
From: Andrew Morrison
Sent: 16/10/2024 12:45:48 PM
To: Council Northernbeaches Mailbox
Cc: rodney childs
Subject: TRIMMED: DA Submission DA2024/1216 - Attention: Maxwell Duncan
Attachments: NHM DA Concerns.pdf;

Dear Maxwell,

Please find attached my submission re: DA2024/1216 for North Harbour Marina.

Yours faithfully,

Dr Andrew S Morrison RFD SC
3 Bolingbroke Parade
FAIRLIGHT NSW 2094

[REDACTED]

[REDACTED]

Liability limited by a scheme approved under Professional Standards Legislation

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

[REDACTED]

[REDACTED]

Attention: Maxwell Duncan
Northern Beaches Council

RE: DA2024/1216 – North Harbour Marina

Dear Maxwell,

Herewith please find my objections to the proposed DA – number: DA2024/1216

Yours Faithfully,

A handwritten signature in black ink, appearing to read 'A. Stewart Morrison', with a large, stylized initial 'A'.

Andrew Stewart Morrison

NORTH HARBOUR MARINA – DA CONCERNS

Development Application Number: DA2024/1216

Assumptions provided:

- 32m (105ft) vessel on Eastern Arm – T-Head
- 25m (82ft) vessel on Western Arm – T-Head
- 9 x New berths in Marina layout
- 10 x NHM Moorings require relinquishing
- 4 x Private Moorings require moving
- Kiosk with liquor licence – 6am-9pm

Concerns with proposal:

1. LACK OF TRANSPARENCY TO RESIDENTS BY NBC

- Residents who will have a direct impact from the development have effectively been left in the dark regarding the intent and extent of this DA.
- The reissue of the notification map on 16/10/2024 still does not adequately inform impacted residences – particularly residences to the west of North Harbour reserve in Balgowlah and Balgowlah Heights.
- NBC must re-issue a third notification of proposed DA to all residences to the West, NW, North and North East of North Harbour due to the direct impacts of the DA on residents.

2. STEALTH AND DECEPTIVE MANNER OF PRESENTING TRUE INTENT

- The owner has tried to hide their true intentions including:
 - o Berthing 32m (105ft) superyacht
 - o Berthing 25m (82ft) superyacht
 - o Adding a liquor licence to a new Kiosk
- These facts appear to have been purposefully hidden deep within their presented documents and not shown on any covering letter or introductions/conclusions in submitted documents.

3. LIQUOR LICENCE

- Page 38 of the SEE explains a Liquor Licence is included for the Kiosk
- This has been included by stealth and not included in any covering letter or SEE introduction or conclusion. Only in table in bottom of document.
- This is not being transparent with the community
- NHM must demonstrate how this is deemed ‘ancillary’ to a marina for the customers
- Management plan to ensure noise constraints / events / parties managed
- There are insufficient toilet facilities at NHM to cater for a licenced premises

4. NO ACOUSTIC REPORT

- Why has there been no acoustic impact report performed for this DA considering the noise impacts of the water activities on local residents?
- Council must demand that an acoustic impact assessment be performed for the kiosk, and superyacht behaviour

5. VISUAL IMPACT – SUPERYACHTS (32M AND 25M)

- The owner intends to berth two superyachts in the marina – 25m and 32m
- Within the Statement of Environmental Effects (SEE), the Visual Impact Statement is poor and void of truthful representation of the actual proposed marina berthing layout.
- No photos or mock-ups of the truthful intended activities have been addressed in the SEE
- Views from North Harbour Reserve towards quarantine beach will be severely blocked
- Residents from Balgowlah and Fairlight that have views of North Harbour will have their view blocked by 3-4 story superyachts

- This is in absolute contradiction to the intent of the legislation in protecting the Sydney Harbour Foreshore amenity.
- Visual amenity fails every piece of legislation designed to protect the area as per the Statement of Environmental Effects
- Lights from superyachts and charters impacts on visual amenity are also not considered

<https://www.planning.nsw.gov.au/sites/default/files/2023-03/sydney-harbour-foreshores-and-waterways-area-development-control-plan.pdf>

6. NORTH HARBOUR MOORINGS – HIGHEST DEMAND IN NSW

- North Harbour has the longest waitlist of any bay in NSW for private mooring licences.
- Boat storage opportunities are extremely limited. A reduction of moorings for the boating public contradicts NSW Govt boat storage initiatives.
- NHM proposal includes the removal of 10 commercial moorings and moving of 4 private moorings in a bay that is already full and space maximised.
- Any reduction in swing moorings in North Harbour for the net result of two large motor vessels entering the bay is a devastating outcome for the NSW Boating Public and TfNSW boat storage initiatives.
- This is not equitable to the boating public of the community

7. RISK TO NORTH HARBOUR PASSIVE CRAFT USERS

- North Harbour is an extremely popular bay for kayak, SUP, sailing, swimming, dinghy users.
- No consideration has been made to take into consideration the requirement for large superyacht vessels to quickly avoid incident with passive craft and dinghies by immediate manoeuvring ability – especially in the case of vessels on opposing headings already within the channel boundaries.
- Vessels also protruding past the T- Head on the eastern arm – creates a safety risk for smaller craft on blind corners and reduced access to beach for North Harbour Sailing Club members

8. ENVIRONMENTAL IMPACT

- Impacts to seagrass at head of bay from prop-wash / running aground / vessel shadows
- Depth is 2-5m at Western End of T-Head
- No Pump-out facility for other large vessels entering the bay – including 32m vessel on eastern berth
- Foreshore erosion from excessive wash

9. ECOLOGY ASSESSMENT - INADEQUATE

- Report is ONLY focussed on the construction work, not the proposed use – ie: Superyachts
- Council must request that this report be re-commissioned with the specifics of the actual proposal that includes the 25m and 32m vessels berthing, turning around and impacts in adverse weather from East, SE, NE, NW, WEST and SW directions.
- The report lacks any exploration of the resulting ‘prop-wash’ and bow and stern thrusters from superyachts and their impact on seagrass and other marine life species at the head of the bay - to the west of NHM.
- The proposal for a 25m vessel on the western end of the marina would literally have the vessels propellers within 5-10m of the seagrass patch.

10. NSW FISHERIES

- The statement of Environmental Effects declares that a fisheries approval is not required.
- NSW Fisheries should be notified of this development and the imminent negative impact of propeller wash and bow and stern thrusters will have on the seagrass field to the west of NHM.

11. SYDNEY HARBOUR CATCHMENT – SYDNEY REGIONAL ENVIRONMENTAL PLAN 2005

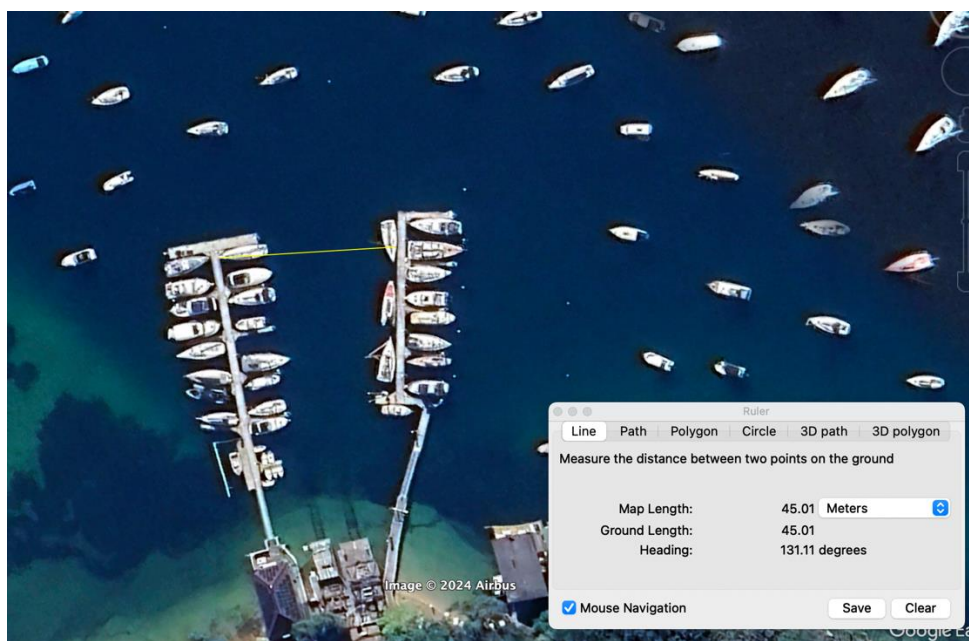
- NHM is located within Zone W2 – ‘Environment Protection’. The purpose of the zone W2 is:

- The Zone W2 – Environment Protection provides for the protection, rehabilitation and long term management of the **natural and cultural values of the waterways and adjoining foreshores**. The zone covers a range of areas including significant estuarine ecosystems and habitats in parts of Manly Cove and Middle Harbour, estuarine and wetlands habitats along the Parramatta River, and significant riverine environments of the Lane Cove River and Duck Creek.
- This proposal clearly does not adhere to the purpose and aim of this Zone.
- North Harbour Marina is the **ONLY marina within the Zone M2** and therefore should be held to the highest level of scrutiny.
<https://www.planning.nsw.gov.au/sites/default/files/2023-03/sydney-harbour-catchment-sydney-regional-environmental-plan.pdf>

12. MARINA CHANNEL & FAIRWAY – FAILURE TO MEET AUSTRALIAN STANDARD

- Insufficient navigation room for fairway (1.5 x 14m) between East and West arms
- New berths on western side of eastern arm does not satisfy the Australian Standard.
- Using AS 3962 – Australian Standard: GUIDELINES FOR DESIGN OF MARINAS
- Channel / fairway between the Eastern and Western Arms needs to be between 21m – 24.5m wide.
- Adverse and severe weather makes this a navigation and safety risk for all marina customers
- Additional room is required between Eastern and Western Arms to allow sufficient vessel room. In Summary:

FAIRWAY / CHANNEL BETWEEN ARMS
Largest Vessel LOA inside Marina Berths per Marina Plans: 14m
Per Australia Standard @1.5 x = 21m
Per Australia Standard @ 1.75 x = 24.5m
REQUIRED CHANNEL DISTANCE PER AUS STANDARD: 21 – 24.5m
Distance between Eastern Arm and Western Arm: 45m
Less: Vessel LOA on Eastern Arm: (14m)
Less: Vessel LOA on Western Arm: (12m)
Net Fairway / Channel Gap: 19m
ACTUAL CHANNEL DISTANCE PER MARINA PLANS : 19m
NET BREACH OF AUSTRALIAN STANDARD DISTANCE : NEGATIVE 2m - 5.5m



- Furthermore, there is already insufficient water depth on the western side of the Western Arm which will not support an increase in vessel size as proposed – putting seagrass at risk.

13. WASH - SUPERYACHTS

- Large vessel wash will severely impact all users of North Harbour as short-period wash will cause violent movement to all craft in the bay
- Safety risk to boating public and customers alighting vessels in the bay
- Swing moorings in proximity of prop wash from turning vessels will cause the involuntary spinning of moored vessels into other moored vessels in the vicinity. Inevitable damage will occur

14. TfNSW (NSW MARITIME) – PERMISSION TO LODGE

- The statement of Environmental Effects (SEE) states in section 3.1 that the Permission to Lodge (PTL) is currently under consideration by TfNSW.
- **Council must reject an application without an approved TfNSW Permission To Lodge.**
- NHM cannot lodge a DA without having consent from TfNSW via an approved PTL.
- Where is the Approved PTL in the DA?

15. CROWN LANDS – LAND OWNERS CONSENT (LOC)

- The statement of Environmental Effects states that the proposal only has works below MHWL.
- This is false as the main building and the hardstand decking are above and below the MHWL
- **Council must reject an application with lacks Land Owners Consent from Crown Lands.**
- Council must demand Land Owners Consent from Crown Lands before this DA is submitted

16. SUPERYACHT - RESTRICTED MANOEUVRABILITY

- Navigational risk of maximum size vessels entering and exiting the channel simultaneously. Eg: 32m (105ft) vessel enters the channel while 25m (82ft) vessel exits the bay.
- High risk of avoiding kayaks, Stand-up paddleboards, dinghies and sailing vessels with safe distances due to the narrow channel proposed
- 32m vessel likely to have 7-10m beam, 25m vessel likely to have 6-8m beam
- Turning circle area required for vessels to safely turn adjacent to NHM is severely inadequate
- Vessels will be required to display restricted manoeuvrability day shapes / lights for channel passage

17. SUPERYACHT DANGER IN NORTH HARBOUR - SEVERE WEATHER

- North Harbour Marina is the ONLY marina in Sydney Harbour that is directly exposed to the ocean.
- It is susceptible to gales and storms from the East – South East and predominant East Coast Lows.
- The scale of structure required to withstand severe East Coast Lows in North Harbour with vessels 25m and 32m long is well beyond any proposed 'upgrades' as suggested in the DA.
- The risks to life, neighbouring vessels and the environment is simply too great to risk at the head of North Harbour.
- The proposed dogleg channel will send vessels towards hazardous waters off Fairlight point.
- In terms of safe navigation, this is irresponsible and flawed in its concept.
- East Coast Lows – direction of 120-150 (ESE) produces the most treacherous conditions. Proximity to Fairlight Point must be avoided at all costs
- SE and SW gales / storms are the most prominent in the bay. Vessels of 32m and 25m will provide a huge risk to existing vessels due to the proposed channel not taking into account existing vessels swinging from gusty SE to SW winds
- Vessel movement in gales / storm conditions are volatile due to landscape between 40-Baskets Beach and NHM
- Large swell / storm surge – Waves rebounding off break-wall at head of bay projecting waves in Easterly direction towards NHM require extra room for turning vessels at the head of bay

18. SAFE NAVIGATION AT HEAD OF BAY

- Prevailing NE sea breeze in summer and W-SW prevailing breeze in winter produces accelerated gusts around the surrounding hills making navigation unpredictable and difficult for inexperienced vessel operators
- Vessels berthed on the western side of the western arm do not have sufficient water to safely navigate around a 25m vessel berthed on the end of the western T-Head

19. SUPERYACHTS POWER REQUIREMENTS

- Diesel generators required 24/7 to operate power requirements of vessels of that size
- Three-phase power required to power superyachts.
- Is this included in the marina upgrade for the 'Optional Berthing'?
- Noise of constant generators operating will have a detrimental impact on residences.
- Risk of environmental disaster in W2 Zone – 'Environment Protection' zone
- Precedent for Superyacht fires:

<https://www.smh.com.au/national/nsw/fire-destroys-luxury-yacht-in-sydney-20230903-p5e1ks.html>

20. SUPERYACHT LIGHTS / AFTER HOURS PARTIES

- Floating apartments with lights on all 3-4 levels
- This would be an eyesore for local residents who enjoy the current view of North Harbour and for those using the Manly-Spit walkway
- Management do not have staff working 24/7 to ensure noise and parties from large vessels are mitigated in this calm residential area

21. SUPERYACHT CHARTERS

- Superyachts of that size commonly provide boat charters carrying up to 100 people
- This cannot be conducted in a quaint and quiet bay
- Noise from large volume of people before, during and after charters is not acceptable.
- There is no management plan to address commercial charters in this DA

22. TRAFFIC REPORT

- Fails to address the large volume of people and parking impacts from superyacht charters
- Large charters on superyachts boats in and out of the bay will create enormous traffic impacts
- Licenced 'Kiosk' will create a 'destination' for people to visit – these impacts not included or adequately addressed
- There is inadequate parking now. It will be a massive problem for the community to park.
- Council should demand that the Traffic report be resubmitted to address the above concerns

23. DESIGNATED DEVELOPMENT?

- It would appear based on the legislation that this DA should be deemed a DESIGNATED DEVELOPMENT requiring state approval.
- Northern Beaches Council MUST consider whether NBC is in fact the consent authority
- SEE does not appear to adequately meet the criteria to have this DA not deemed designated development

24. CAFÉ OPERATING HOURS

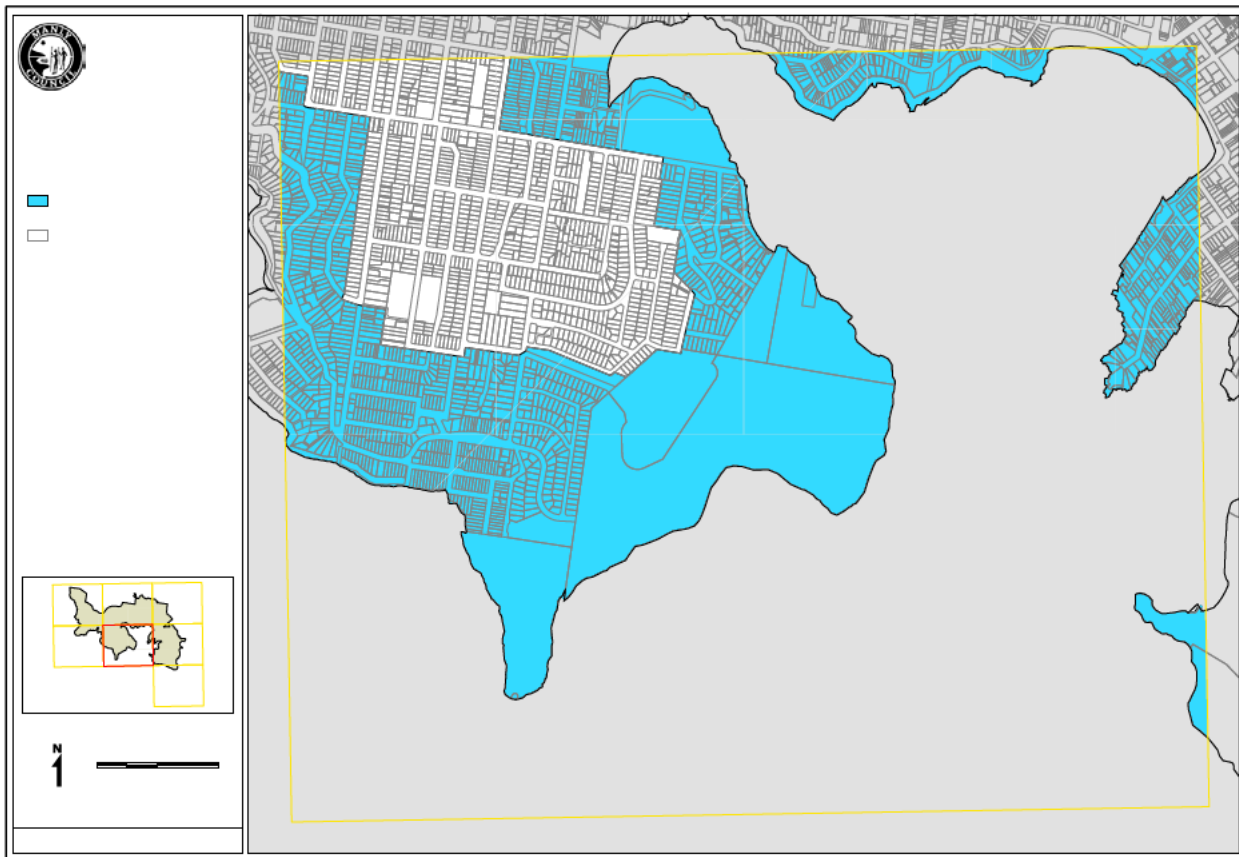
- DA shows operating hours are to be:
 - o Monday to Sunday 6am – 9pm (and public holidays)
 - o • Doors and windows to kiosk and any seating area will be closed
 - o o Prior to 6am (Monday to Sunday and public holidays);
 - o o After sunset (Monday to Sunday and public holidays)
 - o • Outdoor seating will only be used 6am to sunset Monday to Sunday and public holidays
 - o • No more than 20 patrons shall be permitted within the kiosk seating area (outdoor only)
- Operating hours are not consistent with a 'Kiosk' – What is the true intent of this kiosk?

- How is a liquor licence deemed to be 'ancillary' to the Marina?

25. MANLY DEVELOPMENT CONTROL PLAN (DCP) 2013

- The proposal fails to address the key concerns of the Manly DCP relating to Amenity.
- Page 38 of the Statement of Environmental Effects does not adequately address the impacts of the proposal in the true purpose of the DCP.
- Amenity is glossed over with vague comments and does not address key principles of the DCP instrument.
- Council should scrutinise the DCP instrument responses per the SEE

26. MANLY LEP 2013 – FORESHORE SCENIC PROTECTION AREA MAP



27. WATER ACCESS FOR DINGHIES AND KAYAKS

- No ramp / water access shown for customers of dinghies / kayaks
- Where will craft owners access the water?

28. MISC

AS 3962 – GUIDELINES FOR DESIGN OF MARINAS

3.1 CHANNEL WIDTHS**3.1.1 Entrance channel**

The width of the entrance channel to a marina is dependent on a number of factors, the majority of which are the following:

- (a) Exposure to wind, wave and currents, which all reduce the manoeuvrability of boats.
- (b) Number of boats in the harbour and usage levels.
- (c) Type and size of boats.
NOTE: Power boats are generally more manoeuvrable than sailing boats.
- (d) Extent of navigation aids provided.

For an entrance channel, the minimum width should be the greatest of—

- (a) 20 m;
- (b) $(L + 2)$ m, where L is overall length of longest boat in the marina, in metres; or
- (c) $5B$ m, where B is the beam of the broadest mono-hull boat in the marina, in metres.

The preferred width of an entrance channel is 30 m or $6B$ m; whichever is the minimum. Widening of the channel may be necessary where the channel changes direction.

Where benched breakwaters are used at a marina entrance such that the bench is submerged at higher tides, markers should be used to delineate the edge of the channel.

In order to minimize the penetration of waves into a boat harbour, it is permissible to narrow the width of the entrance channel over a short length at protecting breakwaters. The minimum width of this narrow section shall be the greater of 15 m and $3B$ m, where B is the beam of the broadest mono-hull boat in the marina, in metres.

3.1.2 Interior channels and fairways

The channels within the marina are not as greatly influenced by the wind, waves, and currents at any site, as they are by the size, number and type of boats, and the frequency of boat usage. Any non-motorized sailing vessel or multi-hull vessel using the harbour will need to be considered when determining the interior channel and fairway widths. In some locations, there may be climatic conditions, such as prevailing winds, which should be considered when interior channel and fairway widths are being determined.

The width of interior channels and fairways should be as follows (see also Figure 3.1):

- (a) *Interior channel:*
 - (i) Minimum width 20 m or $1.5L$ m, whichever is the greater, where L is overall length of the longest boat using the channel, in metres.
 - (ii) Preferred width 25 m or $1.75L$ m, whichever is the greater.
- (b) *Fairways:*
 - (i) Minimum width $1.5L$ m, where L is the overall length of the longest boat using that fairway, in metres.
 - (ii) Preferred width $1.75L$ m.

DEPTH AT WESTERN ARM – PROXIMITY TO SEAGRASS

11:43

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