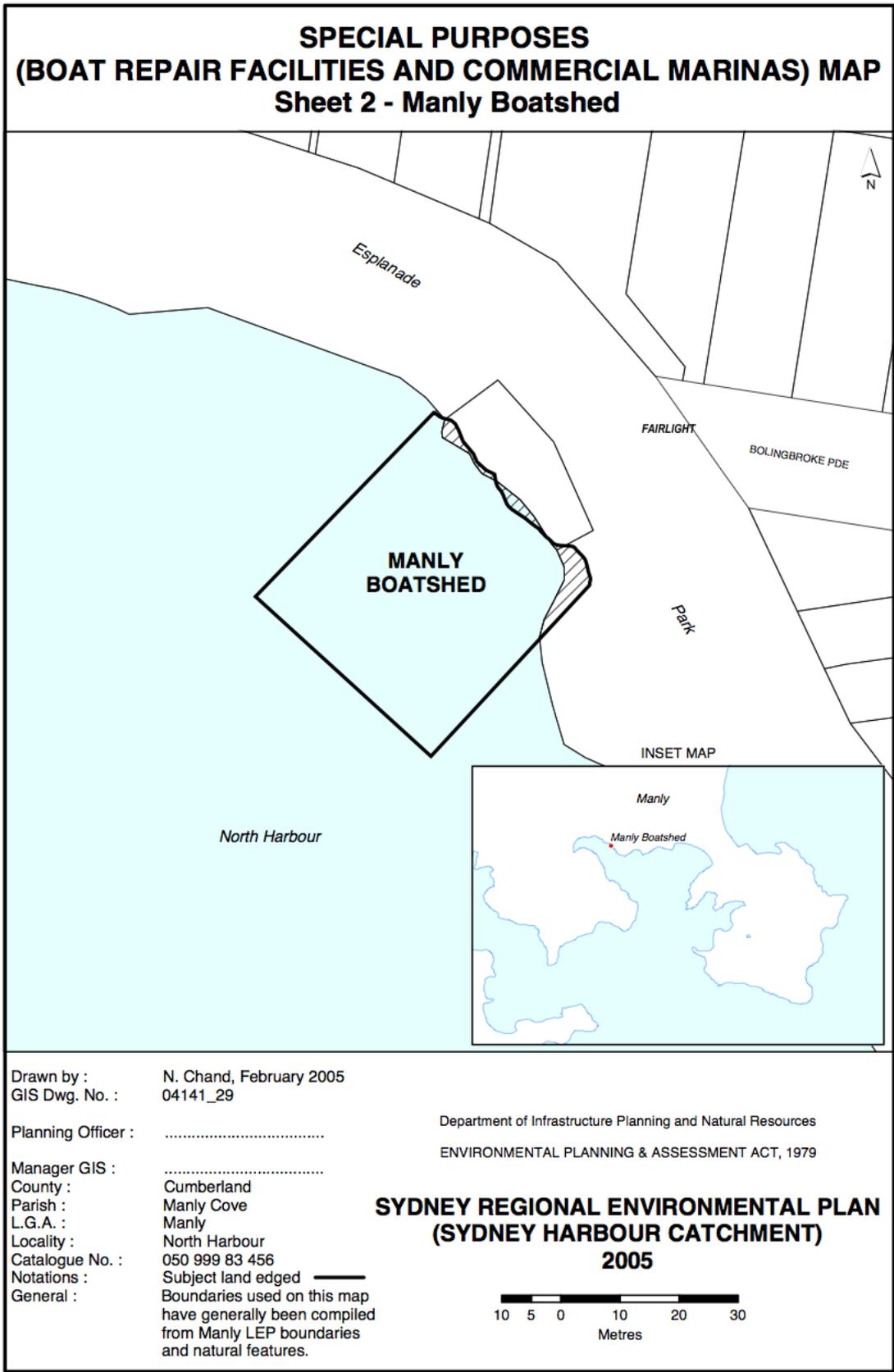
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Local Business on the Block

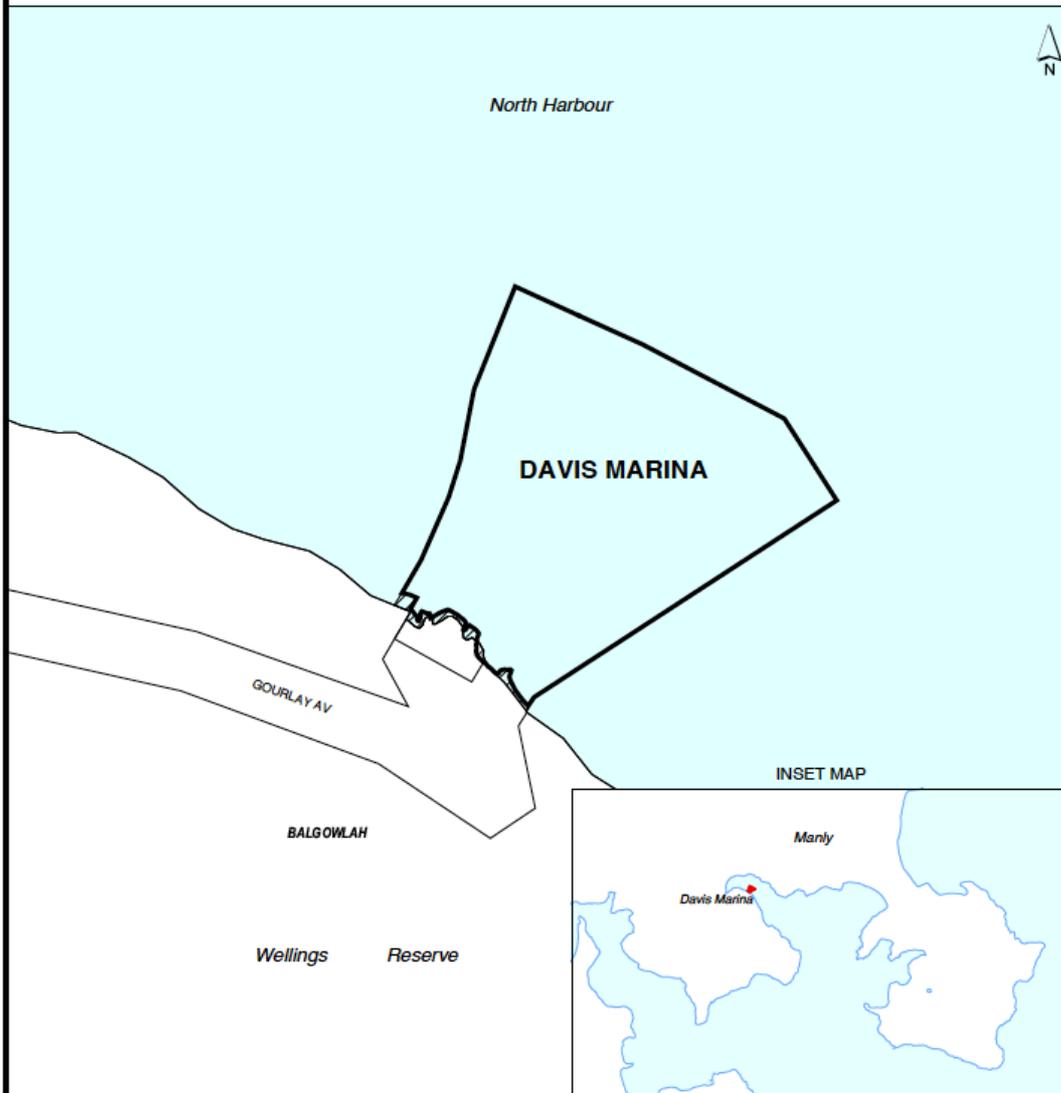
Turn to page 17 for all your home renovating needs

THE Manly Daily

Appendix 'B' – Black Box Band-Aid Repairs to Current REP



**SPECIAL PURPOSES
(BOAT REPAIR FACILITIES AND COMMERCIAL MARINAS) MAP
Sheet 1 - Davis Marina**



Drawn by : N. Chand, February 2005
GIS Dwg. No. : 04141_30

Planning Officer :

Manager GIS :

County : Cumberland
Parish : Manly Cove
L.G.A. : Manly
Locality : North Harbour
Catalogue No. : 050 999 83 456
Notations : Subject land edged **——**
General : Boundaries used on this map

Department of Infrastructure Planning and Natural Resources
ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

**SYDNEY REGIONAL ENVIRONMENTAL PLAN
(SYDNEY HARBOUR CATCHMENT)
2005**

Boundaries used on this map
have generally been compiled
from Manly LEP boundaries
and natural features.

