

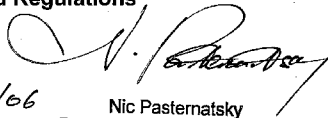
**DEVELOPMENT
CONTROL
PLAN
NO. 145
(Amendment 1)**



**BOATING FACILITIES
IN ST HUBERTS ISLAND
CANALS**

**Certified in accordance with the
Environmental Planning and Assessment
Act 1979 and Regulations**

For Council:



Date: 7/4/06

Nic Pasternatsky
Director - Corporate Services
Gosford City Council

DEVELOPMENT CONTROL PLAN NO 145 (Amendment 1) BOATING FACILITIES IN ST HUBERTS ISLAND CANALS

1 Name of Plan

This plan is called Development Control Plan No 145 (Amendment 1) – Boating Facilities in St Huberts Island Canals. This plan applies to all drainage reserves/canals on St Huberts Island.

Note: For the purpose of this plan a reference to canals is a reference to drainage reserves.

2 Local Environmental Plan

This plan generally conforms to the provisions of the Gosford Planning Scheme Ordinance and any subsequent amending Local Environmental Plan.

3 Purpose of Plan

The purpose of this plan is to provide more detailed guidelines for the development of the land having regard to the provision of boating facilities and berthing and mooring of vessels in the canals. The plan was prepared in conjunction with the Brisbane Water Plan of Management.

4 Operation of Plan

This plan has been prepared in accordance with Section 72 of the Environmental Planning and Assessment Act, 1979, and accompanying Regulation. This plan will come into effect upon notification pursuant to clause 21(4) of the Environmental Planning and Assessment Regulation, 2000, being 12 April 2006.

5 Application of Plan

Where a development application is lodged which relates to land to which this plan applies, Council shall take the provisions of this plan into consideration in determining that application.

Owner's consent for the lodgement of a development application will not be granted for any development specified in clause 7.8.

Compliance with the provisions of this plan does not necessarily imply that Council will consent to any application. Council must also take into consideration those matters listed under Section 79C of the Environmental Planning and Assessment Act, 1979 (as amended).

The development controls outlined in this document are guidelines designed to meet the objectives of this plan. Where, in the opinion of Council, an application satisfies the objectives set out in this plan Council may grant consent to the application notwithstanding that one or more of the development controls are not complied with.

6 Objectives of the Development Control Plan

The objectives of this Development Control Plan are as follows:

- a To provide private mooring, landing and berthing facilities for boats within the canals of St Huberts Island.
- b To ensure that the mooring and berthing facilities will not result in difficulty of physical manoeuvring of vessels within the canals.

- c To ensure that the number and location of mooring and berthing facilities will not adversely affect the visual amenity of the neighbourhood.
- d To ensure the mooring and berthing facilities do not result in visibly unattractive concentrations or locations of vessels.

7 Specific Requirements of the Development Control Plan

7.1 In respect to the provision of boating facilities and berthing of vessels in the drainage reserves (canals) of St Huberts Island the following development is permitted within the drainage reserves subject to the criteria within this clause, only with the formal Development Approval of Council:

- 7.1.1 Boat ramps used for access for vessels to the drainage reserves from the adjoining residential property.
- 7.1.2 Structures in the form of floating pontoons and associated walkways at a minimum ratio of one (1) pontoon per two (2) adjoining premises, to provide access to vessels berthed thereto in accordance with this plan.
- 7.1.3 Moorings installed within the canals with the vessels fixed fore and aft where:
 - i no obstruction is caused;
 - ii there is no risk to the free travel within the drainage reserve; and
 - iii there is no danger to other vessels, property or person.

7.2 Management Principles for Boating Facilities

- a Pontoon structures shall be shared structures at a ratio of one (1) pontoon per two (2) adjoining premises considered on their merits and may not be permitted at premises of narrow frontage of less than nine (9) metres or near to canal corners or ends.
- b Development Approval shall be for a share arrangement of one (1) pontoon per two (2) adjoining premises, however, a maximum share arrangement of up to one (1) pontoon per four (4) adjoining premises may be considered by Council.
- c Pontoon walkways are to be located at a common property boundary.
- d Council, as the canal landowner, may refuse to authorise submission of a development application that does not generally comply with the provisions of this Plan. Existing development that requires consent but has been constructed without consent can be regularised if Council approves a building certificate and grants development consent for the use of the structure. This will apply only to structures that satisfy the requirements of this Plan.
- e Only vessels owned by residents with canal frontage properties will be permitted to be berthed at a pontoon or moored within the canals.
- f Boat ramps, pontoons or walkways which fall into disrepair or are a danger to the public use of the drainage reserves are to be removed from the drainage reserves by, or at the expense of, the owner of the structure.
- g Generally Council will not accept a development application for a pontoon unless made by a minimum of two (2) adjoining landowners.
- h Pontoons and moorings may be Integrated Development requiring approval under

the NSW Fisheries Management Act from the NSW Department of Primary Industries. Relevant documentation submitted with any application should include a plan showing location of adjacent structures, water depth contours, and location of any seagrasses and/or mangroves including species and photographs of the area at low tide.

Approvals for applications not submitted as Integrated Development applications will be conditioned to obtain the relevant consents/permits from relevant Integrated bodies. If those consents/permits cannot be obtained any development consent would be invalid and unable to be acted upon.

- i A mooring will be relinquished and removed upon installation of a pontoon in accordance with this Plan.
- j NSW Maritime is the authority responsible for the issuing of mooring licences required under the *Management of Waters and Waterside Lands Regulations - NSW*. This is separate to Council's licence fee structure.

7.3 Development Criteria for Boat Ramps

- a Boat ramps shall be constructed at the level of the floor of, and follow the contour of, the canal and shall not exceed three (3) metres in width.
- b Applications for shared boat ramps will be considered on their merits.
- c All boat ramps and associated works are to be maintained in a condition that prevents failure and is acceptable to the Council.
- d Any lighting contained within the residential property and associated with a ramp shall be minimal and only used for the safe use of the structure. Such lighting shall be neither red nor green.
- e Applications for ramps in the canal corners shall be considered on their individual merits.

7.4 Development Criteria for Floating Pontoons and Associated Walkways

- a Pontoons shall be permitted in minimum depth water of 900 mm at mean low water, larger vessels or keel vessels which cannot achieve water access to pontoons in accordance with this plan are not considered appropriate for berthing and will have to make other arrangements.
- b Length of vessels shall not exceed ten (10) metres or the waterfrontage of the property, whichever is the lesser.
- c Pontoons shall be of a maximum size of 3 metres x 4 metres.
- d All pontoons shall be of similar design, of fibreglass or similar construction. All materials used in the construction of a pontoon and walkway shall be new and of good quality.
- e All pontoons and walkways shall be finished in suitable and appropriate colours to the satisfaction of Council.
- f Pontoons shall be secured by means of a storm anchor chain and the minimum of sufficient piles for the designated number of vessels to the bed of the drainage

reserve to a maximum height of 1.85 metres above the Australian Height Datum (AHD).

- g Walkways to provide access to the floating pontoons shall:
 - i maximise the free flow of water beneath the structure;
 - ii be constructed on piles, not on solid fill;
 - iii be of a maximum width of 1.2 metres; and
 - iv be constructed square of the shoreline.
- h The maximum length of any walkway shall be no more than that required to achieve a water depth at the pontoon of 0.9 metres at mean low water.
- i The height of walkways shall be a maximum of 0.85 metres above AHD to the uppermost surface of the walkway.
- j Handrails to the walkways, where constructed, shall be of construction on one side only, to provide a minimum visual impact and omitted for appearance where appropriate.
- k Pedestrian access along the beach area of the drainage reserve shall not be restricted by the construction of any pontoon or walkway and provision for access shall be incorporated in any design of the pontoon or walkway.
- l No permanent lighting or power facility shall be provided on any approved pontoon or walkway.
- m Any lighting contained within the residential property and associated with a pontoon or walkway shall be minimal and only used for the safe use of the structure. Such lighting shall be neither red nor green.
- n All pontoons, piles and associated works shall be maintained in a condition that prevents failure and is acceptable to the Council.
- o pontoons and walkways shall be adequately maintained or Council may direct their removal.
- p No portion of the pontoon or vessel berthed thereto shall be within five (5) metres of the centreline of the canal.
- q All pontoons and walkways shall be the subject of all necessary applications to Council, including Development Application and "Permissive Occupancy" application and annual licence from the Council.
- r Applications for pontoons and walkways in the narrower canals shall be carefully considered on their individual merits.

7.5 Development Criteria for Moorings

- a Any mooring facility shall provide for the vessel to be fixed fore and aft. Mooring poles will not be considered.
- b Moorings are to be located around the edge of the canals so as to be generally in line with any adjacent pontoons.
- c Moorings are to be permitted at a ratio of one (1) per waterfront property. In the canal corners moorings will be considered on their merits.

- d The minimum length of vessel to be moored in the canals is 5.2 metres and the maximum length of vessel is to be 10 metres.
- e No portion of a moored vessel or mooring apparatus shall be within five (5) metres of the centreline of the canal.
- f Moorings shall be permitted in minimum depth water of 900 mm at mean low water, larger vessels or keel vessels which cannot achieve water access to moorings in accordance with this plan are not considered appropriate for mooring and will have to make other arrangements.
- g All moorings shall be the subject of all necessary applications to Council (including Development Application, "Permissive Occupancy" application and annual licence) and licence from NSW Maritime (see clause 7.2j).

7.6 Positive Covenant and Licence

7.6.1 Prior to construction of any approved pontoon and associated walkway, the owner shall:

- a make appropriate arrangements with Council's Property Services Unit for the granting of a licence for use of the drainage reserve including payment of any licence fee; and
- b create a positive covenant which is attached to the land owned by the person who receives the benefit of a licence and requires the landowner to:
 - i maintain insurance;
 - ii maintain the structure in a safe condition;
 - iii provide an identification and licence number;
 - iv allow Council to carry out repairs or remove the pontoon if appropriate;
 - v allow Council to recover costs for the repairs and removal;
 - vi pay Council's costs to create the covenant; and
- c where appropriate, allow a right of access to others who share the facility.

7.6.2 The owner shall be responsible for Council's legal and administrative costs in relation to the licence and positive covenant.

7.7 Licence Fee Structure

The annual fee for pontoons and moorings is set out in Council's Fees and Charges Schedule.

7.8 Owner's consent for the lodgement of development applications within the canals will not be granted for any development specified below:

- a Wharves and jetties.
- b Repairs and maintenance of vessels excepting minor repairs and cleaning.
- c Moorings for the mooring of vessels thereto, not in accordance with this plan.
- d Mooring poles other than those used in conjunction with an approved floating pontoon.
- e Slipways and rails.

- f Pontoons and walkways not in accordance with this plan.
- g Boat ramps not in accordance with this plan.
- h Commercial activities of any kind.
- i Any matter or thing, including vessels, which obstruct the free pedestrian access around the beach area.
- j Any vessel which is in a state of disrepair which is or is likely to become a danger to the free use of the beach area or canal.

8 Definitions

AHD	Australian Height Datum - a national surface level datum corresponding to mean sea level.
Berth	An area of water allocated for the wet storage of vessels attached to pontoon and allowing for walk-on access to the vessels.
Boating Facility	A collective term referring to a pontoon, walkway, mooring and/or ramp.
Canal	A Drainage Reserve.
Jetty	A horizontal decked walkway which projects longitudinally into the water, is generally constructed on piered or piled foundations and provides access between a vessel and the shore.
Mean Low Water	The average height of all low tides.
Mooring	Any apparatus or structure which is used to secure any floating object and which is subject to a licence, or other form of approval, issued by NSW Maritime.
Pontoon	A floating structure used for access to the water or to a vessel.
Ramp	An inclined impervious surface used for the manual launching of small vessels, but does not include a slipway.
Slipway	Any inclined structure, usually in the form of two supported parallel rails, on which a wheeled cradle is run to draw a vessel out of the water by means of a powered or manual winch, block and tackle, or the like.
Walkway	A structure which provides pedestrian access between the shore and a pontoon.