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**Sent:** 16/07/2020 2:07:55 PM  
**Subject:** FW: DA2020/0514  
**Attachments:** Families for Manly Submission Manly Boatshed 15 July 2020 .pdf;

[Please register this submission thanks](#)

**Anne-Marie Young**

Principal Planner  
Development Assessment  
t 02 8495 6507 m 0435 519 965  
[anne-marie.young@northernbeaches.nsw.gov.au](mailto:anne-marie.young@northernbeaches.nsw.gov.au)  
[northernbeaches.nsw.gov.au](http://northernbeaches.nsw.gov.au)



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**From:** Families for Manly Action Group <[familiesformanly@icloud.com](mailto:familiesformanly@icloud.com)>  
**Sent:** Thursday, 16 July 2020 1:48 PM  
**To:** Anne-Marie Young <[Anne-Marie.Young@northernbeaches.nsw.gov.au](mailto:Anne-Marie.Young@northernbeaches.nsw.gov.au)>  
**Subject:** DA2020/0514

Dear Anne-Marie  
I am not sure if you received our submission yesterday regarding the above DA so am sending it directly to you.

Thank you for all your time with this to date.

Kind regards

Nicky

Niccole Tessier  
Chair  
FAMILIES FOR MANLY  
Mobile: +61 (0)412157167  
[www.facebook.com/familiesformanly/](https://www.facebook.com/familiesformanly/)

*Families for Manly (Incorporated) is a community association. We believe families and residents have rights and we need to work together to protect those rights and keep our streets safe and calm for our kids and our elderly. PLEASE NOTE: We are apolitical and not aligned with any group or party.*



**Submission Against: DA 2020/0514 – IB Bolingbroke Pde, Fairlight NSW 2094**  
**15 July 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, 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 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. However we do question why such a significant development, with a planned 250% increase in footprint 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 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
<b>NETT INCREASE / DAY</b>	<b>+7 hrs</b>		<b>+7 hrs</b>		<b>+6.5 hrs</b>	
<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
<b>NETT INCREASE / DAY</b>	<b>+2 hrs</b>		<b>+1 hrs</b>		<b>+1 hrs</b>	

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 hours must be clearly advised for genuine review. If the applicant does not intend to increase their hours of operations, then the DA needs to be modified.



### **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 of operation of the kiosk are in accordance with the acoustic assessment report submitted with the application.*’ (Page 40, SEE)

However, in contrast, the Acoustic Report states that hours of operation for the kiosk were “*at this stage yet to be determined*” and therefore the report assessed hours of operation between 7:00am and 12:00 midnight, 7 days a week. It aims to disregard this inaccuracy by placing conditions around window and door opening times.

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 54 passive craft directly in front of residents 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.

The owner advised FFM that he did not believe 50 people could fit on the seating area, given the safety concerns for ingress / egress of watercraft. However, the DA proposes outdoor seating capacity limit of 50 persons (Plan of Management, Pg 4 and SEE Pg 13) in addition to a estimated capacity of indoor seating of 20 people (the NBC Environmental Health Referral Response, Pg2).

Given the number of patrons, the extended hours and the allocated area the Kiosk presents more in line with a café – which would be a new and separate use proposed. The size of the kiosk, including its indoor and outdoor areas 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.

No one questions the integrity of the current owners; we appreciate their willingness to consult with us. However the DA does not appear to match their stated intended use and this raises concerns as to what could be done by future owners, if the DA were to be approved in its current, opaque form.

### **Parking Impacts Have Been Understated**

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*” seems incredible, given the nature of the street and current pressure on street parking.

**The Submitted TIA Is Factually Incorrect And Needs To Be Redone.**

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 later this year. 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.

**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. Limit maximum patron numbers
3. Ensure the area cannot be used as a function venue
4. Ensure no licence for alcohol will be sought
5. Remove evening trading hours
6. Remove fixed seating
7. Restrict the operation of a kiosk to be in line the Manly LEP (Clause 5.4(6) Manly LEP)
8. Reduce impacts on neighbours (?relocate the new storage shed)
9. Limit delivery and rubbish removal times to daylight hours
10. Prohibit table service
11. Prohibit multiple cooking facilities or cold storage facilities
12. Ensure the refusal any future DA to convert the kiosk to a café or to extend hours of operation

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

Signed by Nicolle Tessier (Chair)