
Sent: 13/08/2021 7:56:46 PM
Subject: DA2020/1762 submission
Attachments: Letter to NBC re boatshed 316 Hudson.docx;

To whom it may concern,

Please see attached our submission for DA2020/1762. We would be grateful if you could please acknowledge receipt of this submission and keep us up-to-date with any further developments.

Thanks and kind regards,

Lucy Wallrock
0432 500 995

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
0432 736 500