



Waterfront Development

Development Control Plan

9.2/04
Edition 1

S u t h e r l a n d S h i r e C o u n c i l



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1. WHERE DOES THE PLAN APPLY?

This plan applies to all development within the Sutherland Shire that is below the Foreshore Building Line and/or along the waterfront, above, on, or below Mean High Water Mark (M.H.W.M) and includes:

- land zoned for residential purposes in Sutherland Shire Local Environmental Plan 2000 (SSLEP 2000);
- land zoned 7(a) Environmental Protection (Waterways) in SSLEP 2000; and,
- land at Sandy Point.

2. PURPOSE OF THE PLAN

The purpose of this plan is to provide a series of standards and objectives that are intended to guide the form of development in the waterfront areas of the Shire.

The Shire's waterways and foreshore areas have both local and regional significance as they represent a valuable estuarine environment that provides the community with opportunities for passive and active recreation. The maintenance of the natural beauty of the waterways and the foreshores is important to the scenic quality of the Shire. Consequently, the development of these areas by individuals for private purposes carries with it a responsibility to ensure that the visual and environmental quality of these foreshore areas is maintained.

This plan seeks to allow development that is in harmony with the natural surrounding, which minimises the impact on the natural environment and acknowledges the importance of the waterways as natural public resource.

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3. OBJECTIVES OF THE PLAN

The objectives of this plan are to:

- a. minimise the impact of development on the natural landform of the foreshore and waterway by integrating structures into the site with a minimum change to the natural topography.
- b. minimise the visual impact of development when viewed from adjacent land and waterways.
- c. blend developments into the foreshore and waterfront environment by using designs and materials which complement the natural landscape.
- d. minimise the disruption of the natural shoreline.
- e. retain and enhance endemic native vegetation along the foreshore and ensure that development does not adversely affect any estuarine flora or fauna habitat.
- f. maintain and improve public access of the intertidal area of the waterfront, which is public land.
- g. achieve an appropriate balance between private development and the alienation of the waterways, which is a public resource, from public use.
- h. phase out non-conforming structures and restore the foreshore and waterfront area to a natural state.
- i. conserve and enhance waterfront structures of heritage significance.
- j. minimise the obstruction of water views.



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- k. ensure that any development does not obstruct or interfere with navigation within the waterway.
- l. minimise any adverse impact from development on water quality and where possible, improve the quality of urban runoff entering the waterways.

Proposed developments will be assessed having regard to the standards and objectives contained within this plan. Council will only consider a variation of a standard where the applicant can demonstrate to Council's satisfaction that despite the non – compliance the objectives of this plan are achieved.

4. HOW DOES THIS PLAN RELATE TO OTHER PLANS?

SSLEP 2000 provides the objectives, land use controls and development standards for development in the Shire. The basis for the LEP includes the Housing Strategy and Heritage Study.

Together with this DCP there are other DCP's that apply to waterfront developments, including:

- Duration of development consents
- Notification of development applications
- Landscape
- Swimming pools

You should contact Council's Customer Service Centre for more information.

5. CAN THE PLAN BE VARIED?

This plan contains a number of planning objectives and controls which must be applied to development proposals under this plan.

The controls that are set out in this plan are generally more detailed than those contained within SSLEP 2000. Any variation to these controls must be supported by a statement demonstrating how the objectives of this plan are satisfied.

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Any submission in support of a variation to a standard or control must be in writing and demonstrate how the objectives will be achieved.

6. DOES YOUR PROPOSAL NEED APPROVAL?

You need to submit a development application to obtain consent from Council for all development proposals involving new buildings/structures, alterations & additions, subdivision or works.

If your proposal involves work below M.H.W.M you are required to make application to The Department Land and Water Conservation (DLWC) for owners consent prior to the lodgement of a development application with Council. This application should be accompanied by a site analysis and survey plan as outlined in clauses 8 and 9 of this plan.

7. IS MY PROPOSAL AN INTEGRATED DEVELOPMENT?

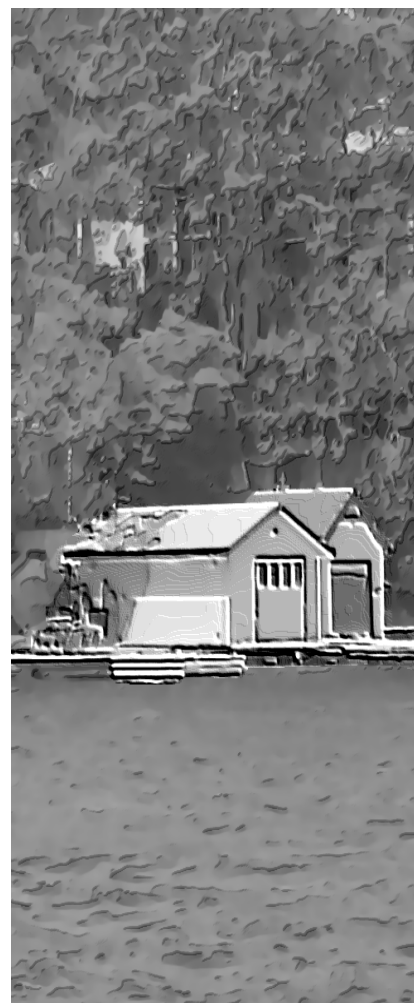
Integrated Development is defined by Section 91A of the Environmental Planning and Assessment Act 1979 (as amended) as being development that requires an approval, licence or permit from a government agency other than Council. The most common agencies involved with waterfront development are:

NSW Fisheries – A permit is required under the Fisheries Management Act 1994 for:

- Aquaculture;
- Dredging or reclamation work in any waters;
- Removal or damage to marine vegetation.

Generally, NSW Fisheries will not support any waterfront development that causes or has the potential to cause damage (includes shading) to marine vegetation, macroalgae, seagrass or mangroves. In particular, NSW Fisheries will not permit any structures to be built over or affect *Posidonia australis* (strapweed seagrass).

Department of Land and Water Conservation (DLWC) – A permit is required under the Rivers and Foreshore Improvement Act 1948 if it is proposed to excavate or remove material from within 40m of the waterway.



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In addition, DLWC is responsible for the granting of owners consent to lodge development applications and issuing of licences for structures and works below M.H.W.M. In granting its consent DLWC has regard to the Crown Land Assessment that has been undertaken pursuant to the Crown Land Foreshore Tenures Policy – (Non Commercial –Occupations).

Waterways Authority – A permit or licence is **not** required from the Waterways Authority for a development to take place. However, applications for development below M.H.W.M will be referred to Waterways for comment with respect to impact on navigation. Matters that will be considered by Waterways include:

- Structures should not extend further into the navigable zone than adjoining structures.
- A passive zone will, where practicable, be maintained to and extending 30metres from the mean low water mark.
- Obstruction of navigation channels, fairways and fish hauling grounds will not be permitted.
- Displacement of moorings may be permitted where their relocation (at the applicant's expense) is possible within the same mooring area.

Council's Customer Service Centre staff will be able to assist in advising whether a proposal is an Integrated Development. If so, an additional statutory fee is required at the time of lodging the Development Application and this is forwarded to the relevant agency.

8. MAKING AN APPLICATION

After researching this document it is recommended that intending applicants consult directly with Council's Customer Service Centre prior to preparing detailed development plans.

Pre-application consultation with staff can assist in the time taken to assess applications and reduce amendments required to plans. A prerequisite of consultation is the preparation of a Site Analysis and possibly a Development Concept Plan.

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To submit a development application you need to complete a Development Application form together with the following plans and information:

- a. **Site Plan** – illustrates the location of all structures both proposed and retained on site and must include a north point.
- b. **Site Analysis** – identifies existing natural and human – made elements of the site, such as existing vegetation and seagrass, property dimensions, slope and topography and all adjoining structures (jetties, pools, dwellings, boatsheds, reclamation). It must include photos of the site as viewed from the water at low and high tides.
- c. **Survey Plan** – prepared by a registered surveyor and includes existing site levels at the corners of the proposed site, the site contours at 0.5 metre intervals and the proposed floor levels using a fixed benchmark related to the Australian Height Datum (AHD). The plan should also indicate the location of existing structures, easements and services, trees and general site features, as well as north point, existing levels and improvements within the public road to the frontage of the site. It must include the location of the Foreshore Building Line and M.H.W.M relative to the Certificate of Title/Deposited Plan registered as at 24 April 1980. If the development is below M.H.W.M a hydrographic survey shall be required to determine depth of water and extent & type of seagrass and other aquatic vegetation.
- d. **Elevations** – illustrates all profiles of the proposed development, and includes dimensions of the proposed development, location of windows, doors, roof pitch and eave overhang. It must also include details of surface finishes/colours and construction materials. It should also indicate the existing and finished ground levels and all finished floor, ceiling and ridge levels to AHD.
- e. **Sections** – illustrates a cross section through the proposed structure, indicating building materials and construction method from the footings right through to the roof.



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- f. **A4 Notification Plans** – are included in letters of notification of a proposed development to neighbours and must include a complete floor, site and elevation plan reduced to an A4 page/s.
- g. **Erosion & Sedimentation Control Details** - plan or drawing that shows the nature and location of all erosion and sedimentation control measures to be utilised on the site, may be included with the Construction Management Details.
- h. **Statement of Environmental Effects** – a description of how the application has had regard to the aquatic environment and how it satisfies the objectives and standards of SSLEP 2000, relevant DCP'S and Section 79(C) of the Environmental Planning and Assessment Act.

Applicants should be aware that compliance with the guidelines within this development control plan will not guarantee approval of development applications. The objectives of the plan must be met.

Note: A development application will not be referred to any relevant government authority or placed on public exhibition until all required information is submitted.

9. SITE ANALYSIS

All development requires perceptive and effective site planning. Good site analysis and design skills are therefore essential in achieving a pleasant living environment for occupants and minimising the impact on neighbours and the environment.

A site analysis establishes the development context by showing graphically the constraints and opportunities on the site in relation to natural elements and existing buildings in the immediate surroundings. It should influence the design and minimise negative impacts on the amenity of adjoining developments and to complement neighbourhood character.

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A site analysis is to be submitted with a development application and should indicate (where relevant) **in relation to the site:**

- **Contours** - at 0.5m intervals and related to AHD and may require a hydrographic survey to determine depth of water.
- **Existing vegetation** - in particular, major trees significant areas of native understorey plants on the site, mangroves and seagrasses below M.H.W.M, identified by size and botanical names or common names.
- **Buildings** – location and uses of existing buildings and structures.
- **Views** to and from the site
- Location of **utility services** and stormwater drainage lines and street crossings.
- **Orientation**, microclimate and noise sources
- Any **contaminated soils** and filled areas
- Fences, **boundaries** and easements
- Any **other significant site features** eg rock outcrops, substrate type, wetlands and watercourses.

And in **relation to the surrounding area:**

- Location, use and height of adjacent **buildings** – and waterway access structures
- **Views and solar access** enjoyed by adjacent residents
- **Major trees and seagrasses** on adjacent properties and below M.H.W.M.
- The **built form and character** of adjacent and nearby development
- The **difference in levels** between the site and adjacent properties



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The site analysis can be hand drawn but must be to scale, and must be accompanied by a declaration that the information provided is correct and true in every detail. A written statement should also be prepared explaining how the development and design has responded to the site analysis and should include an assessment of the bush fire hazard on the site and/or the adjoining site.

10. DEVELOPMENT WHICH MAY BE ALLOWED BELOW MEAN HIGH WATER MARK (M.H.W.M).

Pursuant to SSLEP 2000 “watercraft facilities” are a permissible form of development within the 7(a) Environmental Protection zone below M.H.W.M.

Watercraft facility means a pontoon, suspended ramp or walkway, jetty, mooring, wharf, slipway, watercraft landing and launching facility or the like, but does not include a marina.

Shared and communal arrangements for structures will be encouraged, where appropriate, in order to minimise the number of structures and their cumulative impact.

Any development below M.H.W.M should be setback a minimum 2.5m from the prolongation of the common lot boundary unless there is explicit provision for shared use of the facility by neighbouring properties.

Generally, any waterfront development that causes or has the potential to cause damage (includes shading) to marine vegetation, macroalgae, seagrass or mangroves will not be approved.

The following outlines the specific controls that apply to particular types of development.

10.1 Jetties, Ramps and Pontoons

Jetty, ramp and pontoon structures are designed to facilitate access to private recreational vessels where a reasonable depth of water is available. The structures are intended only to be used for short stay embarking and disembarking of passengers and the transfer of personal goods.

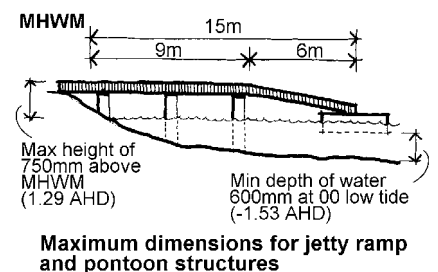
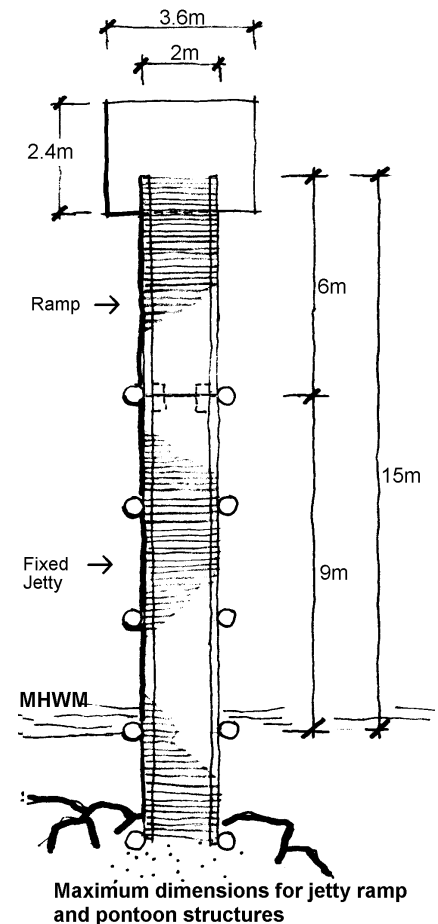


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The following controls apply to jetties, ramps and pontoons:

- A fixed jetty is not to exceed a length of 9 m from M.H.W.M and any existing reclamations are included in the 9 m. The jetty may have a maximum width of 2 m and a maximum height of 750 mm above M.H.W.M (1.29m AHD).
- A ramp is not to exceed a length of 6 m.
- A ramp and pontoon extension to a jetty may be permitted provided that the total length of the ramp and jetty does not exceed 15 m from M.H.W.M.
- In all cases, the length of the structure is to be only the minimum needed to reach usable water which is 600 mm depth at 00 low tide (-1.53m AHD).
- Pontoons are to be a maximum of 3.6m x 2.4m, constructed to the appropriate standard and used as a facility to provide access to the water.
- Stabilisation and fender piles are used for reinforcing pontoons and facilitating access in areas exposed to high tidal runouts, strong currents and large wind waves. If proposed, stabilisation piles must be an integral part of the pontoon (not free standing). Applications for stabilisation or fender piles must be supported by a report from a civil engineer demonstrating their need.
- Jetties and ramps are to be treated in brown or dark tones to reduce the visual impact of the structure.
- Council does not permit solid filled jetties or the construction of jetties, ramps or other structures in areas where they may interfere with public access along the waterfront. In exceptional circumstances where a jetty is allowed across a public waterfront, the design must allow for pedestrian access across the structure by providing provision of timber steps on either side of the jetty.



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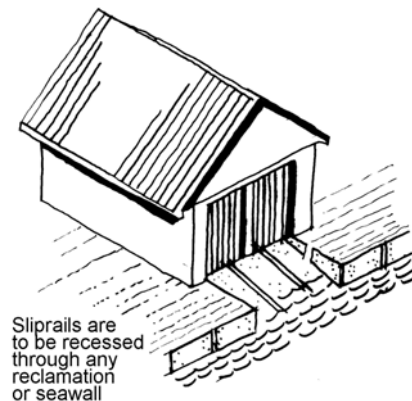
10.2 Sliprails

Sliprails are intended to facilitate access to and from the water for vessels that are stored within a boatshed.

Sliprails are to be in the form of two parallel rails located as close as practical to the seabed and must be recessed into any seawall or reclamation to minimise the height of the sliprails.

In all cases, the length of the structure is to be only the minimum needed to reach usable water which is 600 mm depth at 00 low tide (-1.53m AHD) to a maximum length of 15 m from M.H.W.M and a maximum width of 2m.

There are to be no timber infills or walkways on the sliprails or timber ramps and they will not be considered for the storage of boats on Crown Land.



10.3 Berthing Area

Berthing areas are intended to provide the landowner with the ability to permanently moor or park a vessel adjacent to their property. For the purposes of this plan a berthing area is defined as:

Berthing area means a configuration of piles (typically four) positioned adjacent to a jetty, ramp or pontoon structure designed for the permanent mooring or parking of a vessel.

Council does not favour the creation of berthing areas for individual properties along the foreshore. They are generally contrary to the objectives of this plan.

However, berthing areas may be considered if they can satisfy the objectives of this plan and they have been identified as an acceptable form of development in a particular bay or stretch of waterway by a locality plan or specific DCP.

In all cases, berthing areas shall be located adjacent to a jetty, ramp and pontoon structure, have maximum dimensions of 9m X 5m and when measured together with other



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waterfront structures (including reclamations) shall not extend beyond 15m from M.H.W.M.

The provision of multiple berthing areas adjacent to shared or communal waterfront facilities will not be supported.

11. DEVELOPMENT WHICH MAY BE ALLOWED BELOW THE FORESHORE BUILDING LINE AND ABOVE MHW. M.

Pursuant to Clause 20 of SSLEP 2000 some limited forms of development are permitted below the foreshore building line and above M.H.W.M. These include:

- boatsheds;
- watercraft facilities;
- in ground swimming pools, no higher than 300mm above ground level at any point;
- works, including mechanical works, to enable pedestrian access;
- landscaping and barbeques.

(Clause 20 of SSLEP 2000 is attached as Appendix 1).

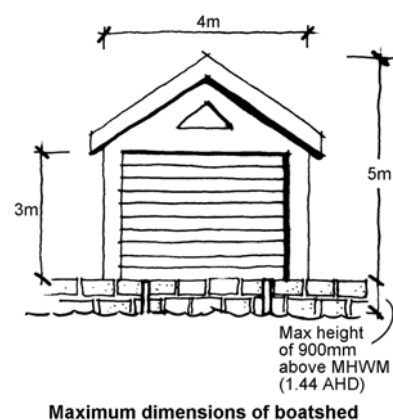
The following outlines the specific controls that apply to particular types of development.

11.1 Boatsheds

Boatsheds are specifically intended for the storage of small boats and boating equipment only. Council will not permit the use of a boatshed for any other purpose.

Single storey boatsheds can only be located at or above M.H.W.M. Boatsheds can have a maximum length of 7 m, a maximum width of 4 m and a maximum height of 3 m to the eaves or ceiling of the elevation/s facing the water and 5m to the highest part of the roof. The maximum floor level of the boatshed shall be 900 mm above M.H.W.M (1.44m AHD).

Boatsheds should be designed to minimise excavation and incorporate a pitched (gable form) roof that reflects the character of the waterway. Boatsheds that exhibit a scale and



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character in keeping with traditional timber boatsheds are preferred.

The materials of construction shall be of low maintenance and in a tone and colour appropriate to the natural landscape. Walls shall be restricted to timber, stone, brick or other material with an applied surface finish satisfactory to Council and shiny or reflective materials and finishes shall not be used. Roofs shall be of corrugated metal or tile or other approved non-reflective materials. Boatshed doors shall be of non-reflective material with traditional double hung timber doors preferred.

Boatsheds shall be setback a minimum 1.5 m from the side boundary. A variation may be considered where there is:

- No detrimental impact on the view from the waterway by virtue of excessive bulk of the building;
- No loss of an existing view to the water from adjoining lands to the waterway; and
- An acceptable relationship between buildings along the waterfront.

11.2 Landscaping

Landscaping below the Foreshore Building Line and the construction of steps to provide access to waterfront facilities is permitted. However, natural features along the foreshore are to be retained and the removal of natural rock, trees and vegetation to enable the construction of landscaping is not supported.

Natural ground levels are to be retained with minimal use of retaining walls. Where retaining walls are constructed materials and colours that blend into the character and landscape of the area shall be used. Landscaping shall consist of native species, including canopy trees, that are endemic to the area.

The applicant must demonstrate to Council's satisfaction that the development satisfies the objectives of this plan and have regard to the provisions of Councils DCP for Landscaping.



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11.3 In Ground Swimming Pools

Swimming pools are not permitted below the Foreshore Building Line. However, pursuant to Clause 20 (4) of SSLEP 2000, in ground swimming pools, no higher than 300mm above ground level at any point may be approved between M.H.W.M and the Foreshore Building Line

The applicant must demonstrate to Council's satisfaction that the development satisfies the objectives of this plan and have regard to the provisions of Council's DCP for Swimming Pools.



11.4 Inclined Lifts and Stairs

Inclined lifts and stairs to enable pedestrian access to the waterfront are permitted between the Foreshore Building Line and M.H.W.M.

Inclined lifts and stairs shall generally be constructed as close as practical to ground level. However, natural features along the foreshore are to be retained and the removal of natural rock, trees and vegetation to enable the construction of an inclined lift and stairs is not supported.

The applicant must demonstrate to Council's satisfaction that the development satisfies the objectives of this plan.

12. DEVELOPMENT WHICH IS PROHIBITED

Dwellings, Reclamations and Boatsheds Below M.H.W.M

Land below M.H.W.M is generally zoned 7(a) Environmental Protection (Waterways) under the SSLEP 2000. This zoning prohibits dwellings, reclamations and boatsheds as they are contrary to the objectives of the zone. Existing dwellings or boatsheds below or partly below M.H.W.M are intended to be phased out, unless they have heritage significance.

Minor maintenance such as painting is acceptable but recladding or structural alterations that would entrench the structure require Development Consent from Council.



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Development Applications for the maintenance or rebuilding of existing dwellings/boatsheds/reclamations below (or partly below) the Foreshore Building Line and M.H.W.M will be considered having regard to:

- The potential for redevelopment behind the Foreshore Building Line and above MHWL;
- The structural adequacy and general condition of the existing building;
- The nature and type of works proposed and whether the work will permanently entrench the structure. and,
- The objectives and restrictions of the Foreshore Building Line and waterfront development provisions outlined in Clause 20 of SSLEP 2000.



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13. ORIGIN

Code For Waterfront Development

Reference: DC000/1/19.

Adopted by Council on 2nd September 1974.

Amended on 15th December 1975.

Amended on 26th November 1984.

Edition 1: Adopted by Council 3rd June 1985 (E.P.C. Min No 176 of 20th May 1985 and amended by EPC Minute No 227 of 1st July 1985 as required).

Edition 2: Correction of minor errors and additional information provided in the Origin.

Edition 3: Amended to upgrade standard of presentation October 1996.

DCP for Waterfront Development

Reference: 00/0836 & 02/00561

Edition 1:

Action	Date
Council Endorse Plan	4 February 2002 (EHC 174 – 02)
Public Exhibition Period	2 April until 30 April 2002
Council Decision	21 October 2002 (EHC 118 - 03)
In Effect	12 November 2002

- Update the Code for Waterfront Development by correcting any references to planning documents and making it consistent with current legislation;
- Update format so as to be consistent with Councils other Development Control Plans; and,
- Clarify Council's position of not favouring berthing areas and specifically deleting any reference to multi housing development.

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Appendix 1.

Clause 20 Foreshore Building Lines and Waterfront Development.

1. The objectives of this clause are:
 - a. preservation and enhancement of the natural features and vegetation near where the land meets the water,
 - b. restoration of the land below the foreshore building line, so far as practicable, to a natural state, with a minimum intrusion of man-made structures,
 - c. no buildings below the foreshore building line other than buildings excepted by this clause,
 - d. a significant reduction in the number of structures below the foreshore building line, particularly on redevelopment of a site,
 - e. conservation and enhancement of waterfront buildings of heritage value,
 - f. avoidance of adverse ecological effects on the waterways, and
 - g. public use of the intertidal areas below the mean high water mark or high water mark, where appropriate.
2. In this clause:
foreshore building line for an allotment means:
 - a. if the maps indicate by a black line that a foreshore building line applies to the allotment—the line across the allotment parallel to, and at the greater of the following distances from, the mean high water mark at 24 April 1980:
 - i. the distance specified on the maps, or
 - ii. 7.5 metres from the mean high water mark for the time being, or
 - b. if the maps do not indicate by a black line that a foreshore building line applies to the allotment, and the allotment adjoins or is adjacent to the mean high water mark for the time being—the line across the allotment parallel to, and 7.5 metres from, the mean high water mark for the time being, or
 - c. regardless of paragraphs (a) and (b), if the allotment adjoins a waterfront reserve—the line across the allotment parallel to, and 7.5 metres from, the landward boundary of the waterfront reserve.

For the purposes of this definition, the mean high water mark at 24 April 1980 on any land is taken to be as shown on the last Deposited Plan or other plan which defined the mean high water mark and was registered by the Registrar-General on or before 24 April 1980. It is not affected by reclamation, works or other changes before or after that date. Establishing the foreshore building line for an allotment to which

paragraph (a) or (b) applies will require reference to the mean high water mark at 24 April 1980 on adjoining or adjacent land in some cases.

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3. A person must not erect a building or carry out a work on land between a foreshore building line and the tidal water in respect of which the line is fixed.
4. However, subclause (3) does not apply to:
 - a. boat sheds,
 - b. watercraft facilities,
 - c. in-ground swimming pools, no higher than 300 millimetres above ground level at any point,
 - d. works, including mechanical works, to enable pedestrian access, landscaping and barbecues.
5. Development consent must not be granted to any development on an allotment of land affected by a foreshore building line, or to any development below the mean high water mark from time to time on an allotment or within the 7 (a) Environmental Protection (Waterways) zone adjoining the allotment, unless the consent authority is satisfied that the following buildings or works (if any) will be removed before, or within a reasonable time after, the development is carried out:

any building or work on the allotment between the foreshore building line and the mean high water mark or high water mark, in each case as shown on the latest registered Deposited Plan showing the allotment, not being a building or work specified in subclause (4), or

any building or work below the mean high water mark or high water mark, in each case as shown on the latest registered Deposited Plan showing the allotment, being a building or work on the allotment or on land adjacent to the allotment which is in the same ownership as the allotment or to which the owner or occupier of the allotment has some form of occupancy rights, but not being a building or work specified in subclause (4) (b).

6. However, subclause (5) does not apply to a building or work if the consent authority is satisfied that requiring removal of the building or work:
 - a. would be inconsistent with any of the objectives of this clause, or
 - b. is not necessary to achieve the objectives of this clause, oris unreasonable or unnecessary in the circumstances of the case, having regard to the provisions of any relevant development control plan.

This clause does not apply to buildings or works on reclaimed land, or on land adjacent to reclaimed land, in Sylvania Waters.

7. To avoid doubt, State Environmental Planning Policy No 1—Development Standards applies to a requirement made by subclause (3) in the same way as it applies to a development standard.

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Appendix 2.

How to Apply For Development Below M.H.W.M

