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**From:** [REDACTED]  
**Sent:** 18/03/2025 7:44:03 AM  
**To:** Council Northernbeaches Mailbox  
**Cc:** Andrew Morrison  
**Subject:** TRIMMED: Re Submission to Council - DA 2024/1216  
**Attachments:** Maxwell Duncan - Further Submissions Northern Beaches Council 18.3.25.docx;

Attached please find my further response to Amended Application DA 2024/1216.

Kind regards

**Dr Andrew Stewart Morrison RFD SC**

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Maxwell Duncan  
Northern Beaches Council  
RFI – North Harbour Marina DA 2024/1216

Email: [council@northernbeaches.nsw.gov.au](mailto:council@northernbeaches.nsw.gov.au)

18 March 2025

Dear Maxwell

## **FURTHER SUBMISSION TO NORTHERN BEACHES COUNCIL**

I refer to the amended North Harbour Marina DA Proposal of 29 January 2025, DA 2024/1216.

In response to my objection of 18 February 2025 to the amended DA I have received comments from Ned O’Neil dated 19 February 2025:

1. He asserts that the proposed channel will be on average 60 metres wide but will have 2 pinch points 42 metres and 48 metres. He concedes that swing moorings on both sides may narrow the channel and may on occasions move in different directions. He asserts the channel is needed for safety reasons.

On the contrary, the plan of the channel has most of it under 60 metres width with moored yachts of unspecified dimensions on swing mooring on both sides including on and close to the narrowest points of 42 metres and 48 metres. There is nothing that prevents large vessels occupying a swing mooring.

2. An apparent channel may invite much larger vessels into North Harbour which is already extremely crowded. The fact that they may not moor at North Harbour Marina does not mean that they cannot come in and (or albeit with some difficulty and some danger) turn in the vicinity of vessels on moorings. Moreover, a channel may decrease safety because boats may seek to travel at a greater speed. It should be noted that when on the north side of North Harbour Manly Boat Shed (the Treharnes) became a destination wharf, Maritime did not need a channel and that is a far busier wharf, with a commercial vessel Simmo, going in and out on its job of maintaining and repairing moorings. Council will leave itself open to liability in the event that collisions occur through the provision of an inappropriate channel. Nothing is proposed which will prevent large vessels entering.
3. The risk of large vessels entering North Harbour is well illustrated by the Applicant’s first proposal suggesting vessels of 35 metres (114ft 10 inches) and 25 metres (82ft 2 inches) using North Harbour Marina berths.
4. Ned O’Neil asserts the channel width required is only 22.5 metres wide. Ned O’Neil’s assertion about the width of the channel omits to say that the minimum width should be the greatest of 20 metres or  $L + 2$  metres where  $L$  is the overall length of the longest boat in the Marina. However, the preferred width of an entrance channel is 30 metres or greater if wider beamed vessels are berthed. In any event, the channel is not and cannot be exclusively for North Harbour Marina and other vessels must and will use it. Their length may be very substantially greater.

5. In respect of the proposed berth outside the existing licenced area on the eastern side of the eastern arm which is close to or on the 1 metre depth mark, Ned O'Neil suggests that the berth would only be used by a small motor vessel most likely with an outboard and positioned, bow facing to the shore. When the Marina was extended it cut across significantly the area between it and North Harbour Sailing Club used by small craft (sailing dinghies, kayaks etc) and there is very little alternative for the launching of vessels which are unpowered. It is inappropriate to have a motorised vessel close to an area where families with children picnic, engage in swimming, exercise dogs in the water and utilise small craft for sailing and paddling.
6. In response to my criticism of the lack of space between the two arms to permit safe navigation for vessels once there are berths on both sides of the interior Ned O'Neil says that the area of water between the two arms is a fairway not a channel. He asserts that the proposal is fully compliant with the standard. The Australian Standard AS3962 to which I have previously referred extensively expressly says that the width of interior channels and fairways should be a minimum of 20 metres for an interior channel but a preferred width of 25 metres and for fairways (which he appears to concede is the area between the two arms) 1.5 metres x the length of the longest boat using the fairway in metres. It is evident that that would not be compliant given the length of boats mooring, their protrusion into the fairway and the fact that the fairway gets narrower because of the V shape of the two arms of the Marina. Most of the fairway will be less than 20 metres between berthed vessels on either side. In any event, he omits to refer to the preferred fairway width which is 1.75 metres x the length of the longest boat using the fairway in metres. There is no attempt to comply with this. A bland assertion that there is compliance is no substitute for a calculated based upon the Australian Standard. See AS3962 on Channel Widths, Interior Channels and Fairways.
7. It is worthy of note that not merely is North Harbour crowded with existing moorings but it is open to a southeasterly gale coming through the heads and there have been a number of times in the past where vessels have been damaged and indeed boatsheds have been effectively destroyed including North Harbour Sailing Club which was sweep off its foundations in the storm of 1974. Clearly safety cannot readily be achieved and anything which may have the effect of encouraging larger vessels to come in poses a real risk to those on them and to other vessels even though North Harbour Marina is not offering them a permanent mooring.
8. The proposed changes are not in the interests of those currently using North Harbour and are, it is submitted, inconsistent with the Australian Standard.
9. This further submission is supplementary to that of 18 February 2025 and should be of concern in respect of potential liability for the Council under the *Civil Liability Act [2002] (NSW)*, s5B since the Council is on Notice of the risks which may arise from approval.

Yours faithfully

Dr Andrew Stewart Morrison RFD SC/KC  
3 Bolingbroke Parade  
FAIRLIGHT NSW 2094

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