



Newport Residents Association Inc.

PO Box 1180
Newport Beach NSW 2106
President - Gavin Butler (gebutler@aapt.net.au) 0409 395 102
Hon. Secretary – secretary.newport.org.au
Hon. Treasurer - Kyle Hill 0412 221 962
www.newport.org.au

20th May 2016

The General Manager
Northern Beaches Council
PO Box 882
Mona Vale NSW 1660

Dear Sir

POSSIBLE LEGAL PROCEEDINGS AGAINST COUNCIL IN THE LAND AND ENVIRONMENT COURT
BY THE ROYAL MOTOR YACHT CLUB BROKEN BAY DA No.379/15.

We have been advised by the Development Assessment team of the Northern Beaches Council that Council has written to both the Applicant and the Club requesting that the application be withdrawn, on the basis that existing use rights had not been established. We believe that the Applicant has refused to withdraw the application and have indicated they will be taking the matter before the Land and Environment Court.

We understand the RMYC is basing their existing use right on the Rose bay marina LEC judgement which drew a line around all the marina's commercial moorings and ruled that the marina had existing use right and could therefore take over public water space with a marina that excludes the public . Just imagine if all the marinas in Pittwater were to extend their marinas into their leased mooring areas. There would be no room for other activities and would be unsightly.

We have sighted both legal arguments from the RMYC as well as the Advice given to the Horseshoe Cove Association and believe on balance the Club has not established existing use rights.

We further understand that the Horseshoe Cove Association will also be writing to Council requesting Council to fight any land and Environment challenge. The Newport Residents Association fully supports the Horseshoe Cove Association and request that should legal action initiated by the club that Council fights this vigorously.

The precedent that a win in the Court by the club would have untold ramifications for the rest of the Pittwater Waterway. All the other marinas such as RPAYC, Quays, Sirsi and even Careel Bay etc. could claim the same existing use rights and extend their marinas. Additionally we would be concerned that if successful these marina's would then apply to

have their existing (or new) swing moorings relocated on the outside the extended marinas and then reply in the future to extend them once more.

Yours faithfully,

Gavin Butler
President

Copy Hon Rob Stokes