

From: Lucy Wallrock
Sent: 27/02/2022 6:26:16 PM
To: Council Northernbeaches Mailbox
Cc: Samuel Wallrock
Subject: DA2020/1762 (316 Hudson Parade Clareville) submission
Attachments: Letter 27 Feb 22 re Boatshed @ 316 Hudson Parade.docx; Letter to NBC re boatshed 316 Hudson.docx;

Hi there,

Please see attached our submission for the boatshed belonging to 316 Hudson parade, along with our initial submission.

Thanks and kind regards,

Lucy Wallrock



318 Hudson Parade
 Clareville NSW 2107
 27 February 2022

The Planning Panel Members
 Northern Beaches Council

Dear Sirs,

DA2020/1762 – 316 HUDSON PARADE, CLAREVILLE

The report submitted to the Planning Panel by Council hides what has in fact happened:

- A CDC was issued on 15 November 2018 for development on foreshore land described as "Repairs and restoration to existing structures".
- As stated on Page 144 *"It was Council's view that this work was not carried out in accordance with the CDC, the CDC was not lawfully issued and **the works were undertaken without owner's consent.**"*
- The last part of the above statement is not true. **We brought the illegal works to Council's attention;** the certifier was employed and paid by Mr Walls as were the construction workers. They were working under Mr. Walls instructions!

There was and there has never been any intention by Mr. Walls to simply restore the existing boatshed. It has always been about rebuilding it to what he wants. He is prepared to pay any number of lawyers and consultants to achieve his objective. The Council officers understandably have difficulty resisting. They have also changed regularly during this 4 year period.

This challenge in dealing with a well-resourced owner such as Mr. Walls, is highlighted in the Council recommendations regarding height and size of the boatshed. Remember Mr. Walls demolished the original boatshed. **There are no independent verifiable records of the external dimensions of the original boat shed.**

- Mr. Walls' consultant surveyor instructed and paid by Mr. Walls says they were 6.2m x 9.2m but Mr. Walls asks for 6.75m x 9.745m.
- This is now a new build. Accordingly, it should be 4m x 6m as per the PDGP.
- Mr. Walls is also seeking a height of 5.35m, 34% above the PDGP rules (Page 163).
- Council however, state that this is ok as under current rules the stone base of the boat shed now has to be 500mm higher *"to comply with the estuarine planning levels."* In any event this takes it a total of 1.3m higher.
- However, isn't this inconsistent? Surely Mr. Walls can't have it both ways, part old part new?

We don't agree with the historic dimensions put forward by Mr. Walls consultants. They are overstating them and have inundated Council with reports to that effect. Further the proposed construction with glazed doors is not as indicated on Page 154 "...common for Pittwater area.....consistent with modern boat sheds" but more akin to a party house with opening sides.

We stand by our previous letters of objection the most recent dated August 2021. Please re-look at this, see attached.

Notwithstanding the statement by Council (Page 145) that *"The amended application was not required to be re-notified as the amended design reduced the size of the proposed structures"*, we believe we should have been notified of any changes to plans on this DA in a timely fashion. A couple of days before the Planning Panel meeting is considered inadequate.

Yours faithfully

Sam Wallrock & Lucy Proffitt

Cc Councillors; Rory Amon, Miranda Korzy, & Michael Gencher
Cc Catherine Chiba, CABPRA
Cc Nigel Walls, Pittwater Life

318 Hudson Parade
 Clareville NSW 2107
 16 August 2021

The Planning Manager
 Northern Beaches Council
 council@northernbeaches.nsw.gov.au

Dear Sir

We submit the following objection to:

Application No: DA2020/1762

Address: LIC 559656 and Lot 1 & Lot 2 DP 827733 316 Hudson Parade CLAREVILLE

We refer to the above application by Mr Walls to build a new Boatshed, Slipway and Jetty and our previous letter dated 14 March 2021.

We note that Mr Walls has submitted a new set of plans dated 7 July 2021; and submissions have been made by his employed architectural consultant Mr Fountain in regard to issues raised by DPI Fisheries (dated 1 July 2021) and seeking a variation to required development standards (11 June 2021).

We continue to stand by issues raised in our earlier letter. We do not think anything submitted to date by Mr Walls or his employed consultants changes anything. He continues to seek approval to construct a facility which does not comply with planning rules, is out of character from what was there previously and what currently exists in Pittwater generally.

We make the following additional specific points:

1. **EXISTING RIGHTS USE IS QUESTIONABLE:** Mr Fountain employed by Mr Walls states *"on the advice of Ian Hemmings SC we are confident that existing use rights have been established and that the use has not been abandoned."*

DPI Fisheries in their letter dated 29 March 2021 states; *"If Council determines this correct, DPI Fisheries has no objections to the original structures being replaced like-for-like in the same location.....with no additional reclamation."*

We do not think this is good enough for the Council to accept the word of the applicant's consultant to say "we are confident". We have not seen the advice of Hemmings SC. Mr Walls has willingly totally demolished an existing structure causing unnecessary additional damage to the local environment. Has he not now broken the nexus of existing rights use? **Council has the responsibility to test this fact and should seek appropriate advice to that effect.**

2. **DEMOLISHED THUS IN REALITY A NEW BUILD:** Mr Walls, without approval, completely demolished the existing 1947 historic boatshed, jetty and sliprails. "Existing use" is a separate aspect to "existing structure". This application is not repairing or maintaining an existing structure. The Mr Walls is seeking to justify an oversize inappropriate structure in concrete, steel and stone based on an "existing structure" which no longer exists. Mr Walls can't have it both ways. The DA now before Council is a NEW BUILD. Council has to deal with the reality.

If Council accepts that “existing use” has not been extinguished, **Council should seek to have any approval comply with existing rules and regulations for a boatshed and jetty construction:**

- The structure should cover no more than the previous footprint.
- Public access should be fully accessible across the waterfront reserve foreshore.
- It also should comply where possible with the current guidelines for implementing the DPI Fisheries policy for boat ramps, boat sheds, pontoons and sliprails (see DPI Policy and guidelines for fish habitat conservation and management Update 2013, Paragraph 5.1.7, Page 49) in particular:
 - a) Private pontoons for boat mooring should generally not be greater in size than 3.6m x 2.4m and have a minimum clearance of 0.9m between their base and the substrata at lowest astronomical tide.
 - b) Boatsheds and similar structures may be considered for approval where they are located above the highest astronomical tide or, in freshwater environments, in areas where no active erosion or sediment deposition is occurring.
 - c) Boat ramps should be designed to allow the movement of water and sand/sediment across or under the structure.
 - d) Sliprails should be used in preference to timber/concrete sleeper boat ramps. Where a timber/concrete sleeper ramp is permissible, the gaps between the sleepers should be as wide as possible.

Accordingly, Council should seek to ensure that the new boatshed where located below highest astronomical tide is constructed on piles *“to allow the movement of water and sand/sediment across or under the structure.”* Further *“sliprails should be used in preference to timber/concrete sleeper boat ramps.”* These issues are far more important in achieving an outcome sensitive to the environment and water flow than the use of *“decking material for the jetty and steps to provide 50% light transmittance”* to an area significantly damaged by the actions of Mr Walls. The overall structure should be of timber and light weight not of concrete, steel and stone.

3. **VARIATION TO DEVELOPMENT STANDARDS NOT JUSTIFIED:** The structure should comply with the zoning height of 4m. The justification outlined by Mr Fountain is flawed Mr Walls destroyed the previous structure and it is now a NEW BUILD. The applicant justifies the greater height as it *“will enable the storage of watercraft in the boatshed rather than in the open”*. This confirms our concerns expressed in our earlier letter. If watercraft are not to be stored in this “boatshed” what is its purpose? Separate dwelling? Party House?

Council should require full compliance with planning guidelines.

4. **RESPONSE TO SARAH CONACHER DPI FISHERIES REJECTION FLAWED:** Among many flawed statements Mr Fountain dismisses the fact that the amended design submitted is not like-for-like *“as ...there will be little net loss of fish habitat.”* Mr Fountain claims the location of the boatshed *“...will be located..... in degraded Type 3 minimally sensitive key fish habitat that is unvegetated sand with minimal or no fauna.”*

This regrettably, may now be true. This degradation substantially caused by Mr Walls who left the completely inappropriate and illegally built Dintel walls in place for over 3 years. Mr Fountain has sought approval for the proposal under a DPI Fisheries exemption for proposals with degraded habitat!

Council should require that all three of these Dintel walls be removed.

Mr Fountain provides a lengthy description and attempted justification to install a large bulky stone base totally different to the original.

Council should take the opportunity to replace the base with a more environmental and fish friendly structure (see dot point "c" above DPI Policy 5.1.7).

The amendments claimed by Mr Fountain are over emphasised and based in part on destruction of habitat caused by Mr Walls own actions and therefore should be dismissed.

This would not have been known to the officer responsible in DPI Fisheries and as a consequence her subsequent "no objections" response of 16 July 2021 should not carry weight. Ms Conacher has no background knowledge of 316 Hudson Parade boatshed or Mr Walls.

We appreciate the efforts of Council officers in dealing with this and seek to be kept informed as the consideration of the issues are progressed including the date and time for the Planning Panel meeting.

Yours Faithfully

Sam & Lucy Wallrock

