

ANNEXURE 18



13 April 2010

General Manager  
Woollahra Council  
PO Box 61  
Double Bay NSW 1360

Attention - Peter Kauter

Dear Peter

**RE: DA 441/2009 – Double Bay Marina**

We refer to the above and the submissions made by surrounding residents in relation to the application. We have reviewed these submissions and provide a response to the matters raised below.

**Increased bulk and scale/visual impact**

In terms of total impact the proposal has only minimal potential for impact as the total number of boats in the bay is not proposed to increase. In this regard I note the email from NSW Maritime dated 2 March 2010 confirming that they do not propose to replace the 5 swing moorings vacated as part of the proposal.

The impacts arising from the changes to the fixed berths are also considered to be minor. In this regard, the extent of the leased area is only slightly increased and although the size of boats has been increased in some circumstances, this increase is still limited by the lease boundaries. Also the density of boats has been increased slightly from 40 to 45.

As indicated in the submitted visual impact assessment and photomontages the visual impact of the proposed changes is considered to be minor and acceptable with the fixed jetty extending only 930mm past the existing one. It must be remembered that this analysis considered the 'worse case' scenario of bulkier motor boats up to the maximum permitted height. In reality, as can be seen in the images of the existing marina, boats

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will comprise a mix of motor and sail boats with a great variety of proportions. There are also significant benefits in terms of visual impact arising from the removal of the 138 existing mooring piles that are 4 meters above the Mean High Water and the change from a fixed to floating jetty. The new arrangement means that at low tide the new jetty will be some 2.7 m lower than the existing jetty, a significant reduction in the visibility of the structure.

The more specific issues raised in relation to visual impacts are further considered below.

#### **Underestimation of impact by proponent**

The criticisms raised in this regard are considered erroneous. The assessment simply states facts such as that the number of boats will not increase and that the area of fixed berths will increase by 14% whilst the overall area of water affected will be reduced by 6,178sqm. The increase in the fixed berth area and the increase in the density of the boats has been assessed in a great amount of detail. The objectors may not agree with the conclusions that the increase in visual impact is minor and acceptable but we do not agree they have been underestimated. In fact as noted above the visual impacts are not likely to be as great as indicated in the worse case scenario assessment. Further the objectors do not seem to acknowledge that the existing situation is not representative of the size and height (which is presently unrestricted) that could be achieved under existing approvals.

A specific comment was made in relation to the benefit of relinquishing the swing moorings noting that the visual impact of this was limited to the boats themselves not the area of water they occupied. In a physical sense this is agreed however the removal of the 5 boats means that a significant area of the bay will become 'open' which is a visual benefit beyond the removal of the boats themselves.

There was also a specific comment that the visual impact assessment was inadequate. This is refuted and it is considered that given the minor potential for impact, the level of assessment undertaken is more than adequate.

#### **Impacts of the boat at the 'T' head of the jetty**

As discussed in detail in the submitted Visual Impact Assessment, it is considered that the reorientation of the boats at the end of the jetty will 'open up' rather than close the views through the structure when viewed from the foreshore to the south. This is because the current arrangements allow for 2 x 15.5m boats orientated east/west whilst the proposal is for 5 boats orientated north/south. There is no increase to the width of the existing berthing area at this point. With the bulk of boats being greater when viewed from the side, the new orientation will allow more views 'through' this area. In any event the visual change is not significant and is acceptable.



When viewed from the east or west there will be a visible extension of the marina to the north. However the extent is only 7m and not of significance in the general scope of views available.

#### **Increase in marina operations is inappropriate**

As the number of boats is not increased by the proposal and as such there is no increase in the 'operations' of the marina. Despite 5 of the boats presently being on swing moorings, these boats still need to be refueled and serviced. In fact the need to 'tender' people to these boats compared to being directly accessible from the jetty structure means less 'operations' and use of fuel. Further the modernisation of the existing facilities will improve the operational procedures and reduce the risk of accidents. The capacity for refueling and waste is not proposed to increase.

#### **Increase in pollution and congestion from increase boats**

As noted the number of boats is not being increased. Although there is potential for the overall size of boat to increase, this increase is not great and will not significantly alter the existing noise environment. Noise impacts are addressed in detail in the submitted Acoustic Report. The removal of the need to 'tender' the 5 swing moorings will reduce boat movements and therefore congestion. The modernization of the facility will also facilitate easier refueling and removal of waste from boats resulting in less potential for pollution.

#### **Increase in traffic and parking issues**

By maintaining the existing number of boats the potential for impact is minimal. As indicated in the submitted traffic and parking report the change of the 5 of the swing moorings to fixed moorings will, if anything, result in reduced traffic movements and need for parking.

#### **The potential increase of public moorings by Waterways Authority**

As noted above NSW Maritime has indicated that they do not intend to replace the existing swing moorings.

#### **Increase in amenity impacts from boats being closer to shore**

The proposed berths are still around 40m from adjacent residential properties. This and appropriate management of their use will ensure that noise (as discussed in the submitted Acoustic Report) and other impacts are not unreasonable. The tender service is intended to be relocated from the part of the jetty closes to the shore to the service berth at the northern end of the marina where there is less potential for noise impact.



### **The proposal is not consistent with the previous Land and Environment Court decision**

In our view the proposal is more than appropriate having regard to this decision. Firstly it seems that the main issue was in relation to the private benefits/disbenefits between the users of the marina and the land owners affected by view loss. The impact on the public view from the beach was given only moderate weight. In any event the new proposal has far less potential for impact on private and public views than the scheme rejected by the Court. In fact the proposal has less impact than an alternative scenario put forward by one of the applicant's consultants:

*"Mr Bersten's evidence suggests that a new marina within the existing footprint extended by 20m would accommodate the existing 40 boats to today's requirements. From his point of view this would be suboptimal because the boats would continue to be moored in an east-west direction. More dredging would be required and possibly more seagrasses would be disturbed. The visual impact would, however, be minor and for anyone for whom the appearance of the Bay prevails over the convenience of boat owners, this would be a preferable solution."*

As noted above the Senior Commissioner believed that the visual impacts arising from such a scheme would be 'minor'. The current proposal is only 7m longer than the existing marina area and only marginally wider in some areas. Therefore the proposal can be considered to have even less impact than a scheme considered to have a minor impact by the Court.

### **Adverse impact on wildlife**

Due to the minor extent to which the existing marina is to be expanded and the distance from the major areas of seagrass, the proposal has minimal potential for adverse impacts on the marine ecology of the area. This matter is addressed in detail in the submitted Marine Ecology Report.

A specific concern was raised in relation to the dredging of weed beds. No dredging is proposed as part of this application.

### **Contribution to climate change/greenhouse gases**

The potential for larger boats does increase the potential for increased use of fuel however, it is considered that this is offset to a reasonable degree by the reduction in fuel use resulting from the change of 5 swing moorings to fixed moorings (ie no tender required). The upgrade of the facility will also have the potential to attract newer boats which are more fuel efficient and less polluting than older boats.



### **Impact on movement of sediment and water quality**

It is considered that the removal of the existing 138 mooring piles and replacement by only 32 piles will improve the flow of water, and therefore sediment through the area. The minor change to the boats (which float on the surface) is unlikely to affect water movement to a significant degree. Similarly the minor changes to the type of boats (the number of boats being maintained) will not significantly affect water quality. Upgraded facilities and management will create the potential for water quality improvements.

### **Failure to address 'practical' matters**

The Marina Management Plan which forms a part of the submitted EIS, contains details of how the new marina will be operated and managed to ensure that its impacts on the surrounding area are not unreasonable. Other controls such as the length and height of vessels is part of the proposal and will be enforced through conditions of consent.

### **The need to replace the existing jetty**

Whilst this is not of great relevance to the assessment of the impacts of the proposal, the existing facility is 28 years old and will need more ongoing repair and maintenance than a new facility.

### **The dispute resolution process outlined in the Marina Management Plan is unacceptable**

We believe this process is acceptable however we are more than happy to discuss alternatives should Council consider it necessary.

### **No public benefit**

The proposal will benefit the wider community through provision of a facility with greater public accessibility, improved and safer access, and specifically designed access for people with disabilities. The boating community will be benefitted by improved facilities for servicing, kayak storage and general public use.

### **Property devaluation**

This is not a planning consideration however it is considered that the environmental impacts of the proposal will not reduce the amenity of surrounding properties and as such will have minimal potential for affecting property value. The upgrade of the facility creates the potential for a positive impact in this regard.



## CONCLUSION

We are of the view that the proposal provides a good planning outcome balancing the potential minor impacts arising from a slightly larger marina area and larger boats with a lower impact floating structure and improved facilities. By maintaining the existing number of boats the potential for significant impacts is avoided.

The proposal has far less impact on views than the previous scheme rejected by the Court and in fact has less impact than an alternative scheme which was considered by the Senior Commissioner to have a minor impact.

Given the controversial nature of the previous development application submitted for the marina development we believe that this new submission and the fact that only 29 objections (of which many followed a pro-forma format) and 237 letters of support would indicate that the proposal is no longer of significant concern to the local community.

In view of the above we do not believe that the objections submitted warrant refusal of the application or any changes to the proposal.

Thank you for your careful consideration of these issues. Please do not hesitate to contact Brett Brown, Director if you wish to discuss this matter.

Yours faithfully

A handwritten signature in black ink, appearing to be 'BB', with a long horizontal line extending to the right.

INGHAM PLANNING PTY LTD