
Sent: 3/11/2020 4:15:37 PM
Subject: DA Submission
Attachments: Families for Manly Submission Manly Boatshed 29 October 2020 .pdf;

From: Families for Manly Action Group <familiesformanly@icloud.com>
Sent: Friday, 30 October 2020 4:12 PM
To: Anne-Marie Young <Anne-Marie.Young@northernbeaches.nsw.gov.au>
Subject: DA Submission

Good afternoon Anne-Marie

I am interstate due to family illness and Mark was trying to lodge this on behalf of Families for Manly. He could not do it for some reason, so I was wondering if you could request this to be registered for us?

Thank you in advance and so sorry to disturb you

Nicolle Tessier
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Submission Against: DA 2020/0514 – IB Bolingbroke Pde, Fairlight NSW 2094
29 October 2020

Background

Families for Manly (FFM) is a community association, established in 2017. We have hundreds of members covering the (previous) Manly LGA. Many concerned members contacted us regarding this DA. They were concerned both with the potential environmental and community impact of the DA but also about what was perceived to be lack of clarity in the DA. This was felt to be impeding an accurate evaluation of the potential resident and community impacts.

Members of our Executive Committee subsequently reviewed the DA and met with the Trehane family and visited the site. We recognise that the Manly Boatshed is part of the heritage of the harbour and that the Trehane family has been a fundamental part of that heritage. We applaud the family for their intent to undertake necessary renovations of the Boatshed and foundations. We also acknowledge that much of the boating community will appreciate increased storage and improved facilities.

We would very much like to support this DA. Unfortunately, in its current form, even with the Applicants response of 18 September, we are unable to do so. However, we provide this report with the intent to help inform amendments that may enable the DA to progress.

During our initial meeting, we explained some of the community concerns to the owner and how the inconsistencies in the SEE have created confusion. This confusion also brings a fear of unintended consequences on resident amenity and the area. The Council must provide residents with certainty as to what uses a DA will facilitate - both now and in the longer term. Hence, FFM raises a number of issues:

1. The DA In Its Current Form is Likely to be Designated Development

We understand the complexities around these definitions and have read the SEE's refuting of this matter along with the Applicants Response to Issues letter dated 18 September 2020. Despite this response we continue to question why such a significant development, with a planned 250% increase in footprint, an increase in trading hours from 62.5 to 111 hours per week and extensive harbour interactions was not deemed to be Designated Development. The proposed DA seems to involve a complete demolition of almost all built structures on the site, including the roof structures of the existing Boathouse. Basically, the Boatshed will be rebuilt as new from the seabed up, with new piles and supports and expansive decking to the east.

We note the SEE states that "*The proposed development will not give rise to any adverse biodiversity impacts in the locality and will not prejudice the Harbour's associated ecosystems, ecological processes and biological diversity or its water quality*" And the analysis seems to minimize environmental impacts. Further information seems required, to enable a proper environmental assessment of the application.

In its current form the DA does not appear to fit within the claimed CI35 exception. However, the classification as Designated Development may perhaps be avoided if the DA was modified to reduce the built form - in particular the extent of decking - and of course the operating hours were reviewed.



2. The Proposed Hours Of Operation Are Not Clearly Outlined.

A DA's trading hours are fundamental. The SEE asserts that the operating hours will be "retained as existing, with the exception of the kiosk as a new facility". However, the proposed hours appear to represent a significant increase on existing. This table collates the proposed hours noted in the applicant's various reports (Acoustic Report, SEE). They do not seem to be in line with what the owner explained to FFM - and may in fact be in excess to his actual needs for his business.

Proposed Hours of Operation in the DA - Excluding Kiosk and 24hr client access to storage

	MON - FRI		SAT		SUN / PUBLIC HOLIDAYS	
	Open / Close	Hrs open per day	Open / Close	Hrs open per day	Open /Close	Hrs open per day
<u>CURRENT HOURS: General marina / office / tender services hours (As per RMS destination program and website)</u>	0800hrs - 1700hrs	9	0830hrs- 1730hrs	9	0830hrs - 1700	8.5
<u>PROPOSED HOURS: General boat shed / marina, tender services (From SEE, Pg 12-13)</u>	0600hrs - 2200hrs	16	0600hrs- 2200	16	0700hrs - 2200	15
NETT INCREASE / DAY	+7 hrs		+7 hrs		+6.5 hrs	
<u>CURRENT HOURS: Workshop and shipwright activities (from Acoustic Report)</u>	0730hrs - 1630hrs	9	0730hrs - 1630hrs	9	0730hrs - 1630hrs	9
<u>PROPOSED HOURS: Workshop and shipwright activities (from SEE, Pg 12-13)</u>	0700hrs - 1800hrs	11	0800hrs- 1800hrs	10	0800hrs - 1800hrs	10
NETT INCREASE / DAY	+2 hrs		+1 hrs		+1 hrs	

For the General marina / office / tender services part of the business the weekly operating hours as stated in the SEE will increase from 62.5 hours 111 hours. Increased operating hours of a business such as this not only impacts immediately adjoining properties, but clearly impacts residents in adjoining streets – given the increased foot and vehicle traffic, light spill and noise that results. The Applicant's response to this is that this is not the intention. If the applicant does not intend to increase their hours of operations, then



the DA needs to be modified to reflect this or the Council's consent should limit the trading hours to the current hours in the table above.

The Noise Impacts Seem Understated And Have Not Been Reliably Assessed.

The SEE states the Kiosk will operate 5am to 10pm, 7 days a week (Page 12-13, SEE). And it goes on to state that *'The proposed hours or operation of the kiosk are in accordance with the acoustic assessment report submitted with the application.'* (Page 40, SEE)

The DA fails to acknowledge the potential increased noise impost from additional external congregation points - particularly on the eastern side of the building. It also fails to consider other noise impost to neighbours from operating hours to 10pm. Drop off and pick ups, and perhaps increased foot traffic on the walkway late at night all need to be considered carefully in a quiet residential area.

We note that the new passive craft storage shed and tender office is to be located to the East. This seems counterintuitive given it places this 24hr access for 108 passive craft directly in front of resident's homes. The noise and light spill impacts from clients arriving and departing before sunrise does not seem to have been addressed.

We acknowledge that 24hr access has been in place for years and there has been no valid complaint against it. And we accept that users understand the need to be discreet at all times especially during the late night and early morning hours. However the placement of this storage, combined with a potential significant increase in clients accessing the area, needs to be assessed.

Noise impacts are crucial, particularly for adjoining properties and surrounding streets. This is especially relevant in Jilling Cove, given the geography of the area where early morning noise can echo for great distances. Yet there has been apparently no assessment of noise impact on residents on the opposite shore of the cove.

This Area Is Not Suitable for Night Trading

The community is rightly concerned about night trading and the resultant foot and vehicular traffic, along with noise and light imposts. The owner stated that he is "not intending to trade at night" given that he lives on site. This sounds reasonable and we accept his statements of course. However the DA requests something quite different. And it is the DA that the community must review as it is the DA that informs current and future use and rights for commercial activity in the area.

Even with the best intentions of operators, it is impossible to consistently and effectively control customers' behaviour around or approaching a business. Rules of operation within the site cannot limit what happens in the side streets. Only the hours of operation can impact that, by not attracting people at night. The very nature of this business means that much of the noise produced relates to human activity. It is also activity that cannot be limited to "one side of a building", despite operational constraints and activity imitations. Night trading can result in groups congregating - not necessarily within the business itself - but around parking and access areas.



The owner has stated that he does not intend to trade at night routinely – but stated he wanted to be open for the Friday nights Twilight Sailing in summer. This is not outlined in the DA but does raise the question in the sailing and boating community as to whether a liquor licence would eventually be applied for.

The Kiosk Has The Design Elements Of A Café

There seems to be a mismatch between what the owner states (very genuinely) that he intends to operate, and the “look and feel” of the Kiosk and seating area. The owner advised FFM that he did not intend to have fixed seating areas, but to have it more informal and in fact had not decided what seating would be... However, the DA outlines fixed seating area and wide decking. We note that this has now been reduced but a new adjacent external seating area for Kayak and tender users has been incorporated into the design. From an operational perspective and as designed this area will function as a café or restaurant with a total area in excess of 55 m² – in fact closer to 80 to 100m².

In our meeting with the owner, prior to the amended application the owner advised FFM that he had safety concerns for ingress / egress of watercraft in the vicinity of café seating. The revised design still provided for an external seating capacity in excess of 50 people and requires kayak users to move through this area carrying 5 m plus kayaks.

Given the number of patrons, the extended hours and the allocated area the Kiosk presents more in line with a café or restaurant – which would be a new and separate use proposed. The size of the kiosk, including its indoor and outdoor seating areas (including the area arbitrarily set aside as “paddle / boating / destination customers”) well exceeds 55sqm. This is contrary to clause 5.4(6) of the MLEP. Despite the current owners best intentions, these design elements raise community concerns as to whether it could eventually be used as a function venue for sports nights and twilight sailing.

This concern is exacerbated by there being no details provided regarding limits on patron size or event usage for the kiosk, or the potential for the eventual service of alcohol. This has caused confusion amongst the residents. The Kiosk’s scale and operation goes directly to the potential impact on residents’ rights to quiet enjoyment of their homes. Hence these issues need to be clarified.

Inadequate Specifics Are Provided on Business Operation, Scale And Potential Usage Rights

We note that the SEE states that “*Manly Boatshed has executed and Agreement for Lease (AFL) with RMS for a 40-year lease term for the site, subject to fulfilling the terms of the PTL*.” However the ongoing useage / lessee rights and obligations included in the AFL are not provided. FFM requested a redacted copy, to review the rights and obligations of the current and any future owners. This has not been produced which creates difficulties for full assessment of the current DA. Also unclear is the extent of increased storage of passive craft. Pg 36 of the SEE refers to an increase of 45 kayaks only. However, the new passive craft storage shed is said to accommodate 54 craft. We now note that the revised application makes reference to 108 passive craft.

No one questions the integrity of the current owners; we appreciate their willingness to consult with us. We appreciate that revised application seeks to address some of the communities’ concerns but clearly



the changes still don't appear to align with their stated intended use. This raises concerns as to what could be done by future owners, if the DA were to be approved in its current, opaque form.

Traffic Impact Assessment

There are significant inaccuracies in TIA, conducted in May 2020. The claim that the Boatshed has ongoing access to 33 car park permits is fundamental to the assessment. This is incorrect. These car park permits will be invalid with the implementation of the new Manly Parking Permit Scheme Framework being implemented now. It is our understanding the Manly Boatshed, like all Manly businesses will have one permit. The residence above would most likely be entitled to two. Hence three permits may be available to the applicant and this should have been the basis for the TIA.

The TIA states that the proposed new development was expected to only generate “*demand for two (2) parking spaces per day*” This underestimates the genuine impact of the proposed business changes. The assertion that this additional demand will have “*no noticeable impact to on-street parking availability*” is simply not correct and cannot be accepted. The more credible traffic report submitted by McLaren Traffic Engineers states in its summary that the “TIA did not survey the existing parking environment, did not present credible and robust data on the existing parking demand of the site and generally supposes that there will be negligible change as a result of the proposal all of which is incorrect.” The author goes on to say “the proposal for alterations and additions to Manly Boatshed in its current form is not supported for approval on traffic engineering grounds and should be refused by Northern Beaches Council.”

Having read the report in detail it is clear that the TIA provided in support of the Application is inadequate and cannot reasonably be relied upon by the council in assessing this application

A way forward?

We have previously raised concerns with the Council regarding “development creep” over time. This business is in a quiet residential area, and has co-existed well with the existing residents because it has been small scale and predominantly limited to daytime operations. The concern is that an intensification of use would bring increased parking pressure and have direct resident impacts.

We support the Boatshed being renovated. However, the community is entitled to a balanced outcome and the protection of their rights to quiet enjoyment of their homes. The Council must give the community clarity on what a DA will permit a business to do now, and into the future. That information is lacking to date, with the SEE being silent on many key concerns for the community.

In discussions with the applicants they stated they were willing to consider a way forward through possible conditions / modifications and they clearly do not want to alienate the residents any more than has occurred to date. So we propose the applicant and Council explore how to provide clarity to the community and adjoining residents and remove the inconsistencies in this DA. This could be assisted by specific amendments or approval conditions that will (for example):

1. Create a footprint more aligned with the existing Boatshed with less extensive decking



2. Include a condition limiting the maximum number of Kiosk patrons to 32 as shown on the current indoor and outdoor seating plan.
3. Include a condition that the Boatshed cannot be used as a function venue
4. Include a condition that approval to serve alcohol will not be approved.
5. Include a condition generally limiting trading hours for the Kiosk 8:00 am to 5:00 pm, 7 days per week with a right to extend this to 9:00 pm one day per week during the summer sailing season. (This is in line with the applicant's stated intention in our meeting with him).
6. Include a condition restricting the operation of a Kiosk as defined in the Manly LEP
7. Include a condition requiring the new passive craft storage area to be moved to the east of the deck so as to act as an acoustic buffer for residents to the east of the site.
8. Include a condition limiting delivery and rubbish removal to daylight non morning peak traffic periods
9. Include a condition that table service is not permitted
10. Include a condition prohibiting food preparation on site
11. Include a condition ensuring any future DA to convert the kiosk to a café or to extend hours of operation will not be approved.

For now though, we ask Council to reject this application in its current form.

Signed by Nicolle Tessier (Chair)